

# Committee on Natural Resources

Rob Bishop Chairman  
Markup Memorandum

June 18, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff - Ashley Nichols (x59297)  
Subcommittee on Energy and Mineral Resources

Mark-Up: **H.R. 6087 (Rep. Cheney)**, To authorize the Secretary of the Interior to recover the cost of processing administrative protests for oil and gas lease sales, applications for permits to drill, and right of way applications, and for other purposes.  
**June 20, 2018, at 10:15 AM; 1324 Longworth House Office Building**

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## ***H.R. 6087, Removing Barriers to Energy Independence Act***

### **Summary of the Bill**

On June 13, 2018, Rep. Liz Cheney (R-WY-01) introduced H.R. 6087, the “Removing Barriers to Energy Independence Act.” This legislation authorizes the Secretary of the Interior to recover the cost of processing administrative protests for oil and gas lease sales, applications for permits to drill, and right of way applications.

### **Cosponsors**

Rep. Greg Gianforte (R-MT-At Large)  
Rep. Louise Gohmert (R-TX-01)  
Rep. Rob Bishop (R-UT-01)  
Rep. Paul A. Gosar (R-AZ-04)

### **Background**

Individuals and organizations are permitted to submit protests to the Department of the Interior on oil and gas lease sales, applications for permits 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 apply for a permit to drill, the Department is not currently authorized to assess an administrative fee on protests submitted to BLM.<sup>2</sup> Each

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

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

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 Departmental 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%
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 (30 U.S.C. 181 et seq.) 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,

<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.

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

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 oil and gas lease sale in New Mexico, which generated \$145 million in revenue, nearly \$70 million of which was owed 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 the Department of the Interior to recover the cost of processing administrative protests on oil and gas lease sales, applications for permits to drill and right-of-way applications. The Department 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 the Department to offset the cost of processing protests by assessing an administrative fee on each submission.

### **Major Provisions/Analysis of H.R. 6087**

- 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 permits 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.
- 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.

### **Cost**

CBO has not scored the legislation.

### **Administration Position**

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<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/>

Unknown.

**Anticipated Amendments**

None at this time.

**Effect on Current Law (Ramseyer)**

**Showing Current Law as amended by H.R. 6087**

[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)**

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**(q) PROTEST FILING FEE.—**

(1) IN GENERAL.—Prior to processing any protest filed under this section, the Secretary shall collect a filing fee from the protestor 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 to the base filing [sic] fee, an 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) IN GENERAL.—Beginning on January 1, 2020, and annually thereafter, The Secretary shall adjust the filing fees established in this subsection to whole dollar amounts to reflect changes in the Producer Price Index as published by the Bureau of Labor Statistics, for the previous 12 months.

(B) PUBLICATION OF ADJUSTED FILING FEES.—At least 30 days before the filing [sic] fees as adjusted under this paragraph take effect, the Secretary of the Interior shall publish notification of the adjustment of such fees in the Federal Register.