

Center for Biological Diversity • Western Colorado Alliance

March 12, 2024

Colorado State Board of Land Commissioners

1127 Sherman St.

Suite 300

Denver, CO 80203

Submitted electronically and via email to bill.ryan@state.co.us

Re: Deny Coal Mine Royalty Rate Reduction and Reject Proposed Oil and Gas Leasing

Dear Commissioners:

We write to urge you on behalf of our thousands of Colorado members to deny recommendations to extend a royalty rate reduction for a coal mine and to reject recommendations to offer more than 5,000 acres of state lands for oil and gas leasing. These proposals stand to undermine Colorado's efforts to protect public health and the climate, inappropriately subsidize the fossil fuel industry at the expense of Coloradans, and interfere with the State's progress in transitioning away from its dependence on oil, gas, and coal.

With regards to the coal mine royalty rate reduction, the Board of Land Commissioners has been asked to extend a reduction for the Trapper coal mine in western Colorado. The proposal would maintain a royalty rate of 8%, reduced from 12.5%, for another five years, resulting in a \$6 million subsidy.¹ Extending this royalty rate reduction is entirely inappropriate and against the interests of the State of Colorado.

The request for a royalty rate reduction is based on the mining company's assertion that mining coal has become geologically challenging. This is a poor excuse for Coloradans to subsidize a coal company that is vertically integrated and already at the end of its operational life. The mine in question, the Trapper mine, supplies coal to a single customer, the Craig power plant, which is slated to close this decade.² The owners of the mine also represent the majority utility owners of the Craig power plant.³ Thus, the cost of mining at Trapper is fully recouped through wholesale and retail electricity sales. Because the business operation is vertically integrated, Trapper does not face economic turbulence due to market changes or volatility. The mine has a captive market, its economic bottom-line is unaffected by variables such as geologic conditions. To this end, a royalty rate reduction for the Trapper mine seems to be nothing short of a thinly veiled scheme that would allow the owners of the mine and the powerplant to line their pockets with the savings.

The State Land Board memorandum fails to address the actual trades offs in terms of revenue and whether the subsidy is an unmitigated boon or a \$6 million loss. Moreover, there is nothing taken into account in the context of climate costs. In 2022, the Colorado PUC set the

¹ March 2024 Colorado State Land Board Packet at page 199.

² *Id.* at 191, 201.

³ *Id.* at 197.

social cost of carbon at more than \$71/ton of CO₂.⁴ One ton of coal generates 3.67 tons of CO₂.⁵ Accordingly, for every ton of coal mine from state land and burned in a power plant, the cost of climate damage is ~\$260. The anticipated mining of 4 million tons of state coal⁶ would thus result in *over* \$1 billion in climate damage.

At bottom, the State Land Board should not be in the business of subsidizing coal mining. Colorado is working hard to make strides to transition from coal-fired electricity generation to protect climate, clean air, and public health, and foster affordable electricity. The cost of coal-fired electricity is higher than ever, meaning it is more urgent than ever to transition to cleaner, more affordable energy. Granting a royalty rate reduction, which will effectively forego revenue to subsidize the Trapper coal mine, is entirely at odds with Colorado's energy imperative. You have the discretion to deny this request. We urge you to reject the recommendation to grant a royalty rate reduction.

With regards to the proposed oil and gas leasing of approximately 5,440 acres in Adams, Cheyenne, and Weld Counties, we implore you to step up and start playing a proactive role in managing oil and gas resources in a manner consistent with our State's commitment to confronting the climate crisis. More leasing will only lock in more oil and gas extraction at a time when our state, our nation, and our world are working hard to transition from dependence on oil and gas and meaningfully reduce greenhouse gas emissions.

This Commission is more than familiar with the threats posed by the climate crisis. Lands and resources the State Land Board manages are increasingly stressed as a result of our changing climate, facing more extreme weather, higher temperatures and fire risk, water scarcity, and altered habitats. The March 13 meeting board packet frequently acknowledges that climate change is putting Colorado lands and resources at risk. For example, the assessment of the Badger Creek Property notes that the development of an Asset Management Plan would help to ensure resiliency in the face of climate change.

The proposed leases also contain species and habitats that are highly valued native flora and fauna. Colorado Parks and Wildlife has identified wildlife and habitat that are "highly sensitive to potential oil and gas development activities" that are included within this proposal.⁷ These species and habitats include: aquatic native species conservation waters, bald eagle winter night roost site, sensitive seasonal ranges for mule deer and pronghorn, burrowing owl active and potential nest sites, ferruginous hawk active nest site, lesser prairie-chicken habitat, mountain plover potential nest sites, raptor potential nesting habitats, and swift fox potential denning

⁴ Joseph W. Lowell, Assistant General Counsel, Excel Energy Services Inc. to Honorable Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, RE: Public Service Company of Colorado Errata to Social Costs of Carbon Revisions: Open Access Transmission Tariff Docket No. ER23-162-001, <https://www.transmission.xcelenergy.com/staticfiles/microsites/Transmission/Files/12-31-9998%20Errata%20Social%20Cost%20of%20Carbon%20ER23-162.pdf> (last visited Mar. 8, 2024).

⁵ Andrew Moseman and guest expert Yogesh Surendranath, Ask MIT Climate, *How can burning one ton of fuel create more than one ton of CO₂?* <https://climate.mit.edu/ask-mit/how-can-burning-one-ton-fuel-create-more-one-ton-co2> (last visited Mar. 8, 2024).

⁶ *Id.* at 199.

⁷ *Id.* at 173.

habitat.⁸ While the board packet has proposed general lease terms and some specific terms to address concerns raised by CPW, there is no discussion of what the condition of the habitat and species is in the lease areas and if the proposed mitigation measures would even be effective to avoid, reduce, or otherwise minimize impacts. Piecemeal approaches to oil and gas extraction is a death-by-a-thousand cuts to species and their habitat, which are also facing negative impacts from climate change as well. At a minimum, it is evident that this proposal would benefit from proper due diligence before any Board approval given the significant value these State lands have for sensitive and imperiled species and their habitat.

The Commission is not legally obligated to lease oil and gas. In light of the tremendous costs of climate change to Colorado and the costs of delaying action to reduce greenhouse gases and transition from fossil fuels, leasing only stands to saddle Coloradans with more debt.

We understand the Board of Land Commissioners alone cannot solve the climate crisis. However, as other Colorado agencies, including the Department of Public Health and Environment, align their decisions to protect the climate, it is imperative for the Commission to align its decision-making as well.

Again, we urge you to deny recommendations to extend a royalty rate reduction for the Trapper coal mine and reject recommendations to offer more than 5,000 acres of state lands for oil and gas leasing.

Sincerely,

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⁸ *Id.* at 174-177.