HOUSE COMMITTEE ON

NATURAL RESOURCES

CHAIRMAN BRUCE WESTERMAN

To:	House Committee on Natural Resources Republican Members
From:	Energy and Mineral Resources Subcommittee Staff, Ashley Nichols – Ashley.Nichols@mail.house.gov; & Rob MacGregor – Robert.MacGregor@mail.house.gov x59297
Date:	Tuesday, December 12, 2023
Subject:	Legislative Hearing on H.R. 5482 (Rep. Hageman), H.R. 6474 (Rep. Steel), and H.R. 6481 (Rep. Hageman)

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing on H.R. 5482 (Rep. Hageman), *"Energy Poverty Prevention and Accountability Act of 2023";* H.R. 6474 (Rep. Steel), To amend the Energy Policy Act of 2005 to expedite geothermal exploration and development in previously studied or developed areas; and H.R. 6481 (Rep. Hageman), To amend the Mineral Leasing Act to require the Secretary of the Interior to reimburse the fee for an expression of interest if the expression of interest becomes inactive, and for other purposes, on **Tuesday, December 12, 2023, 10:30 a.m**. in room 1334 Longworth House Office Building.

Member offices are requested to notify Lonnie Smith (Lonnie.Smith@mail.house.gov) by 4:30 p.m. on Monday, December 11, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Biden administration's anywhere but here energy agenda is increasing energy poverty for American families that are living paycheck to paycheck.
- Federal agencies should consider how to ensure energy abundance and affordability during their rulemaking processes to avoid energy poverty.
- Establishing a categorical exclusion for geothermal energy in areas with existing production or areas that have been recently studied is a responsible way to increase utilization of geothermal energy by expediting the permitting process without reducing environmental standards.
- To ensure certainty for operators and to avoid unnecessary permitting costs, energy producers who pay a fee to nominate acreage for oil and gas lease sales should be refunded if the Bureau of Land Management refuses to offer the acreage in a sale.

II. WITNESSES

Panel I (Bill Sponsors):

- The Honorable Harriet Hageman, Representative, Wyoming's at large Congressional District [*H.R. 5482, and H.R. 6481*]

- The Honorable Michelle Steel, Representative, California's 45th Congressional District [*H.R. 6474*]

Panel II:

- Mr. Bryant Jones, Executive Director, Geothermal Rising [*H.R. 6474*]
- Ms. Kathleen Sgamma, President, Western Energy Alliance [*H.R. 6481*]
- Dr. J. Mijin Cha, Assistant Professor, University of California [*Minority Witness*] [*H.R. 5482*]
- Mr. Derek Hollie, Founder, Energy Poverty Prevention Project [*H.R. 5482*]

III. BACKGROUND

H.R. 5482 (Rep. Hageman), *"Energy Poverty Prevention and Accountability Act of 2023"*

H.R. 5482 defines "energy poverty" as a condition in which individuals do not have access to affordable and reliable energy to maintain economic security. In the first year of the Biden administration, the amount U.S. consumers spent on energy grew to over $1.3 trillion when adjusted for inflation, a 25% increase from 2020.[1] This trend worsened in 2022 as the average monthly electricity bill for residential customers in the United States increased 13 percent from 2021 to 2022, rising from $121 a month to $137 a month – the largest annual increase in average residential electricity spending since the data were first calculated in 1984.[2] Last winter, the number of households receiving government help to pay energy costs rose by an estimated 1.3 million, to more than 6 million, the largest year-over-year increase since 2009.[3] Additionally, when President Biden was elected in November 2020, the average gasoline price in the U.S. was roughly $2.20 per gallon.[4] Under President Biden's watch, gasoline prices reached a record-breaking high in 2022, with prices soaring to a nationwide average of over $5 a gallon,[5] and currently sit at roughly $3.50 a gallon.[6]

The Biden administration is directly responsible for increasing energy costs. In its first days, the Biden administration issued three directives that severely impacted oil and natural gas development on federal lands, reducing supply and driving up energy prices for American families, these directives include Secretarial Order 3395,[7] Executive Order 13990,[8] and

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[1] U.S. Energy Information Administration, Inflation-adjusted U.S. energy spending increased by 25% in 2021, August 3, 2023, https://www.eia.gov/todayinenergy/detail.php?id=57320&src=email.

[2] U.S. Energy Information Administration, U.S. residential electricity bills increased 5% in 2022, after adjusting for inflation, May 31, 2023, https://www.eia.gov/todayinenergy/detail.php?id=56660.

[3] The New York Times, Highest Heating Costs in Years Strain Many in New England, March 11, 2023, https://www.nytimes.com/2023/03/11/us/new-england-heating-costs-oil.html#:~:text=Nationwide%2C%20the%20number%20of%20households,Association%2C%20a%20policy%20group%20in.

[4] U.S. Energy Information Administration, Petroleum & Other Liquids, U.S. All Grades All Formulations Retail Gasoline Prices (Dollars per Gallon), https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=emm_epm0_pte_nus_dpg&f=m.

[5] *Id*.

[6] *Id*.

[7] The Secretary of the Interior, ORDER NO. 3395, Acting Secretary Scott de la Vega, Jan. 20, 2021, https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3395-signed.pdf.

[8] The Executive Office of the President, Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis, E.O. 13990, Jan. 25, 2021, https://www.federalregister.gov/documents/2021/01/25/2021-01765/protecting-public-health-and-the-environment-and-restoring-science-to-tackle-the-climate-crisis.

Executive Order 14008.[9] Of particular note, Executive Order 14008 imposed an indefinite pause on new oil and natural gas leasing on U.S. federal lands and waters "pending completion of a comprehensive review."[10] The administration did not end up holding an onshore lease sale until June of 2022 and did not hold an offshore lease sale until November of 2021,[11] the leases of which were not issued until the Inflation Reduction Act (IRA) required their issuance.[12] The Bureau of Land Management (BLM) also slowed approval of onshore oil and gas drilling permits, which would have resulted in increased supply, driving prices down. In fact, in Fiscal Year (FY) 2022, the BLM approved an average of 233 drilling permits per month.[13] In contrast, the BLM was approving nearly 400 drilling permits per month in FY 2020 under President Donald Trump.[14]

The Biden administration has also attacked the federal coal program. On April 16, 2021, Secretary of the Interior Deb Haaland issued Secretarial Order 3398, once again putting a pause on coal leasing and directed a new review of the federal coal program.[15] On August 12, 2022, a federal judge ordered the BLM to fully reimpose the Obama-era moratorium on new leasing.[16] On May 1, 2023, the Department of Interior (DOI) announced its intent to initiate yet another environmental impact statement (EIS) to evaluate the impacts of maintaining or revoking the coal moratorium,[17] even though no EIS was required to implement the 2016 Obama-era moratorium in the first place. The repeated stoppage of coal leasing by Democrat-led administrations has made the future of coal production from federal coal leases very uncertain. The Biden administration has pointed to climate change and environmental justice to justify nearly all of these anti-energy actions and refuses to focus on the impacts its' policies have on energy affordability for Americans.

H.R. 5482 would require the Government Accountability Office (GAO) to conduct a study to identify laws, regulations, and state standards that impact at-risk communities and categorize barriers to at-risk communities from accessing reliable and affordable energy. The bill would also force the Office of Management and Budget (OMB) to review energy related regulations to determine if any of the rules substantially burden at-risk communities. Both GAO and OMB would be required to issue a joint report to Congress on their findings along with recommendations on how to reduce energy poverty in at-risk communities and steps each agency can carryout to increase energy access to at-risk communities.

The bill would also require the Congressional Budget Office (CBO) to include in any energy related bill or resolution an estimate of how the bill or resolution will affect the cost of energy for

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[9] Exec. Order 14008, 86 Fed. Reg. 19, 7619 (Jan. 27, 2021).
[10] *Id.*
[11] Department of the Interior, Bureau of Ocean Energy Management, Final Notice of Sale, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 257, https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Final-NOS-257.pdf.
[12] Public Law No: 117-169.
[13] U.S. Bureau of Land Management, Applications for Permit to Drill, https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/permitting/applications-permits-drill.
[14] *Id.*
[15] U.S. Department of the Interior, ORDER NO. 3398, April 16, 2021, https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3398-508_0.pdf.
[16] U.S. District Court for the District of Montana, Great Falls Division, Case 4:17-cv-00030-BMM, August 12, 2022 https://earthjustice.org/wp-content/uploads/coal_leasing_moratorium_-_22-08-12_order.pdf.
[17] 88 FR 26588.

at-risk communities. If enacted, the Biden administration and future administrations would be forced to conduct a study prior to issuing a withdrawal of federal lands, taking action to delay or deny energy leases or permits, or declaring a moratorium on energy production that demonstrates the action in question will not increase energy poverty. These reports would be published on the agency's website and would also be submitted to Congress for transparency. Additionally, an energy project sponsor could request that an agency conduct a study on how the project in question would create jobs and reduce energy prices in at-risk communities.

Lastly, the bill would require that all agencies include an "Energy Poverty Statement" on the first page of each rulemaking, statement of policy, or guidance document detailing how the action will not result in energy poverty in at-risk communities.

H.R. 6474 (Rep. Steel), To amend the Energy Policy Act of 2005 to expedite geothermal exploration and development in previously studied or developed areas.

Geothermal power is considered a renewable energy resource and is derived by capturing heat from an underground water reservoir or naturally generated steam under high-pressure.[18] Enhanced geothermal systems (EGS) are man-made reservoirs, where fluid is injected into the subsurface in areas with hot rock creating pre-existing fractures which create permeability.[19] Increased permeability allows fluid to circulate throughout the now-fractured rock and to transport heat to the surface.[20] The Department of Energy (DOE) projects that EGS could provide 60 gigawatts (GW) of electricity by 2050 (8.5% of U.S. generation capacity).[21] However, the duplicative leasing and permitting process for geothermal development results in timelines longer than many other energy projects.[22]

H.R. 6474 would expedite geothermal development by amending the Energy Policy Act of 2005 (EPAct)[23] to allow for a new categorical exclusion (CE) under the National Environmental Policy Act (NEPA) of 1969 for geothermal energy. Section 390 of EPAct grants five different categorical exclusions to NEPA.[24] These CEs expedite the development of oil and gas projects when a well has already been spud on certain land, or where a field has been developed and an approved land use plan or any environmental document pursuant to NEPA found that drilling is a reasonably foreseeable activity.[25]

The bill would grant a CE for geothermal drilling in instances where drilling has occurred within the last 5 years or drilling will occur within an area for which an approved environmental document, that considered drilling, was completed pursuant to NEPA within the last 5 years. By

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[18] Congressional Research Service, Enhanced Geothermal Systems: Introduction and Issues for Congress, September 29, 2022, https://crsreports.congress.gov/product/pdf/R/R47256.
[19] U.S. Department of Energy Geothermal Technologies Office, What is an Enhanced Geothermal System (EGS), https://www1.eere.energy.gov/geothermal/pdfs/egs_basics.pdf.
[20] *Id*.
[21] U.S. Department of Energy, Geothermal Technologies Office, GeoVision: Harnessing the Heat Beneath Our Feet, May 2019, https://www.energy.gov/sites/default/files/2019/06/f63/GeoVision-full-report-opt.pdf.
[22] Congressional Research Service, *Enhanced Geothermal Systems: Introduction and Issues for Congress,* September 29, 2022, https://crsreports.congress.gov/product/pdf/R/R47256.
[23] PUBLIC LAW 109–58
[24] *Id.*
[25] *Id.*

adding geothermal energy development to Section 390, this bill would expedite the approval process for certain geothermal projects.

H.R. 6481 (Rep. Hageman), To amend the Mineral Leasing Act to require the Secretary of the Interior to reimburse the fee for an expression of interest if the expression of interest becomes inactive, and for other purposes.

In response to the BLM's failure to follow the law, the Inflation Reduction Act (IRA) requires DOI to offer at least two million acres, or 50 percent of the acreage for which expressions of interest (EOI) have been submitted for lease every year for the next decade, as a prerequisite for approving permits for wind-power and solar-power development on federal lands.[26] However, the BLM is currently attempting to circumvent this mandate by counting acreage considered in the process but not offered in an oil and gas lease sale[27] rather than total submitted EOIs.[28]

Operators must submit an EOI to the BLM to nominate acreage for lease.[29] EOIs were previously submitted free of cost, but the IRA[30] instituted a $5.00 per acre fee for every EOI submitted to BLM.[31] It is important to note that the submission of an EOI does not guarantee the nominated acreage for auction.[32]

During the week of Thanksgiving 2022, the BLM announced seven new Instruction Memoranda (IM) related to oil and gas leasing on federal lands.[33] Specifically, IM 2023-007[34] directed BLM employees to "close all EOIs that have remained pending for three or more years."[35] This new policy would seemingly allow the BLM to cancel EOIs after 3 years, forcing operators to have to resubmit acreage and repay the EOI fee every 3 years if the BLM does not offer the acreage.

H.R. 6481 would amend the Mineral Leasing Act by requiring the Secretary of the Interior to refund the paid fee if the acreage in the EOI is not offered and the EOI is cancelled. The bill would also ensure that EOIs remain active for a period of at least 5 years.

IV. MAJOR PROVISIONS & ANALYSIS

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[26] Public Law 117-169, Sec. 50265

[27] Kathleen Sgamma, Testimony before House Committee on Natural Resources. February 8, 2023.

[28] Bureau of Land Management, IM 2023-006, IMPLEMENTATION OF SECTION 50265 IN THE INFLATION REDUCTION ACT FOR EXPRESSIONS OF INTEREST FOR OIL AND GAS LEASE SALES, November 21, 2022, https://www.blm.gov/policy/im-2023-006

[29] Bureau of Land Management, Expression of Interest, https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/parcel-nominations#:~:text=An%20expression%20of%20interest%20(EOI,EOI%20submitted%20to%20the%20BLM.

[30] Public Law No: 117-169.

[31] Bureau of Land Management, Impacts of the IRA of 2022 to the Oil and Natural Gas Leasing Program, https://www.blm.gov/policy/im-2023-008#:~:text=As%20required%20by%20the%20IRA,30%20days)%20to%20submit%20payment.

[32] *Id.*

[33] The BLM issues updated oil and gas leasing guidance, https://www.blm.gov/sites/default/files/docs/2022-11/Fact%20Sheet_Oil%20and%20Gas%20Leasing%20Guidance_%2011.21.22.pdf

[34] Bureau of Land Management, Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales, November 21, 2022, https://www.blm.gov/policy/im-2023-007.

[35] *Id.*

H.R. 5482 (Rep. Hageman), *"Energy Poverty Prevention and Accountability Act of 2023"*

- Commissions GAO to identify and report on the barriers faced by at-risk communities in accessing reliable and affordable energy.
- Requires the OMB to review energy related regulations to determine if they would substantially burden at-risk communities.
- Requires GAO and OMB to issue a joint report to Congress on their findings along with recommendations on how to reduce energy poverty in at-risk communities.
- Requires the CBO to include in any energy related bill or resolution an estimate of costs to at-risk communities.
- Forces agencies to conduct studies prior to issuing a withdrawal of federal lands, taking action to delay or deny energy leases or permits, or declaring a moratorium on energy production that demonstrates the action in question will not increase energy poverty.
- Requires all agencies include an "Energy Poverty Statement" on the first page of each rulemaking detailing how the rule will not create energy poverty in at-risk communities.

H.R. 6474 (Rep. Steel), To amend the Energy Policy Act of 2005 to expedite geothermal exploration and development in previously studied or developed areas.

- Amends Section 390 of the Energy Policy Act of 2005 by adding geothermal exploration and development to the categorical exclusions authorized by that section.

H.R. 6481 (Rep. Hageman), To amend the Mineral Leasing Act to require the Secretary of the Interior to reimburse the fee for an expression of interest if the expression of interest becomes inactive, and for other purposes.

- Amends the Mineral Leasing Act to require the Secretary of the Interior to reimburse EOI submitters if the acreage in the EOI is not offered and the EOI is cancelled.
- Ensures that EOIs remain active for a period of at least 5 years.

V. COST

The Congressional Budget Office has not scored any of these bills.

VI. ADMINISTRATIVE POSITION

Unknown.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

H.R. 6474

H.R. 6481