



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: Energy and Mineral Resources Subcommittee, Ashley Nichols –
ashley.nichols@mail.house.gov; ext. 63044
Date: February 28, 2023
Subject: Subcommittee Hearing on H.R. 209 (Stauber), the “*Permitting for Mining Needs Act*” and the H.R. ____ (Westerman), “*TAP American Energy Act*”

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing on 2 bills: H.R. 209, the “*Permitting for Mining Needs Act*” and a discussion draft of the “*TAP American Energy Act*” on February 28, at 10:15 a.m. in Room 1324 Longworth HOB.

Member offices are requested to notify Ashley Nichols (Ashley.nichols@mail.house.gov) by 4:30 p.m. on February 27, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- An all-of-the-above approach to domestic energy and mining – including oil, natural gas, coal, renewables, and hardrock development – is the best way to support the energy needs of American families and meet our technological and national security needs.
- Unfortunately, the actions of the Biden administration from day one have blunted the ability of American producers to produce the energy and mineral resources that our country, and the world, so desperately need.
- These bills will spur the responsible development of domestic energy and mineral resources by creating leasing certainty, streamlining permitting processes, and reducing frivolous litigation.

II. WITNESSES

- Mr. Dan Naatz, Chief Operating Officer, Independent Petroleum Association of America, Washington, D.C.
- Mr. Rich Nolan, President and CEO, National Mining Association, Washington, D.C.
- Mr. Mark Squillace, Professor of Law, University of Colorado, Boulder, CO [*Minority Witness*]
- Mr. Paul Thomsen, Vice President of Business Development, Americas, Ormat Technologies, Reno, NV

III. BACKGROUND

TAP American Energy Act

Conventional Energy Development on Federal Lands and Waters

Conventional energy resources will be a necessary component of the worldwide energy mix for many decades to come. The Energy Information Administration predicts a 50 percent increase in global energy consumption by 2050, with petroleum and other liquid fuels remaining the largest energy source, and natural gas consumption increases expected as well.¹ Maximizing energy production in America will limit the need to import from other nations, reduce global emissions, lower energy costs, create jobs domestically, and help our allies abroad.

In his first days in office, President Biden issued three directives that severely impacted oil and natural gas development on federal lands and drove up energy prices for American families: Secretarial Order 3395, Executive Order 13990, and Executive Order 14008. 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.”² On June 15, 2021, U.S. District Judge Terry A. Doughty placed an injunction on the Department of the Interior’s (DOI) unlawful moratorium and ordered the agencies to restart the leasing process.³ In response, the Biden administration appealed the decision and continued to delay scheduling lease sales.⁴

For oil and gas production on federal lands the Mineral Leasing Act explicitly states that “lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary.”⁵ Unfortunately, for a year and a half, the Biden administration did not hold a lease sale until June of 2022. To make matters worse, this sale was largely watered down as it only offered 20 percent of the parcels that were originally included, and it implemented a 50 percent royalty hike.⁶ As a result, only 110 square miles of the 200 square miles received bids.⁷

Similarly, the Biden administration has held only one offshore oil and natural gas lease sale in the Gulf of Mexico to date, Lease Sale 257.⁸ A district court vacated the lease sale in January 2022 in an unprecedented decision⁹ and the Biden administration chose not to appeal this case,

¹ U.S. Energy Information Administration, EIA projects nearly 50% increase in world energy use by 2050, led by growth in renewables, Courtney Sourmehi, October 7, 2021, <https://www.eia.gov/todayinenergy/detail.php?id=49876>

² Exec. Order 14008, 86 Fed. Reg. 19, 7619 (Jan. 27, 2021).

³ Partlow, Joshua and Eilperin, Juliet. Louisiana judge blocks Biden Administration’s oil and gas leasing pause.

<https://www.washingtonpost.com/climate-environment/2021/06/15/louisiana-judge-blocks-biden-administrations-oil-gas-leasing-pause/>

⁴ Valerie Volcovici. “Biden administration appeals federal court decision to block oil, gas leasing pause.” Reuters. August 16, 2021,

<https://www.reuters.com/world/us/biden-administration-appeals-federal-court-decision-block-oil-gas-leasing-pause-2021-08-16/>

⁵ 30 U.S. Code § 226.

⁶ Energy in Depth, FIRST BIDEN ADMINISTRATION ONSHORE LEASE SALES BRING IN NEARLY \$22 MILLION, 7/1/22,

<https://www.energyindepth.org/first-biden-administration-onshore-lease-sales-bring-in-nearly-22-million/>

⁷ Associated Press, Matthew Brown, First oil sales on public land under Biden bring \$22 million, June 30, 2022, <https://apnews.com/article/biden-billings-climate-and-environment-government-politics-e2d9bb381672f26ea985c65407c728ae>

⁸ 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>.

⁹ Friends of the Earth, et al. vs. Debra Haaland, et al., U.S. District Court for the District of Columbia, Memorandum Opinion, filed January 27, 2022, <https://subscriber.politicopro.com/eenews/f/eenews/?id=0000017e-a065-db8b-ab7f-f2ff5ec00000>.

declining to defend their own work.¹⁰ As a result, no new leases were issued for this sale until the Inflation Reduction Act (IRA) required issuance of the leases from Lease Sale 257. The Biden administration canceled the three remaining sales under the current 5-year plan for offshore leasing¹¹ and has only resumed planning for these sales at the direction of the IRA. DOI's Bureau of Ocean Energy Management (BOEM) held Lease Sale 258 in the Cook Inlet of Alaska on December 30, 2022, issued a Final Supplemental Environmental Impact Study for Lease Sale 259 and 261 in the Gulf of Mexico and published a Notice of Sale for Lease Sale 259.¹² The IRA requires that these sales take place before the end of March and September 2023, respectively.¹³ The Department issued a draft version of the 2022 to 2027 5-year plan, known as a "proposed program," on July 1, 2022, after the most recent plan expired on June 30, 2022.¹⁴ Publication of a proposed program is the second step in a lengthy interagency process, and many months of public comment and agency deliberation must occur before the final program is published. As a result, future leasing on the outer continental shelf (OCS) remains uncertain under the Biden administration.

This administration has also slowed on the permitting processes for onshore and offshore oil and gas development. Approving onshore drilling permits, or applications for permit to drill (APD), would increase near-term production on federal lands which would increase supply and ultimately drive down energy prices for all Americans, something that the President claims to want. Unfortunately, in Fiscal Year (FY) 2022, the Bureau of Land Management (BLM), which is in charge of approving APDs, approved an average of 233 drilling permits per month. In contrast, the BLM was approving nearly 400 drilling permits per month in FY 2020 under President Donald Trump.¹⁵ Additionally, as of January 31, 2023, over 5,000 APDs were still pending awaiting BLM approval.¹⁶ In New Mexico, which produces the second most oil in the U.S. behind Texas, over half of oil and gas production is on federal lands¹⁷, making the state dependent on federal permitting. According to the American Exploration and Production Council, permit approval times increased from 400 days in 2020 to 650 days in early 2022 with total approvals dropping about 50 percent.¹⁸

Offshore, the National Marine Fisheries Service (NMFS) has delayed permits required for seismic surveys needed for oil and gas exploration. NMFS must issue "Letters of Authorization" for takings of marine mammals in order for BOEM to issue a seismic permit. These permits usually take weeks to issue, but due to a miscalculation by NMFS in the 2021 Incidental Take Rule, the agency has developed a growing backlog of permits.¹⁹ Delaying the issuance of these permits creates uncertainty both for projects that are near production and long term exploration.

¹⁰ Rachel Frazin, "Biden administration won't appeal invalidation of offshore oil leases," The Hill, March 1, 2022,

<https://thehill.com/policy/energy-environment/596334-biden-administration-declines-to-appeal-invalidation-of-offshore>.

¹¹ Department of the Interior. Bureau of Ocean Energy Management. 2017-2022 Lease Sale Schedule. <https://www.boem.gov/2017-2022-lease-sale-schedule>

¹² Department of the Interior. Bureau of Ocean Energy Management. Lease Sales. <https://www.boem.gov/oil-gas-energy/lease-sales>

¹³ Public Law 117-169.

¹⁴ Testimony of Secretary Deb Haaland. Senate Committee on Energy and Natural Resources Hearing. May 19, 2022.

¹⁵ <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/permitting/applications-permits-drill>

¹⁶ <https://www.blm.gov/sites/default/files/docs/2023-02/FY%202023%20APD%20Status%20Report%20January.pdf>

¹⁷ <https://www.energyindepth.org/president-bidens-comments-on-federal-lands-leasing-in-new-mexico-are-disconnected-from-reality/?159>

¹⁸ American Exploration and Production Council, *DOI Leasing & Permitting*.

¹⁹ NOAA Fisheries. Incidental Take Authorization: Oil and Gas Industry Geophysical Survey Activity in the Gulf of Mexico

<https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico>

Renewable Energy Development on Federal Lands and Waters

The issues facing renewable energy development on federal lands and waters largely mirror the same issues faced by conventional energy production. According to a recent study by the R Street Institute, of all the Department of Energy's active National Environmental Policy Act (NEPA) projects, 42 percent were related to either clean energy, transmission or environmental conservation, while only 15 percent were related to fossil fuel.²⁰ R Street published a similar study for the BLM and found that 24 percent of their active NEPA documents were for renewable energy projects, and only 13 percent were for fossil fuels.²¹

NEPA has become a significant barrier for energy development of all kinds, including renewable energy and transmission projects. The current permitting process is filled with duplicative assessments and prolonged processing, making it difficult for developers to plan, finance, and build projects efficiently.²² The Trump administration took a positive step forward by releasing comprehensive NEPA reforms for the first time in more than 40 years.²³ Among other actions, these reforms established time and page limits for environmental reviews, strengthened the role of the lead agency and provided direction to agencies to utilize and create categorical exclusions.²⁴ These reforms served as a means of expediting all projects on federal lands, including renewable energy development and transmission. Unfortunately, last April, CEQ finalized its first phase of NEPA reform by undoing some of the major changes put in place by the Trump administration.²⁵ CEQ plans to issue its phase 2 NEPA regulations that will make broader changes to the Trump administration regulations later this year.²⁶

The *TAP American Energy Act of 2023* would address these issues by ensuring oil, natural gas and geothermal lease sales occur, increasing transparency and accountability at the federal agencies responsible for leasing and permitting, streamlining the permitting process for low-impact activities or actions in areas that have been previously studied, and reducing the ability of serial litigants or activist judges from blocking projects.

H.R. 209 (Staubert), the Permitting for Mining Needs Act of 2023

Hardrock minerals, sometimes called “locatable” minerals, include a broad set of dozens of non-fuel resources including copper, rare earth elements, uranium, and many others. Some of these minerals are listed by the Department of the Interior (DOI) on their Final List of Critical Minerals, but DOI's list is far from exhaustive and does not necessarily denote the importance of individual commodities. Hardrock resources are necessary components of nearly all advanced technologies, such as defense systems, satellites, smart phones, and electric vehicle batteries.

²⁰ Addressing NEPA-Related Infrastructure Delays, Phil Rossetti, July 7, 2021, <https://www.rstreet.org/2021/07/07/addressing-nepa-related-infrastructure-delays/>

²¹ *Id.*

²² Geothermal Rising, Letter to Secretary Debra Haaland, March 18, 2021, <https://geothermal.org/resources/geothermal-rising-letter-addressing-geothermal-permitting-public-lands>.

²³ Council on Environmental Quality, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 7/16/2020, <https://www.federalregister.gov/documents/2020/07/16/2020-15179/update-to-the-regulations-implementing-the-procedural-provisions-of-the-national-environmental>.

²⁴ *Id.*

²⁵ National Environmental Policy Act Implementing Regulations Revisions, April 20, 2022, <https://www.federalregister.gov/documents/2022/04/20/2022-08288/national-environmental-policy-act-implementing-regulations-revisions>

²⁶ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0331-AA07>

Growth in renewable energy and other sectors will drive exponential demand for hardrock minerals in the coming years.

Unfortunately, almost all of these advanced technologies' supply chains are at least partially controlled by China, if not completely dependent on foreign capacity for mineral sourcing or refining. Such overreliance on foreign nations generates significant national security risks, in addition to serious humanitarian and environmental concerns. Maximizing production of domestic hardrock resources is the surest way to regain control over our nation's present and future supply.

One of the biggest obstacles to hardrock mineral development in the United States is the severely unpredictable federal permitting framework. Despite the rich mineral deposits across the West, it takes an average of 7-10 years of permitting under the NEPA and other statutes before production can begin.²⁷ The mine exploration process itself is very risky from an operator's perspective; only around 1 in 1,000 prospective deposits ever becomes a mine.²⁸ In fact, around \$1 billion in investment and years of development are often required before an operator produces any marketable product.²⁹

H.R. 209 (Stauber) first and foremost aims to increase efficiency and predictability in mine permitting on federal lands, without altering any existing environmental protection standards. This legislation designates a lead federal agency to drive the process, authorizes a memorandum of agreement between a project sponsor and lead agency to increase clarity and accountability, and sets time limits for review under NEPA. This bill also takes advantage of existing permitting streamlining structures, such as adding mineral production as a covered sector under the Fixing America's Surface Transportation Act, and allowing expedited review of minor surface disturbance activities. Additionally, this bill corrects faulty methodology in DOI's selection process for the critical minerals list, and ensures uranium can be considered for selection.

Further, H.R. 209 protects the longstanding practice of allowing mine support activities whether or not a mineral deposit has been discovered; given the challenges of mineral exploration and production, operators must be allowed to conduct ancillary activities as necessary for development throughout the life of the project. Finally, this bill limits judicial review to only claims filed within 120 days of a final agency action, so that mine projects will not be stymied by obstructionist lawsuits years after review has been completed.

Meaningful permitting reform is a long-awaited, necessary component to reaching the full hardrock mineral potential in the United States. H.R. 209 brings stability and certainty back to the process, thus allowing production to flourish and enabling us to meet the needs of ourselves and our allies.

²⁷ Society for Mining, Metallurgy, and Exploration, "Improved Regulatory Coordination," <https://www.smenet.org/What-We-Do/Technical-Briefings/Improved-Regulatory-Coordination>.

²⁸ National Research Council, "Hardrock Mining on Federal Lands," National Academy of Sciences, 1999, pg. 247.

²⁹ Briefing from the National Mining Association. March 2019.

IV. MAJOR PROVISIONS & ANALYSIS

TAP American Energy Act (Westerman)

Title I – Onshore and Offshore Leasing and Oversight

Title I includes several provisions aimed at improving the leasing processes for onshore and offshore oil and natural gas as well as geothermal energy development. The bill would clarify that onshore lease sales must be held in each state with eligible lands quarterly and requires replacement sales for any sales that are missed. The Title also includes provisions that clarify that onshore oil and gas lease reinstatements do not require a duplicative NEPA analysis, mandate that the Secretary of the Interior resolve protested lease sales within 60 days, require filing fees for protests, and allow operators to receive a suspension of operations for a lease if the BLM is failing to hold a lease sale on adjacent acreage.

For offshore, Title I includes a mandate that the Secretary of the Interior hold all lease sales in the last 5-year plan and requires the Secretary to hold 2 region-wide lease sales per year in the Central Gulf and the Western Gulf and 2 region-wide lease sales per year in the Alaska Region of the Outer Continental Shelf. These requirements would all apply to future 5-year programs and the bill would ensure that the upcoming 5-year program, and all future programs, are completed expeditiously.

Title I also contains a good governance provision that would require all bureaus within the Department of the Interior to issue a report to Congress, and publish online, detailing the past and present status of leasing and permitting documents that each bureau is responsible for. The report would require the respective bureaus to explain any delays as well as how they plan to address them. This provision would allow Congress to conduct its oversight responsibilities by highlighting certain permits or processes that are inefficient or are not in accordance with law. The Title also requires the Department of the Interior and the Department of Agriculture to submit to Congress “staff planning reports” describing how the agencies plan to hire and allocate staff to address leasing and permitting delays.

Lastly, Title I includes specific provisions for geothermal and coal leasing. For geothermal, the bill simply requires the BLM to hold annual lease sales in eligible states, instead of every other year. For coal, the bill cancels the existing moratorium on new federal coal leasing and requires the prompt issuance of any lease-by-applications currently pending at DOI.

Title II – Permitting Streamlining

Title II focuses primarily on improving the permitting processes for energy development and infrastructure on federal lands and preventing frivolous litigation from blocking or delaying energy projects. Title II accomplishes these goals by codifying the 2020 NEPA regulations promulgated by CEQ under the Trump administration. Among other actions, these reforms established time and page limits for environmental reviews, strengthened the role of the lead agency and provided direction to agencies to utilize and create categorical exclusions.

The Title also includes several NEPA specific provisions that would improve the permitting process for energy projects. This includes provisions that would exempt certain low-impact actions, actions in existing rights-of-way and actions in previously studied areas from NEPA; allow agencies to use previous NEPA analyses for similar actions; and clarify that the scope of NEPA analysis for an oil and natural gas lease or permit should be confined to the area directly impacted by the lease or permit being issued.

Title II also includes provisions that would provide certainty in the right-of-way process on federal lands. This includes language that would require agencies to notify applicants if their right-of-way application is complete within 60 days. Additionally, this Title would allow agencies to grant rights-of-way for up to 50 years.

The Title also includes several sections specific to APDs for oil and gas on federal lands. These include provisions that would clarify the deferral process for APDS, require current APDs languishing in the BLM to be issued within 30 days (as is required by law), increase the APD term to four years to reduce paperwork, and allow operators to access federal minerals without an APD so long as they receive a permit from the respective state. The Title also includes a provision to study and assess the ability for states to take over parts of the APD process.

This title also includes a provision to streamline the permitting process for geological and geophysical surveys in the Gulf of Mexico by enabling DOI to issue pending permits.

Title II also includes a provision that would allow applicants to fund staff or technological upgrades at agencies to expedite the permitting process for energy projects.

Finally, this title also includes reforms to the judicial review process for energy projects. Specifically, this bill would prevent courts from vacating oil and gas leases if the agency in charge can remedy the court's concerns. It also creates a 120-day limitation on claims for litigation involving energy projects.

Title III – Federal Land Use Planning

Title III addresses administrative mineral withdrawals by prohibiting mineral withdrawals on federal lands without a recent mineral assessment (within the previous 10-year period) and an assessment of the impacts of the withdrawal on the U.S. mineral supply chain (including negative impacts on economic and national security).

This Title also requires DOI, upon discovery of a new mineral deposit in a previously withdrawn area, to recommend ways to reduce impacts the withdrawal may have on mineral exploration, development, and other mining activities.

Finally, this Title requires a recent mineral assessment be part of a resource management plan, including the consideration of the economic, strategic, and national security value of mineral deposits in proposed resource management plan area.

Title IV – Ensuring Competitiveness on Federal Lands

This title rolls back the onerous fees and royalties imposed on onshore and offshore operators by the so-called, “Inflation Reduction Act” or “IRA.”

Specifically, for offshore oil and gas development, the IRA amended OCSLA to raise the minimum royalty rate for offshore oil and gas leasing on the OCS from 12.5 percent to 16.66 percent and capping royalty rates at 18.75 percent for the first 10 years of a lease and 16.66 percent thereafter.

For onshore oil and gas development, the IRA:

- Raises the minimum royalty rate for onshore oil and gas leasing from a minimum of 12.5 percent to a fixed 16.66 percent for the first 10 years after enactment then a minimum of 16.66 percent thereafter.
- Raises the minimum bid for an onshore lease from a minimum of \$2 per acre to a fixed \$10 per acre for the first 10 years after enactment, then a minimum of \$10 per acre thereafter.
- Raises the rental rate for onshore leases to \$3 for the first 2 years of a lease, \$5 for the next 6 years of a lease and \$15 for the remaining years of a lease for the first 10 years after enactment. After 10 years after enactment, the rental rate shall be \$3 for the first 2 years of a lease, \$5 for the next 6 years of a lease and *not less than* \$15 for the remaining years of a lease.
- Raises minimum royalty rate for reinstated leases from 16.66 percent to 20 percent and the rental rates for reinstated leases from \$10 per acre to \$20 per acre.
- Imposes a new fee of \$5 per acre to nominate parcels for lease sales (known as “expressions of interest fee”), with an adjustment for inflation every 4 years
- Eliminates noncompetitive leasing and instead allows for parcels not receiving bids during a lease sale to undergo another round of competitive bidding.
- Requires that royalties be assessed on all gas produced or lost through venting and flaring (“new methane royalty”).

Title IV of the Tap American Energy Act would reverse these onerous fees and royalty increases to ensure competitiveness of federal lands and waters in terms of investment in new energy development. Operators face significantly less regulatory hurdles on state and private lands than on federal lands and waters. Imposing new fees and higher royalties in a time of inflation and rising energy prices both disincentivizes development and leads to higher energy prices for American consumers.

Title V – Energy Revenue Sharing

Title V will allow for parity in revenue sharing for coastal states with offshore energy development. Specifically, this title will increase the state share of offshore oil and gas revenues for Alabama, Louisiana, Mississippi, and Texas from 37.5 percent to 50 percent. Additionally, this title includes provisions to establish revenue sharing for states with new offshore wind development off their coastline. Under this bill, states with offshore wind development will

receive 50 percent of the revenues from offshore lease sales and 37.5 percent of the revenues will be deposited into the existing North American Wetlands Conservation Fund.

Finally, this title will repeal a 2 percent administrative fee imposed on energy revenue sharing for onshore states with energy development on federal lands within their borders.

H.R. 209 (Stauber)

This bill sets up a process to maximize efficiency and minimize delays for mining projects on federal land. This begins with designating a lead federal agency to coordinate the mine permitting process. Upon request of a project sponsor, the lead agency may enter into a memorandum of agreement with the project sponsor or state or tribal government to carry out permitting activities. This will provide more clarity throughout the process. Additionally, deadlines for completion of review under NEPA is set at 1 year for environmental assessments (EAs) and 2 years for environmental impact statements (EISs), unless a deadline extension is agreed to by the project sponsor. Further, a lead agency is authorized to adopt an EA or EIS prepared by a project sponsor, if such document meets NEPA requirements.

H.R. 209 also extends several existing permitting streamlining mechanisms to mining projects. For instance, publication of relevant federal actions in the Federal Register for all mineral projects will be delegated to the agency of jurisdiction to reduce delays. Minor surface disturbance on five acres or less may now receive expedited review under this bill. Additionally, this bill adds hardrock mining as a covered sector under the Fixing America's Surface Transportation (FAST) Act, and specifically includes any project that receives federal funds under the Defense Production Act for domestic mining or processing as covered projects under the FAST Act as well, unless the project sponsor opts out.

This bill also ensures that ancillary mining activities, including exploration operations and construction of a mine access road, are permitted with or without the discovery of a valuable mineral deposit. It is essential for an operator to have certainty that they will be able to explore and utilize the full area they have sited for a prospective mine, without having to go through separate review for mining support operations.

H.R. 209 also addresses the politicization of DOI's critical minerals list, amending the existing critical mineral criteria to prevent the unilateral exclusion of uranium from future consideration. The Secretary of the Interior is required to update the Final List of Critical Minerals with the revised criteria within 60 days of enactment of this Act.

Finally, this bill specifies that a claim seeking judicial review of a permit or other authorization for a mining project must be filed within 120 days of a final agency action in order to be considered. This is to encourage meaningful engagement in the process, instead of anti-development lawsuits to stop a mine just before production.

V. COST

A CBO score for the legislation in the 118th Congress has not been completed.

VI. ADMINISTRATION POSITION

Unknown

VII. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 209, the “Permitting for Mining Needs Act”](#)

[Discussion Draft of the “TAP American Energy Act”](#)