



December 11, 2023

The Honorable Peter Stauber  
Chairman  
Energy and Mineral Resources Subcommittee  
U.S. House Natural Resources Committee  
Washington, DC 20515

The Honorable Alexandria Ocasio-Cortez  
Ranking Member  
Energy and Mineral Resources Subcommittee  
U.S. House Natural Resources Committee  
Washington, DC 20515

Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the House Natural Resources Committee's Subcommittee on Energy and Mineral Resources:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express our views on the bills listed below, which are scheduled to be heard by the House Natural Resources Committee's Energy and Mineral Resources Subcommittee on December 12, 2023.

**H.R. 5482, the Energy Poverty Prevention and Accountability Act**

H.R. 5482 would subject all federal and state laws, bills, and regulatory actions to additional reviews, audits, and reporting requirements focusing exclusively on one aspect of the clean energy transition: energy prices. The legislation fails to account for the public health improvements, ecosystem health, fair returns for taxpayers for the fossil fuel industry's use of shared public resources, economic diversification, emissions reduction, or any other positive externality that may arise from a legislative or regulatory action.

Specifically, Section 2 of the bill includes senses of Congress that Americans should have access to affordable, reliable energy, that energy costs should be mitigated, and that federal policies should not increase energy costs for "at-risk communities." While these are laudable goals, the legislation – again – places a primacy on affordability and fails to account for other critical considerations that may necessitate regulatory or legislative action.

Section 3 includes a series of definitions for “at-risk communities,” “energy poverty,” what constitutes an “energy rule” under the purview of the Act, “Federal land,” and several other terms that are found throughout United States Code.

Section 4 requires the Government Accountability Office and the Office of Management and Budget (OMB) to jointly author a report on energy actions taken by states and the federal government over the prior year that also analyzes prospective regulatory actions. It would also examine which “at-risk communities” are experiencing “energy poverty”, why, and how to mitigate those concerns, and recommendations for action that follow a very narrow and overly prescriptive set of parameters, including “increasing energy production on Federal lands.” The prescriptiveness of these reports predetermines a set outcome – an outcome that favors unscrupulous oil, gas, and coal leasing and extraction.

Section 5 directs the Congressional Budget Office to include a cost estimate on consumer energy price increases for each bill that could result in an energy-related regulatory action. It also requires the Secretary of the Interior to author a publicly available report to Congress on the impacts on jobs and energy prices of any mineral withdrawal or moratorium, pause, or delay on mineral leasing or drilling on federal public lands. OMB would be required to publish a statement on the webpage of every federal regulatory action certifying that “the rule or guidance will not result in energy poverty in at-risk communities.” Again, the bill ensures via overly prescriptive parameters that these estimates and reports favor leasing, drilling, and mining above all else.

Section 6 directs OMB to issue a rule within 90 days to implement the Act.

Overall, the bill intends to essentially prohibit agencies from taking any action beyond wholesale, unencumbered approval of oil, gas, and coal lease sales, fossil fuel permit issuances, and other fossil fuel development; tip the scales heavily in favor of oil, gas, and coal production; burden an administration if it favors anything other than fossil fuels; and erects several bureaucratic reporting hurdles agencies must clear in order to promulgate any energy regulation beyond a broken status quo that simply allows more and more oil, gas, and coal production. By taking aim at state renewable portfolio standards, it also attempts to abort any transition from fossil fuels to renewable energy.

For these reasons, The Wilderness Society strongly opposes H.R. 5482, and urges the subcommittee not to advance it.

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

This legislation would amend the Energy Policy Act of 2005 to add certain geothermal exploration and development activities to an existing categorical exclusion for oil and gas activities, putting geothermal on par with oil and gas in certain narrow

circumstances. This would mean that the following geothermal activities would not be subject to National Environmental Policy Act (NEPA) analysis:

- Individual surface disturbances less than 5 acres where the total surface disturbance under the lease is 150 acres or less;
- Drilling a geothermal well at a site where drilling for oil, gas, or geothermal occurred within the last 5 years;
- Drilling a geothermal well within a developed field where either a resource management plan or NEPA document that was approved within the last 5 years previously analyzed such drilling as a reasonably foreseeable activity;
- Placing a pipeline within a right-of-way that was approved within the last 5 years; or
- Maintaining a minor activity, but not the construction or major renovation of a building or facility.

Public input and NEPA analyses are critical components of effective decision-making. That said, The Wilderness Society supports the renewable energy build-out, including expanding geothermal energy – and we do not believe that renewable energy activities should be held to a higher standard than oil and gas activities with a similar level of surface disturbance. Enlarging the scope of an existing categorical exclusion that currently only applies to a limited set of oil and gas activities to also apply to the same activities related to geothermal is laudable and is in service of the goal of permitting additional clean, renewable energy on federal public lands.

While we oppose the underlying categorical exclusion, we believe that as long as it exists in law for oil and gas it should also apply to geothermal activities.

The Wilderness Society supports H.R. 6474 and urges members of the subcommittee to advance it.

**H.R. 6481, 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.**

This legislation concerns the \$5 per-acre fee, enacted by the Inflation Reduction Act, that oil and gas operators must now pay when nominating acres of federal public land for oil and gas leasing – also referred to as the “expression of interest fee” (or “EOI fee”). The bill strikes “nonrefundable” from the existing statute, inserts language clarifying that nominations are “active” for five years, and stipulates that fees shall be refunded should a nomination become inactive – ostensibly once five years has elapsed and the Bureau of Land Management has not offered the acreage in question for lease.

The expression of interest fee was included in the IRA to reduce speculation and to halt frivolous nominations. Between 2009 and 2019, for instance, oil and gas speculators nominated over 60 million acres in Nevada – with just over 5% of that total auctioned for lease, with only a miniscule percentage of that subset yielding any paying quantities.

Rampant abuses of the system like this unfortunate example strain limited Bureau of Land Management resources. The EOI fee, as enacted by the IRA, should remain fully nonrefundable to prevent these abuses.

Additionally, receipts from the EOI fee are split between the state and federal government. Making this fee refundable pending future agency action may impact both state and federal revenues.

The Wilderness Society opposes this legislation and urges members of the subcommittee not to advance it.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink that reads "Lydia Weiss". The signature is written in a cursive style with a long horizontal stroke at the end.

Lydia Weiss  
Senior Director, Government Relations  
The Wilderness Society