

**SUBSTITUTE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 7375
OFFERED BY REPRESENTATIVE LEE OF NEVADA**

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “End Speculative Oil and Gas Leasing Act of 2023”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Federal land should be managed for multiple uses, resources, and values, including recreation use, grazing use, timber resources, mineral resources, watershed management, wildlife and fish habitat, and natural, scenic, scientific, and historic values;

(2) section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)) authorizes the Secretary of the Interior to offer for lease only land that is “known or believed to contain oil or gas deposits”;

(3) (A) in determining whether a parcel of Federal land should be made available for oil and gas leasing and development, and in offering such a parcel for sale, the Secretary does not meaningfully take into consideration the oil and gas development potential of that parcel; and

(B) as a result, the Secretary regularly offers and leases for oil and gas development Federal land that has no or low potential for the development of oil and gas resources (referred to in this section as “no- or low-potential Federal land”);

(4) (A) no- or low-potential Federal land is frequently leased for or near the minimum lease bid and rarely produce oil or gas resources; and

(B) as a result, taxpayers in the United States receive minimal revenue from the leasing of no- or low-potential Federal land;

(5) making no- or low-potential Federal land available for oil and gas leasing can result in leases being obtained for speculative purposes;

(6) the Secretary wastes taxpayer resources in issuing and managing leases on no- or low-potential Federal land;

(7) no- or low-potential Federal land frequently supports other economically important uses, resources, and values including the uses, resources, and values described in paragraph (1);

(8) the existence of leases on no- and low-potential Federal land can and does limit the ability of the Secretary to support and enhance the uses, resources, and values described in paragraph (1); and

(9) meaningful public participation in leasing decisions is essential and can help to ensure that the decisions of the Secretary are well-informed and based on current and reliable information and data.

SEC. 3. POLICY.

In accordance with Federal multiple use land management goals, it is the policy of the United States that—

(1) the Secretary—

(A) shall not, absent exceptional circumstances, offer for lease any Federal land that has low or no potential for the development of oil and gas resources;

(B) shall discourage speculation in the Federal onshore oil and gas leasing program; and

(C) by not offering for lease Federal land described in subparagraph (A), shall conserve limited Federal resources that can be better applied elsewhere; and

(2) the policies described in paragraph (1) are in keeping with, and are not detrimental to, the energy security of the United States.

SEC. 4. DEFINITIONS.

In this Act:

(1) DRAINAGE.—The term “drainage” means the migration of hydrocarbons, inert gases (other than helium), or associated resources caused by production from other wells.

(2) FEDERAL LAND.—The term “Federal land” means—

(A) public land; and

(B) National Forest System land.

(3) LAND USE PLAN.—The term “land use plan” means—

(A) a land use plan required under sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), including any resource management plan (as defined in section 1601.0–5 of title 43, Code of Federal Regulations (or successor regulations)); and

(B) a land and resource management plan developed by the Secretary of Agriculture pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(4) PUBLIC LAND.—The term “public land” has the meaning given the term “public lands” in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(5) REASONABLY FORESEEABLE DEVELOPMENT SCENARIO.—The term “reasonably foreseeable development scenario” has the meaning given the term in the handbook of the Bureau of Land Management entitled “H—1624–1—Planning for Fluid Mineral Resources” (as in effect on the date of enactment of this Act) and issued pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 5. FEDERAL LAND COVERED BY REASONABLY FORESEEABLE DEVELOPMENT SCENARIO ISSUED BEFORE DATE OF ENACTMENT.

(a) IN GENERAL.—With respect to Federal land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.)

that is covered by a reasonably foreseeable development scenario issued before the date of enactment of this Act, except as provided in subsection (b), the Secretary shall not offer the Federal land for lease unless the reasonably foreseeable development scenario for that land includes an assessment of the oil and gas development potential of that land that specifically identifies the potential for all acres subject to decisions on availability for leasing.

(b) EXCEPTION FOR DRAINAGE.—

(1) IN GENERAL.—The Secretary may offer for lease any Federal land described in subsection (a) without meeting the requirements of that subsection if—

(A) the Federal land is adjacent to and within 1 mile of a well producing oil and gas in paying quantities on the date on which the land is offered for leasing;

(B)(i) the lease is issued for the purpose of preventing drainage from the adjacent land and the Secretary has determined that an economic well can be drilled; or

(ii) the land is included in a State spacing unit; and

(C) the Federal land does not exceed 1280 acres.

(2) REQUIREMENT.—A lease issued under paragraph (1) shall be consistent with the applicable land use plan and all other applicable law.

SEC. 6. FEDERAL LAND NOT COVERED BY CURRENT REASONABLY FORESEEABLE DEVELOPMENT SCENARIO.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in subsection (c), if the Secretary determines that Federal land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) is not covered by a reasonably foreseeable development scenario issued in accordance with this subsection or section 5(a), the Secretary, in cooperation with the Secretary of Agriculture with respect to National Forest System land, shall complete

such a reasonably foreseeable development scenario prior to making the Federal land available for lease.

(2) REQUIREMENTS.—Any reasonably foreseeable development scenario issued on or after the date of enactment of this Act shall, at a minimum—

(A) assess and designate all Federal land covered by the reasonably foreseeable development scenario as having high, moderate, low, or no potential for development of oil and gas resources; and

(B) publish a map depicting the covered Federal land and the development potential for that Federal land designated under subparagraph (A).

(3) FACTORS.—

(A) IN GENERAL.—In completing a reasonably foreseeable development scenario for Federal land, the Secretary shall take into consideration all relevant and available information, including—

(i) past and present exploration and development activity in the vicinity, including historic trends;

(ii) for each lease in the vicinity, the number, location, and types of wells drilled, the representative depth of wells drilled, the number and location of dry holes, the success ratio for wells drilled, and the location, production history, and life expectancy of producing fields;

(iii) geological, geophysical, and geochemical information for the Federal land, including data and information from the United States Geological Survey, the Department of Energy, State agencies, industry, professional societies, academic sources, and the public;

(iv) structural and stratigraphic data and information relating to basins, fields, and plays on the Federal land; and

(v) data and information on the likelihood that economically recoverable oil and gas resources are present in a given area, including information submitted by experts and the public.

(B) EXPLANATION OF FACTORS.—The Secretary shall document how each factor described in subparagraph (A) and any other factors considered by the Secretary support the designation of the potential for development of oil and gas resources on the Federal land.

(4) OPPORTUNITY FOR PUBLIC PARTICIPATION.—In developing a reasonably foreseeable development scenario under this subsection, the Secretary shall—

(A) notify the public that the reasonably foreseeable development scenario is being initiated;

(B) publish a request for information for the reasonably foreseeable development scenario;

(C) release a draft version of the reasonably foreseeable development scenario for a public review and comment for a period of not less than 60 days; and

(D) consider and respond to public comments in the final version of the reasonably foreseeable development scenario.

(b) REGULAR UPDATE.—

(1) IN GENERAL.—Not later than 15 years after the date of enactment of this Act, and not less frequently than every 15 years thereafter, the Secretary, consistent with subsection (a) and in cooperation with the Secretary of Agriculture with respect to National Forest System land, shall review and update all reasonably foreseeable development scenarios covering Federal land.

(2) PROHIBITION.—Except as provided in subsection (c), the Secretary shall not offer for lease any Federal land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) unless the Secretary has updated the reasonably foreseeable development scenario covering that Federal land in accordance with paragraph (1).

(c) EXCEPTION FOR DRAINAGE.—

(1) **IN GENERAL.**—The Secretary may offer for lease any Federal land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) without completing or updating a reasonably foreseeable development scenario for that land under subsection (a) or (b), as applicable, if—

(A) the Federal land is adjacent to and within 1 mile of a well producing oil and gas in paying quantities on the date on which the land is offered for leasing;

(B)(i) the lease is issued for the purpose of preventing drainage from the adjacent land and the Secretary has determined that an economic well can be drilled; or

(ii) the land is included in a State spacing unit; and

(C) the Federal land does not exceed 1280 acres.

(2) **REQUIREMENT.**—A lease issued under paragraph (1) shall be consistent with the applicable land use plan and all other applicable law.

SEC. 7. LAND HAVING NO OR LOW DEVELOPMENT POTENTIAL UNDER A REASONABLY FORESEEABLE DEVELOPMENT SCENARIO.

(a) **IN GENERAL.**—Except as provided in subsections (b) and (c), the Secretary shall not offer for lease any Federal land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) if the Federal land is designated in the applicable reasonably foreseeable development scenario as having low or no potential for development of oil or gas resources.

(b) **EXCEPTION FOR DRAINAGE.**—

(1) **IN GENERAL.**—The Secretary may offer for lease any Federal land described in subsection (a) if—

(A) the Federal land is adjacent to and within 1 mile of a well producing oil and gas in paying quantities on the date on which the land is offered for leasing;

(B)(i) the lease is issued for the purpose of preventing drainage from the adjacent land and the Secretary has determined that an economic well can be drilled; or

(ii) the land is included in a State spacing unit; and

(C) the Federal land does not exceed 1280 acres.

(2) **REQUIREMENT.**—A lease issued under paragraph (1) shall be consistent with the applicable land use plan and all other applicable law.

(c) **VARIANCE PROCESS.**—

(1) **IN GENERAL.**—An entity seeking to lease Federal land described in subsection (a) for purposes other than the purpose described in subsection (b)(1)(B)(i) may submit to the Secretary an application for a variance under which the applicant shall bear the full burden of establishing and documenting that providing a variance for the Federal land would—

(A) be consistent with decisions contained in the land use plan in effect for the Federal land;

(B) affect only areas—

(i) with low wildlife, recreation, livestock, and other multiple-use resource values; and

(ii) where impacts to those values arising from the variance can be mitigated;

(C) optimize the use of existing infrastructure and avoid duplication of infrastructure and disruption of public land;

(D) minimize adverse impacts on fish and wildlife habitats and migration and movement corridors in nearby areas;

(E) cause no significant effects on species listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the habitats of those species;

(F) cause no cumulative impacts on air or water resources of concern that cannot be avoided or minimized;

(G) cause no adverse impacts on—

(i) units of the National Park System;

(ii) units of the National Wildlife Refuge System;

(iii) areas of critical environmental concern;

(iv) components of the National Wilderness Preservation System;

or

(v) other special status areas, including State and local parks and wildlife and recreation areas; and

(H) allow the Federal land to be developed in the public interest.

(2) OPPORTUNITY FOR PUBLIC PARTICIPATION.—

(A) IN GENERAL.—On receipt of an application for a variance under paragraph (1), the Secretary shall—

(i) promptly notify the public that the application has been received; and

(ii) provide the public with an opportunity to review and comment on the application, including any supporting documents, for a period of not less than 60 days.

(B) RESPONSE.—The Secretary shall consider and respond in writing to any public comments received under subparagraph (A)(ii) before making a determination under paragraph (3)(A).

(3) GRANTING OF VARIANCE.—The Secretary may grant a variance for Federal land described in subsection (a) pursuant to an application submitted under paragraph (1), and offer that Federal land for lease, if—

(A) the Secretary publishes in the Federal Register a determination that—

(i) the applicant met the burden of establishing and documenting that the variance would meet the requirements described in paragraph (1);

(ii) offering the Federal land for lease—

(I) would not preclude the use of the Federal land for other uses, including grazing, fish and wildlife, and recreation uses; and

(II) would be managed in accordance with the principles of multiple use (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)); and

(iii) the variance is in the public interest; and

(B) the Federal land—

(i) is adjacent to land currently producing oil or gas in commercial quantities on the date on which the variance is granted; and

(ii) does not exceed 1280 acres.

(4) **REQUIREMENT.**—A lease issued under paragraph (3) shall be consistent with the applicable land use plan and all other applicable law.

(5) **LIMITATION.**—The Secretary shall not grant more than 1 variance under this subsection per 5-year period to an applicant or to an entity under common ownership or control with the applicant.

SEC. 8. EFFECT.

(a) **MULTIPLE USE CONSIDERATIONS.**—Nothing in this Act, including a determination under a reasonably foreseeable development scenario issued pursuant to this Act that Federal land has high or moderate potential for development of oil and gas resources, alters—

(1) the requirements under section 202(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)) that prior to offering for lease any public land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral

Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Secretary shall consider and weigh the multiple use and sustained yield values of the public land;

(2) the requirements of subsections (b) and (e) of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that prior to offering for lease any National Forest System land otherwise available for leasing of oil and gas resources pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Secretary of Agriculture shall consider and weigh the multiple use and sustained yield values of the National Forest System land; or

(3) any other applicable requirements of law.

(b) NEPA.—Nothing in this Act modifies, alters, or impacts the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to the leasing of Federal land by the Secretary.

Amend the long title to read: “A bill to discourage speculative oil and gas leasing and to promote enhanced multiple use management of public land and National Forest System land, and for other purposes.”