

April 3, 2020

The Honorable David L. Bernhardt
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Bernhardt:

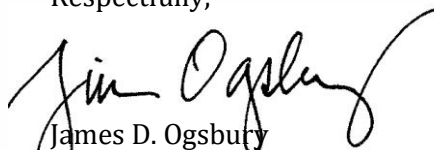
Western Governors are aware of proposals to suspend or reduce onshore oil and gas royalties to support essential critical infrastructure negatively affected by the Coronavirus Disease 2019 pandemic. These oil and gas royalties are an integral component of many western states' budgets, and suspending their collection would have a direct negative effect on states. To assist with your consideration of such proposals, please see the attached Western Governors' Association Policy Resolution 2020-02, States' Share of Royalties and Leasing Revenues from Federal Lands and Minerals, which articulates Western Governors' policy positions and recommendations on this important matter.

Specifically, I would direct your attention to Policy Statement 6, which states:

Governors support early, meaningful, substantive, and ongoing state engagement in the development, prioritization, and implementation of federal environmental statutes, policies, rules, programs, reviews, budget proposals, budget processes and strategic planning. The U.S. Congress and appropriate federal agencies should provide expanded opportunities for such involvement. This includes when considering changes to federal resources and royalty policy, especially during regulatory processes that may affect royalty payments to states.

Thank you for your leadership during this difficult time. Please contact me if you have any questions or require further information. In the meantime, with warm regards and best wishes, I am

Respectfully,



James D. Ogsbury
Executive Director

Attachment



Policy Resolution 2020-02

States' Share of Royalties and Leasing Revenues from Federal Lands and Minerals

A. BACKGROUND

1. The settlement of the western United States was very different from the earlier settlement of the Eastern half of the country. As a result, land ownership in the West consists of a patchwork of federal, state, tribal and privately owned and managed lands and minerals. Over 591 million acres of federally-owned land and over 659 million acres of federally-owned mineral estate are within the boundaries of the western states. Many of these federal lands in western states have significant value.
2. The federal government sells or leases a variety of resources (minerals, gravel, oil and gas, coal, geothermal, renewable energy generating sites, timber, grazing rights, etc.) found on these federal lands to the private sector and collects substantial fees, taxes, royalties and lease payments for these rights.
3. Recognizing the principles of cooperative federalism, Congress has consistently legislated revenue sharing programs to allow states and local governments to deliver services despite the presence of tax-exempt federal lands within their borders. Congress shares revenues derived from federal lands so that states and local governments can effectively provide infrastructure and services that are contemplated by our federal system of governance.
4. Historic agreements and programs related to the compensation of state and local governments, codified in federal law, include but are not limited to:
 - Twenty Five Percent Fund Act of 1908.
 - Bankhead Jones Tenant Act.
 - Mineral Leasing Act of 1920.
 - Taylor Grazing Act.
 - Geothermal Steam Leasing Act.
 - Renewable energy leasing revenues from development on Forest Service lands, Bureau of Land Management lands, and waters off the coasts of the western states.
 - Federal Oil and Gas Royalty Management Act of 1982.
 - Abandoned Mine Lands grants to states consistent with 2006 Amendments to the Surface Mining Control and Reclamation Act.
5. As a result of federal efforts to address the federal budget deficit, state funding for these historic federal agreements and programs have previously been targets of cutbacks.
6. These agreements and programs are not proper subjects for cutbacks. For example, royalty payments owed to states are not federal expenditures. Federal land management agencies simply administer the distribution of those revenues to states. The federal government has

no discretion over this money. Payment to the states is the only authorized use for these revenues.

7. In addition, federal processes and regulations can create uncertainty regarding sales and leases of these federal resources or slow the pace of sales and leases of these federal resources, adversely affecting states' receipt of their share of these essential revenues.
8. Federal land management agencies frequently examine and revise regulations and policies governing federal management of valuable resources. For example, the Department of the Interior is currently proposing changes that could affect decisions related to temporary rental fee and royalty rate reduction applications for non-energy solid leasable minerals.
9. Despite the states' substantial interest in the revenues associated with these programs and agreements, the federal government is typically inclined to limit the states from participating in the decisions affecting these revenues. States' participation in these processes has also been limited to that of a general stakeholder, instead of on a government-to-government basis.

B. GOVERNORS' POLICY STATEMENT

1. The federal government must honor its statutory obligations to share royalty and lease payments with states and counties in the West to compensate them for the impacts associated with federal land use and nontaxable lands within their borders.
2. Shared revenues and payments to states and counties under these programs should not be treated as federal expenditures or income. The federal government has no option except to transfer these pass-through funds to qualifying states. The federal government may not make payment of these funds to any other program or entity.
3. Governors support legislation that clarifies the unique nature of these programs and that assures states will receive full payment of statutorily guaranteed shares of receipts.
4. Governors support legislation, regulatory changes, and agency practices that provide transparency and certainty, ensure fair value for the American public, reflect changes in market conditions, and more efficiently administer the sales and leases of the resources on these federal lands.
5. Governors support efforts to eliminate the two percent administrative fee that is imposed on states' annual revenues. Given the revenue sharing nature of these funds, federal agencies and states should share these administrative costs.
6. Governors support early, meaningful, substantive, and ongoing state engagement in the development, prioritization, and implementation of federal environmental statutes, policies, rules, programs, reviews, budget proposals, budget processes and strategic planning. The U.S. Congress and appropriate federal agencies should provide expanded opportunities for such involvement. This includes when considering changes to federal resources and royalty policy, especially during regulatory processes that may affect royalty payments to states.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult www.westgov.org/policies for the most current copy of a resolution and a list of all current WGA policy resolutions.