



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources; Ashley Nichols
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Date: June 18, 2022
Subject: Hybrid Legislative Hearing on H.R. 3681 (Soto), H.R. 5522 (Kind), H.R. 5805 (Stansbury), and H.R. 5350 (Fulcher)

The Subcommittee on Energy and Mineral Resources will hold a hybrid legislative hearing on the four bills: H.R. 3681 (Soto), the *Sinkhole Mapping Act of 2021*, H.R. 5522 (Kind), the *Federal Land Asset Inventory Reform (FLAIR) Act*, H.R. 5805 (Stansbury), the *Buffalo Tract Protection Act*, and H.R. 5350 (Fulcher), the *Enhancing Geothermal Production on Federal Lands Act*, on **Tuesday, July 19, 2022, at 10:00 a.m. EDT**, in room 1324 Longworth House Office Building and online via Cisco WebEx.

Republican Members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Ashley Nichols (Ashley.Nichols@mail.house.gov) **no later than Monday, July 18, at 4:30 p.m. EDT**, if their Member intends to participate in the committee room or remotely from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (Everett.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- H.R. 5350 (Fulcher), the *Enhancing Geothermal Production on Federal Lands Act*, creates a categorical exclusion for geothermal test projects on federal land, an important step in streamlining the lengthy approval process for the testing phase of geothermal energy development.
- H.R. 3681 (Soto), the *Sinkhole Mapping Act of 2021*, is a bipartisan bill to examine short and long term causes of sinkholes and identify higher risk areas.
- H.R. 5522 (Kind), the *FLAIR Act*, is co-sponsored by Ranking Member Westerman and would address the need for a modernized inventory of the federal government's land and real property assets.



- H.R. 5805 (Stansbury), the *Buffalo Tract Protection Act*, poses a number of concerns. This bill would withdraw nearly 4,300 acres of federal land from mineral development, preventing the development of gravel mines and threatening the State of New Mexico's ability to acquire low-cost construction materials.

II. WITNESSES

Panel I:

- Mr. Michael Nedd, Deputy Director of Operations, Bureau of Land Management, Washington, D.C.

Panel II:

- Ms. Sarah Jewett, Head of Strategy, Fervo Energy, testifying on behalf of Geothermal Rising, Houston, TX [*Republican witness*]
- Mr. Jonathan Arthur, Executive Director, American Geosciences Institute, Alexandria, VA
- Ms. Mary-Rose de Valladares, Chair, Land Use Protection Trust, Bethesda, MD
- Mr. John Byrd, President, Miller/Wenhold Capitol Strategies, Fairfax, VA

III. BACKGROUND

[H.R. 5350 \(Fulcher\), the Enhancing Geothermal Production on Federal Lands Act](#)

Geothermal energy, a renewable energy source, is generated when superheated steam from the earth's core escapes to the surface. Unlike other renewables such as wind and solar, geothermal is not an intermittent source of energy, and therefore not reliant on a backup power source.¹ Despite its usefulness and potential, geothermal energy is hampered by an unpredictable regulatory process that discourages development. Ninety percent of viable geothermal resources in the United States are on federally managed lands, making almost all geothermal projects subject to review under the *National Environmental Policy Act* (NEPA, 42 U.S.C. 4321).² Geothermal energy projects can trigger NEPA up to six times during development, creating a production timeline of 7 to 10 years after a lease sale is held.³ In 2021, only seven states hosted geothermal power plants, producing about 16 billion kilowatt hours total and constituting about 0.4 percent of total U.S. utility-scale electricity generation.⁴

H.R. 5350 would reduce the regulatory hurdles at the very beginning of development, creating a categorical exclusion for exploration test sites. Currently, most geothermal exploration wells require an environmental assessment, which take an average of 10 months for approval.⁵ The bill would also direct the Secretary of the Interior to designate geothermal leasing priority areas,

¹ Verdolini, Elena, Francesco Vona, and David Popp, *Bridging the Gap: Do Fast Reacting Fossil Technologies Facilitate Renewable Energy Diffusion?*, The National Bureau of Economic Research (2016), <http://www.nber.org/papers/w22454.pdf>.

² Katherine R. Young, Kermit Witherbee, Aaron Levine, Adam Keller, Jeremy Balu, and Mitchell Bennett, *Geothermal Permitting and NEPA Timelines*, National Renewable Energy Laboratory (NREL), GRC Transactions, Vol. 38, 2014, <https://gdr.openei.org/files/1258/Geothermal%20Permitting%20and%20NEPA%20Timeline%20Analysis%20-%20FINAL.pdf>.

³ Young, *et al.*

⁴ U.S. Energy Information Administration, *Geothermal Explained*, <https://www.eia.gov/energyexplained/geothermal/use-of-geothermal-energy.php>.

⁵ *Supra* n. 22, Young, *et al.*

which will then be incorporated into existing programmatic environmental impact statements (PEIS), further consolidating the lengthy NEPA process. The Committee on Natural Resources passed identical legislation by unanimous consent in the 115th Congress.

H.R. 3681 (Soto), the Sinkhole Mapping Act of 2021

Sinkholes are a dangerous natural hazard, created when a ground depression lacks external surface drainage and collects rainwater in the subsurface.⁶ The rock in the subsurface gradually dissolves while the surface stays intact for a time, until the dissolved rock reaches a tipping point and causes a collapse.⁷ Over the past 15 years, damage from sinkholes have cost an average of \$300 million annually.⁸ However, there is currently no national database of sinkhole damage costs, so the true expense is likely higher than the estimated \$300 million per year.⁹

H.R. 3681, cosponsored by Rep. Bilirakis (R-FL), would direct the U.S. Geological Survey (USGS) to establish a program to study short and long term causes of sinkholes, including storms and droughts. The bill would also require the USGS to develop maps of areas at greater risk of sinkhole formation and revise them as needed every five years. These provisions could reduce the risk to the public and help urban and land planners make development decisions. The Committee on Natural Resources passed this bill by Unanimous Consent in the 116th Congress.

H.R. 5522 (Kind), the Federal Land Asset Inventory Reform (FLAIR) Act

The federal government spends tens of billions of dollars every year maintaining thousands of buildings across the nation, including many that are vacant and unneeded.¹⁰ Each year the federal government wastes about \$2 billion maintaining these unneeded properties.¹¹ The GAO has consistently found that the federal government has done a poor job managing its property and land.¹² Two of the primary challenges identified were “disposing of excess and underutilized property effectively” and “collecting reliable real property data to support decision making.” The Department of the Interior (DOI) for example uses 26 different financial management systems and over 100 different property systems.¹³ This plethora of inaccurate tracking systems illustrates that the government, much less the public, does not have a full picture of the properties and lands owned by the federal government. This deficient information leads to inefficiencies and poor land management for the government and access challenges for the public. For example, the last DOI report, which identified roughly 3.4 million acres of land as suitable for disposal, was release in 1997. The current process for identifying lands suitable for disposal requires wading through lengthy individual Resource Management Plans.¹⁴

⁶ U.S. Geological Survey, Geology, *What is a Sinkhole*, <https://www.usgs.gov/faqs/what-sinkhole>.

⁷ *Id.*

⁸ U.S. Geological Survey, Geology, *How Much Does Sinkhole Damage Cost Each Year*, <https://www.usgs.gov/faqs/how-much-does-sinkhole-damage-cost-each-year-united-states>.

⁹ *Id.*

¹⁰ Sinclair Broadcast Group, *Inside Your World: The federal government spends billions on empty buildings nationwide*, Mark Hyman (Aug. 3, 2020) <https://wjla.com/news/inside-your-world/inside-your-world-the-federal-government-spends-billions-on-empty-buildings-nationwide>.

¹¹ *Id.*

¹² U.S. Government Accountability Office, *Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others* (Feb. 15, 2017), <https://www.gao.gov/products/gao-17-407t>.

¹³ Gale Norton, Secretary of the Interior, *Testimony Before the House Appropriations Subcommittee on Interior*, <https://www.doi.gov/ocl/budget-request-doi>.

¹⁴ Bureau of Land Management, *Lands Potentially for Disposal*, <https://www.blm.gov/programs/lands-and-realty/land-tenure/sales-and-exchanges/lands-potentially-for-disposal>.

The *FLAIR Act*, cosponsored by Ranking Member Westerman, seeks to address the current lack of a comprehensive, up-to-date, and accessible inventory of the federal government’s land and real property assets. The bill would remedy this issue by providing a searchable, sustainable tool by which all real property assets are categorized and updated. A single searchable system would eliminate discrepancies between federal departments that maintain their own separate databases and provide transparency and clarity for the public by allowing everyone to access comprehensive data about all the land owned by the federal government. States and local communities will benefit from a full accounting of surplus federal lands and will be able to pursue additional land exchanges to manage for recreational and economic uses alike.

H.R. 5805 (Stansbury), the Buffalo Tract Protection Act

This bill would withdraw four parcels of Bureau of Land Management (BLM) lands near Placitas, New Mexico, including the so-called “Buffalo Tract,” from all mineral development including gravel mining.¹⁵ The proposed withdrawal would total approximately 4,288 acres. This withdrawal could cause significant indirect and opportunity costs by denying the state a local source of gravel for their growing infrastructure needs.

In 2021, domestic industrial materials production, including sand, gravel, and crushed stone, had a total value of \$56.6 billion, a 6 percent increase from that in 2020.¹⁶ Of this, \$29.2 billion was construction aggregates production (sand, gravel, crushed stone).¹⁷

When a previous version of this bill was proposed in the 116th Congress, BLM estimated that 36 million cubic yards of sand and gravel were contained in the proposed withdrawal area, and that such a withdrawal “could result in significant loss to the interests of the United States.”¹⁸ Further, in the next 25 to 30 years, the population of the Albuquerque, New Mexico, metro area (including Placitas), is estimated to almost double.¹⁹ This will have a major impact on the region’s need for materials like gravel. If these materials cannot be sourced locally, they will have to be trucked in, greatly increasing the cost and the emissions profile of any construction project. In fact, trucking aggregates increases costs by 15 cents per ton for every mile hauled. Construction of just one mile of a six-lane highway, requiring over 110,000 tons of aggregates, would see an increase of \$500,000 for each mile the materials have been transported.²⁰ In terms of emissions, decreasing aggregate transportation by 15 miles per trip could reduce truck emissions by 835 tons per year.²¹

One of the main concerns of supporters of this withdrawal is the presumed negative economic impact of an additional mine, as some local residents are apprehensive about the effect of a new

¹⁵ “Haaland, Luján Introduce House Buffalo Tract Protection Act.” Press release. (May 9, 2019) <https://haaland.house.gov/media/press-releases/haaland-luj-n-introduce-house-buffalo-tract-protection-act..>

¹⁶ U.S. Geological Survey, *Mineral Commodities Summaries 2022*, (Jan. 31, 2022) <https://pubs.usgs.gov/periodicals/mcs2022/mcs2022.pdf>.

¹⁷ *Id.*

¹⁸ Testimony of Michael Nedd, Director of Operations for the Bureau of Land Management, before the Senate Committee on Energy and Natural Resources, May 14, 2019, <https://www.energy.senate.gov/services/files/70C20235-871A-4BFD-AF60-4300A317EF37>.

¹⁹ *Id.*

²⁰ California Construction and Industrial Materials Association, Distance Matters, <https://www.calcima.org/distancematters>.

²¹ *Id.*

gravel mine on property values and continued population growth.²² This concern, while understandable, runs counter to the evidence seen in the recent history of the area; the community has experienced healthy growth over the past two decades, while coexisting with active gravel mines nearby.²³

On May 14, 2019, Deputy Director for Operations at BLM, Michael Nedd, testified on the Senate companion to H.R. 5805 in the 116th Congress (S. 526), stating that “[f]ederal minerals will play an important role in providing materials to meet the future population demands for infrastructure in the area...[The Department] is concerned that the bill as currently drafted could limit management and development of these important mineral sources.”²⁴ Given the passage of the *Infrastructure Investment and Jobs Act* (Pub. L. 117-58) in November 2021, the need for infrastructure materials has likely increased significantly since BLM’s testimony in 2019. Michael Nedd will testify at the hearing on July 19th as the Biden administration witness.

IV. MAJOR PROVISIONS

H.R. 5350 (Fulcher)

- Amends the Geothermal Steam Act of 1970 to create a categorical exclusion for any qualifying geothermal exploration test project.
 - Such projects must be less than 12 inches in diameter, cause less than 5 acres of soil or vegetation disruption, be completed in less than 90 days, and have full restoration of the site within 3 years.
- If the Secretary determines that a categorical exclusion would not apply to the proposed project, the Secretary shall provide the leaseholder the opportunity to remedy the deficiencies described in their initial notice.
- The Secretary of the Interior shall coordinate with the Secretary of Energy to designate priority areas for geothermal leasing within 5 years of enactment.
- At least once every 5 years, the Secretary of the Interior will review covered land and priority area designations and add or remove such designations as appropriate.
- Within one year of initial designation of a geothermal leasing priority area, the Secretary shall prepare a supplement to the most recent final PEIS for geothermal leasing.
 - In developing any PEIS or supplement, the Secretary will consult with state, local, and tribal governments and other appropriate entities.
- If the Secretary determines that a priority area has been sufficiently analyzed by a PEIS, no further NEPA review for lease sales for that priority area is required.

H.R. 3681 (Soto)

- Directs the U.S. Geological Survey (USGS) to establish a program to study short and long term causes of sinkholes, including storms and droughts.

²² Eastern Sandoval Citizens association & Las Placitas Association, “Land of Enchantment...or Gravel?” September 2015, <https://lasplacitas.org/wp-content/uploads/2017/09/crossroads.pdf>.

²³ Eastern Sandoval Citizens association & Las Placitas Association, “Land of Enchantment...or Gravel?” September 2015, <https://lasplacitas.org/wp-content/uploads/2017/09/crossroads.pdf>.

²⁴ *Supra* n. 13.

- Directs the USGS to develop maps of areas at greater risk of sinkhole formation and revise them as needed every 5 years. The maps must be posted on a website maintained by the USGS.

H.R. 5522 (Kind)

- Directs the Secretary of the Interior to develop and maintain a current and accurate multipurpose cadastre of federal real property to support land management activities on federal real property, including resource development and conservation, agricultural use, active forest management, and environmental protection. Lands held in trust by the federal government for the benefit of Indian Tribes are exempt. The Secretary has 2 years to develop the cadastre.
- Non-federal land may be included in the cadastre if a state participates in a cost-sharing agreement with the Secretary.
- Within 180 days of enactment, the Secretary shall submit a report to Congress on: the existing real property inventories of federal real property currently authorized by law or maintained by the Department, their statutory authorization, and their cost to the Federal government; a breakdown of the property that will and will not be eliminated or consolidated by this Act; the use of existing real property inventories; cost-savings achieved by consolidation; a plan for implementation; an assessment of existing cadastres and inventories; and recommendations for legislation needed to increase the cost-effectiveness or efficiency of consolidation of inventories currently authorized.
- The Secretary shall coordinate with the Federal Geographic Data Committee.
- The cadastre shall be made inter-operable with the Federal Real Property Profile.

H.R. 5805 (Stansbury)

- Withdraws approximately 4,288 acres of BLM land from mineral development.
- The Secretary of the Interior may convey the surface estate of the federal lands in question.

V. COST

None of the bills have received a formal Congressional Budget Office (CBO) cost analysis.

VI. ADMINISTRATION POSITION

The Biden administration's position on these bills is unknown at this time.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

H.R. 5350 (Fulcher)