



[GOP lawmakers urge Interior to continue streamlining permitting](#)

November 6, 2009

E&E Daily

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A group of House Republicans is urging the Interior Department not to back off its use of a provision to streamline oil and gas drilling applications on public lands, despite lawsuits from environmental groups.

Section 390 of the 2005 Energy Policy Act allows the Bureau of Land Management to approve certain oil and gas projects without preparing new environmental analyses that would normally be required by the National Environmental Policy Act.

Environmentalists have challenged in court some projects approved under the measure, saying BLM failed to analyze or consider environmental impacts to the areas.

GOP lawmakers sent a [letter](#) to Salazar yesterday calling categorical exclusions "a valuable tool provided by Congress to the land management agencies to improve the government process of approving energy production, while at the same time ensuring protection of the environment." House Natural Resources Committee ranking member Doc Hastings of Washington sent the letter along with Reps. Rob Bishop of Utah, Doug Lamborn of Colorado and Cynthia Lummis of Wyoming.

"We are deeply concerned about a common practice of the Departments of the Interior and Justice of settling lawsuits filed without forcefully defending authorized agency actions," they wrote. "We are worried that an out of court settlement by this Department would eliminate or severely limit the use of categorical exclusions and further prohibit the production of U.S. oil and natural gas."

A spokeswoman for the lawmakers said Interior is facing several challenges and is expected to settle one of them, possibly a lawsuit filed last year by environmentalists over a project in Utah. Three groups claim that BLM's approval of 25 gas wells in Utah's Nine Mile Canyon did not comply with environmental laws to assess impacts to the area and that Native American rock art would be harmed by drilling-related activity (*Land Letter*, Aug. 14, 2008).

The lawmakers also cautioned Interior not to overdo changes to its internal guidance on using the categorical exclusions. The Government Accountability Office in September recommended that Congress consider amending the 2005 law to clarify Section 390 and that BLM take steps to improve implementation of the provision by clarifying agency guidance, standardizing decision documents and boosting oversight. The Interior Department in September agreed with the recommendations and said it would take

immediate steps to address the issue.

"While we support the department's efforts to develop new guidance to address the few issues of consistency identified by GAO in the use of these categorical exclusions, we are concerned the Department of the Interior is prepared to use a sledgehammer where a scalpel would suffice," the lawmakers wrote.

They added that BLM has been "cautious and overly conservative" in its use of categorical exclusions.

But critics say the provision allows BLM to exceed development levels analyzed in NEPA documents, such as the number of wells to be drilled, without doing further analysis.

An Interior spokeswoman said the department is reviewing the letter.

The GAO investigation found that the BLM illegally approved some oil and gas drilling applications on public lands from 2006 to 2008. BLM used categorical exclusions to approve more than a quarter of applications during those years -- about 6,100 of 22,000 -- and to modify hundreds of existing permits, GAO said. The agency's use of the measure has "frequently been out of compliance" with both the law and BLM's own guidance and may have thwarted NEPA, it said.

GAO found several types of violations of the law, including approving more than one oil or gas well under a single decision document, approving projects that did not meet the law's criteria, and drilling a new well after deadlines had lapsed.

Fundamental questions about what the Section 390 categorical exclusions are, and how they should be used, have led to concerns that BLM may be using them in too many -- or too few -- instances, GAO found. There also is disagreement over whether BLM must screen them for extraordinary circumstances that would prevent their use, whether their use is mandatory and how the public can challenge their use, the report said (*E&ENews PM*, Sept. 16).

House Natural Resources Chairman Nick Rahall (D-W.Va.) has introduced legislation (H.R. 3534) to overhaul the federal royalty system that contains a provision to repeal Section 390.

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