EARTHWORKS

OIL & GAS ACCOUNTABILITY PROJECT FACT SHEET

OIL & GAS PROVISIONS OF TITLE VII OF HR 3221 (THE HOUSE ENERGY BILL)

ASSURING RESPONSIBLE DEVELOPMENT OF OUR PUBLICLY-OWNED OIL AND GAS RESOURCES

Title VII of H.R.3221, the "New Direction for Energy Independence, National Security, and Consumer Protection Act" contains a number of modest but important reforms of the Department of the Interior's onshore oil and gas program.

Enactment of these important provisions will help ensure that oil and gas development on public lands takes place:

- responsibly,
- in appropriate places with proper environmental safeguards, and
- in a manner that balances our nation's need for oil and natural gas with the need to protect the environment, wildlife, and the rights of property owners.

In addition, Title VII contains a number of innovative provisions that will help get America on the road to a sustainable energy future, protect public lands and their resources from the impacts of climate change, and begin dealing with the problems of carbon dioxide emissions to the earth's atmosphere.

Some of the key oil and gas reforms in Title VII of H.R. 3221 include:

SECTION 7101. COST RECOVERY.

This provision amends Sec. 365 of the Energy Policy Act of 2005 (EPACT) with a requirement that applicants for drilling permits on public lands pay a modest fee of $1700 per application to partially offset the administrative costs of processing drilling permit applications. This provision will provide the Bureau of Land Management (BLM) with additional funds to process the increasing volume of drilling permit applications anticipated to be received by the BLM (predicted to be over 10,600 in FY 2008), while reducing the taxpayer costs for this program. The BLM's oil and gas program costs have increased from about $58 million in 2000 to a requested $121 million in FY 2008. Requiring the beneficiaries of the oil and gas program to help pay the administrative costs of the program they benefit from will free up tens of millions of dollars each year for other important BLM programs.

SECTION 7102. PERMIT PROCESSING.

This section revises the arbitrary one-size-fits-all 30-day deadlines for review of drilling permit applications imposed by Section 366 of EPACT, providing the BLM with an additional 15 days to assure more careful review drilling permit applications before approving them. The current language represents a compromise from the original language of the underlying bill, which repealed the mandatory timeframe for drilling permit approval outright.

SECTION 7103. OIL SHALE.

This section amends Sec. 369 of EPACT in accordance with recommendations of the RAND Corporation that no commitments to a commercial scale oil shale program should be made until the results of the BLM's current oil shale research and development program are established.

The industry is many years away from establishing the commercial viability of promising new oil shale extraction technologies, yet the BLM has stated in its budget proposal for FY 2008 that it plans to hold a commercial oil shale lease sale at the end of calendar year 2008 (BLM FY 2008 "green book", p. III-139).

The new language would provide more time for the BLM to develop a prudent approach to commercial oil shale development on the federal lands.

SECTION 7104. CATEGORICAL EXCLUSIONS.

This provision amends Section 390 of EPACT, which mandated that a host of oil and gas activities on the public lands be "categorically excluded" from review under the National Environmental Policy Act.

Last year the BLM granted categorical exclusions to over 2000 drilling permit applications. Section 7104 amends Sec. 390 of EPACT requiring the BLM to follow existing Council on Environmental Quality rules governing the implementation of categorical exclusions, something the BLM has refused to do.

SECTION 7105. BEST MANAGEMENT PRACTICES.

This section requires that before provisions in federal oil and gas leases designed to protect wildlife or other environmental values are waived, the public is afforded an opportunity to review and comment on such waiver requests.

Data from key BLM Field Offices where many waivers protecting wildlife are granted every year (ex. Pinedale and Rawlins, Wyoming), indicate that such waivers are granted between 70% and 90% of the time they are requested.

Under Section 106, such waivers can continue to be granted, but only after an opportunity for state wildlife agencies, the public and other interested parties have an opportunity to review and comment upon them.

The provision also provides for expedited permitting for applicants who commit to adhering to protective stipulations in their federal oil and gas leases.

This provision in HR 2337 would also require BLM to update its BMPs for energy development to include directional drilling, adequate well-spacing, wildlife mitigation and other practices to avoid and minimize damage to sensitive fish and wildlife habitats.

SECTION 7221. SURFACE OWNER PROTECTION.

Much federally owned oil and gas in the West lies beneath private land.

Under current law, landowners are not able to ensure responsible development on their land. Requirements that developers consult with landowners about the placement of roads, pipelines, power lines and noisy compressor stations, or about the disposal of millions of gallons of wastewater are weak.

Thus, families with several generations' worth of time, money and labor invested in their farms, ranches or other property face serious damages to their land and way of life.

Section 7221 offers much-needed new protections for the thousands of private landowners whose land lies over federal minerals, requiring either a surface use agreement or special permit conditions and a bond that protect surface owners' interests.

Section 7221 also requires that surface owners be notified in advance of lease sales and informed of activity on leases once they are issued and provides surface owners with an opportunity to comment on plans of operations, participate in bond level determinations and bond release proceedings, and request and participate in on-site inspections.

Similar provisions have been passed by the states of New Mexico and Wyoming (which the BLM has stated does not apply to federal minerals), are under consideration in Colorado, and are in place for federal coal and hard rock minerals.

SECTION 7222. RECLAMATION BONDING.

The BLM's current reclamation bonding program of oil and gas operations on public lands is as follows:

- $10,000 for one well site, or
- $25,000 for all wells within a state, or
- $150,000 for all wells nationwide.

These amounts have not changed since the 1960s and are not tied in any way to the actual costs of cleaning up disturbed sites after operations have ceased.

Bonds at this level do not provide the BLM with sufficient funds to clean up sites that may be abandoned. For example, BLM spent $2.2 million to clean up 167 wells where operators defaulted on their bonds, while many other abandoned sites have gone unreclaimed.

Section 7222 would require the BLM to impose reclamation bonds at a level that reflects the actual costs of returning disturbed sites and degraded fish and wildlife habitats to their previous condition. Similar bonding requirements apply to both coal exploration and mining operations and hard rock exploration and mining operations on the public lands.

SECTION 7223. WATER RESOURCE PROTECTION.

Water is an extremely precious resource in the semi-arid western states, where much new oil and gas development is occurring.

Coalbed methane production involves pumping billions of gallons of groundwater from aquifers in coal seams, releasing the pressure to let out the methane. This pumping lowers aquifer levels, produces saline water that can be toxic to crops and reduce soil productivity, and produces more water than can be consumed by livestock or otherwise put to good use in many areas.

During oil, gas and coalbed methane drilling, rock formations are often fractured with toxic chemicals to stimulate increased production, which may contaminate water supplies.

Section 7223 would require that oil and gas operators developing federally-owned minerals replace water supplies lost or damaged as a result of drilling operations, and submit a plan which details how they will protect the quality and quantity of surface and groundwater.

SECTION 7224. DUE DILIGENCE/HEALTHY LANDS.

This innovative provision would accomplish two objectives.

First, the imposition of a $1 per acre fee on non-producing federal leases will encourage the development of these leases, and discourage the speculative holding of them.

Secondly, the revenues generated from the new fee will be used to support the restoration of wildlife habitats and populations diminished by oil and gas development under the current boom.

According to BLM data, there are over 42,000,000 acres of onshore lands currently under lease, but only about 12,000,000 acres in production.

Section 7224 will discourage the speculative holding of non-producing federal oil and gas leases, while providing a needed source of revenue for BLM efforts to repair the damage being done to wildlife habitats from oil and gas activities.