

# Subcommittee on Energy and Mineral Resources

Paul Gosar, Chairman  
Hearing Memorandum

June 4, 2018

**To:** Members of the Subcommittee on Energy and Mineral Resources

**From:** Majority Committee Staff Ashley Nichols (x5-9297)  
Subcommittee on Energy and Mineral Resources

**Hearing:** Legislative hearing on a **Discussion Draft of H.R. \_\_\_\_**, To authorize the Secretary of the Interior to recover the cost of processing administrative protests for oil and gas lease sales, applications for permit to drill, and right of way applications, and for other purposes.  
**June 6, 2018 at 2:00 PM; 1324 Longworth House Office Building**

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## **Summary of the Bill**

This discussion draft authorizes the Secretary of the Interior to recover the cost of processing administrative protests for oil and gas lease sales, applications for permit to drill, and right of way applications.

## **Invited Witnesses (in alphabetical order)**

Mr. John Baza  
Director, Utah Division of Oil, Gas and Mining  
Salt Lake City, UT

The Honorable Susana Martinez  
Governor  
State of New Mexico

Ms. Katharine MacGregor  
Deputy Assistant Secretary for Land and Minerals Management  
Department of the Interior  
Washington, D.C.

The Honorable Ken McQueen  
Secretary  
Energy, Minerals and Natural Resources Department  
State of New Mexico

Mr. Dennis Willis  
Price, UT

## **Background**

Individuals and organizations are permitted to submit protests to the Department of the Interior (DOI) on oil and gas lease sales, applications for permit to drill (APDs), and right of way applications for oil and gas activities conducted on federal land. The Bureau of Land Management (BLM) must process and resolve these protests before issuing the lease, permit or right of way.<sup>1</sup>

While oil and gas operators must pay sizeable bonus bids, rental payments and a 12.5 percent royalty on federal leases and a \$9,610 fee to submit an application for permit to drill, DOI is not currently authorized to assess an administrative fee on protests submitted to BLM.<sup>2</sup> Each protest requires BLM to expend already limited taxpayer-provided funding and personnel resources. The volume of protests received on any given lease sale can overwhelm DOI resources, creating inefficiencies and unnecessary delays in resolving such protests. As a result, the protests have often caused significant delays in the issuance of oil and gas lease sales.

While the overall number of protests on parcels of land offered for lease has decreased since 2008, the percentage of parcels protested has increased significantly. The number of parcels offered for sale also sharply decreased in recent years, from almost 5,000 in 2006 to a mere 744 in 2016.

<b>National Oil and Gas Lease Sale Protested Parcels 1998-2017 <sup>3</sup></b>				
<b>Fiscal Year</b>	<b>Number of Parcels Posted on Original Sale Notice**</b>	<b>Number of Parcels Offered Day of Sale</b>	<b>Number of Protested Parcels from Original Sale Notice</b>	<b>Percent of parcels protested from original sale notice</b>
1998	7,745	7,241	72	1%
1999	3,179	2,423	0	0%
2000	4,564	3,753	513	11%
2001	4,790	4,694	884	18%
2002	3,266	2,762	820	25%
2003	2,931	2,729	400	14%
2004	3,868	3,620	1,576	41%
2005	3,780	2,936	1,325	35%
2006	4,947	4,924	1,551	31%
2007	4,481	4,289	1,628	36%
2008	3,682	3,389	1,108	30%
2009	3,455	3,127	1,475	43%
2010 *	1,887	1,636	665	41%
2011	1,521	1,440	516	34%

<sup>1</sup> 30 U.S.C. 181

<sup>2</sup> 30 U.S.C. 181

<sup>3</sup> National Oil and Gas Lease Sale Protested Parcels 1998-2017. Data provided by the Bureau of Land Management to the Subcommittee on Energy and Mineral Resources. January 11, 2018.

2012 *	2,247	2,064	371	17%
2013 *	2,343	2,215	431	18%
2014 *	1,752	1,679	321	18%
2015 *	1,356	1,286	644	47%
2016 *	820	744	593	72%
2017 *	1,427	1,380	1,257	88%

\*Includes tracts located within the NPR-Alaska. NPR-A does not provide an avenue for protests.

\*\*The original sale notices are often amended to remove parcels due to protests or other reasons.

The Mineral Leasing Act of 1920 requires BLM to issue leases within 60 days of the date of sale and all protests must be resolved before a lease is issued.<sup>4</sup> However, protests can be more than 1,500 pages.<sup>5</sup> As a result, resolution of protests can take significantly longer than the allotted time, resulting in severe delays in the issuance of leases. As the States are entitled to 50% of the revenues from each sale within their borders, a delay in issuance of a lease means a delay in payment to the States.<sup>6</sup>

In turn, delays cause considerable uncertainty for State governments, threatening State budgets and essential services funded by mineral revenues. For example, in September 2016, BLM held a successful lease sale in New Mexico, which generated \$145 million in revenue, nearly \$70 million of which was due to the State. Environmental groups filed multiple protests on the sale, causing BLM to spend months reviewing protests and a 250-day delay in issuing the payment to the State. This delay jeopardized the State budgeting process, threatening the provision of key services supported by these planned revenues.<sup>7</sup>

This legislation would authorize DOI to recover the cost of processing administrative protests on oil and gas lease sales, applications for permit to drill and right of way applications. DOI must be able to maintain adequate staffing and resources to process the volume of protests received in a timely and efficient manner. This bill would allow DOI to offset the cost of processing protests by assessing an administrative fee on each submission.

### **Major Provisions of the Bill**

- Amends the Mineral Leasing Act to authorize the Department of the Interior to assess an administrative fee to recover the cost of processing protests filed on oil and gas lease sales, applications for permit to drill and right of way applications.
- Requires protestors to submit a \$150 filing fee for each protest submission under 10 pages in length and an additional \$5 for each page over 10 pages. An additional \$10 will be assessed for every additional lease parcel, right of way, or application for permit to drill included in a single protest submission.

<sup>4</sup> 30 U.S.C. 181

<sup>5</sup> National Oil and Gas Lease Sale Protested Parcels 1998-2017. Data provided by the Bureau of Land Management to the Subcommittee on Energy and Mineral Resources. January 11, 2018.

<sup>6</sup> 30 U.S.C. 181

<sup>7</sup> Hayden, Maddy. N.M. Delegation calls for \$69M from BLM. April 6, 2017.

<http://www.currentargus.com/story/news/local/new-mexico/2017/04/06/nm-delegation-calls-69m-blm/100124060/>

- Directs the Secretary of the Interior to update the filing fees to reflect changes in the Producer Price Index as published by the Bureau of Labor Statistics for the previous year and to publish the updated fees in the Federal Register.

### **Administration Position**

Unknown at this time.

### **Cost**

CBO has not scored the legislation.

### **Effect on Current Law (Ramseyer)**

## **Showing Current Law as amended by discussion draft bill on recovering the cost of processing administrative protests for oil and gas lease sales**

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

### **Section 17 of the Mineral Leasing Act (30 U.S.C. 226):**

\* \* \* \* \*

#### **(q) PROTEST FILING FEE.—**

(1) IN GENERAL.—Prior to processing any protest filed under this section, the Secretary shall collect a filing fee to recover the cost for processing documents filed for each administrative protest.

(2) AMOUNT.—The filing fee shall be calculated as follows:

(A) For each protest filed in a submission not exceeding 10 pages in length, the base filing fee shall be \$150.

(B) For each submission exceeding 10 pages in length, an additional assessment of \$5 per page in excess of 10 pages shall apply.

(C) For protests that include more than one oil and gas lease parcel, right-of-way, or application for permit to drill in a submission, an additional assessment of \$10 per additional lease parcel, right-of-way, or application for permit to drill shall apply.

(3) ADJUSTMENT.—(A) Beginning on January 1, 2020, and annually thereafter, the filing fees established in this subsection shall be adjusted, to whole dollar amounts, to reflect

changes in the Producer Price Index as published by the U.S. Department of Commerce, Bureau of Labor Statistics, for the previous 12 months.

(B) The Secretary shall publish the adjusted filing fees in the Federal Register.