117TH CONGRESS
1ST SESSION

H. R. 1503

To amend the Mineral Leasing Act to make certain adjustments in leasing on Federal lands for oil and gas drilling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Levin of California introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Mineral Leasing Act to make certain adjustments in leasing on Federal lands for oil and gas drilling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021”.

(Original Signature of Member)
SEC. 2. LEASING PROCESS.

(a) ONSHORE OIL AND GAS LEASING.—Section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)) is amended to read as follows:

“(a) LEASING AUTHORITY.—

“(1) IN GENERAL.—All lands subject to disposition under this Act that are known or believed to contain oil or gas deposits may be leased by the Secretary.

“(2) RECEIPT OF FAIR MARKET VALUE.—Leasing activities under this Act shall be conducted to assure receipt of fair market value for the lands and resources leased and the rights conveyed by the United States.”.

(b) COMPETITIVE BIDDING.—Section 17(b)(1)(A) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(A)) is amended to read as follows:

“(A) COMPETITIVE BIDDING.—

“(i) IN GENERAL.—All lands to be leased under this section shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding by sealed bid.

“(ii) GEOGRAPHIC LIMITATION.—The Secretary shall lease lands under this paragraph in units of not more than 2,560
acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible.

“(iii) FREQUENCY.—Lease sales under this section shall be held for each State in which there are lands eligible for leasing no more than 3 times each year and on a rotating basis such that the lands under the responsibility of any Bureau of Land Management field office are available for leasing no more than one time each year.

“(iv) ROYALTY.—A lease under this section shall be conditioned upon the payment of a royalty at a rate of not less than 18.75 percent in amount or value of the production removed or sold from the lease, except as otherwise provided in this Act.

“(v) ISSUANCE OF LEASE.—The Secretary may issue a lease under this section to the responsible qualified bidder with the highest bid that is equal to or greater than the national minimum acceptable bid. The Secretary shall decide whether to accept a bid and issue a lease within 90 days fol-
ollowing payment by the successful bidder of
the remainder of the bonus bid, if any, and
annual rental for the first lease year.

“(vi) Rejection of bid.—The Sec-
retary may reject a bid above the national
minimum acceptable bid if, after evaluation
of the value of the lands proposed for
lease, the Secretary determines that the
bid amount does not ensure that fair mar-
ket value is obtained for the lease.”.

(c) National minimum acceptable bid.—Sub-
paragraph (B) of section 17(b)(1) of the Mineral Leasing
Act (30 U.S.C. 226(b)(1)), is amended to read as follows:

“(B) National minimum acceptable
bid.—

“(i) In general.—Except as pro-
vided in clause (ii), for purposes of sub-
paragraph (A), the national minimum ac-
ceptable bid shall be $5 per acre. All bids
under this section for less than the na-
tional minimum acceptable bid shall be re-
jected.

“(ii) Raising the national min-
imum acceptable bid.—The Secretary
may establish a higher national minimum acceptable bid—

“(I) beginning at the end of the 4-year period that begins on the date of enactment of the Restoring Community Input and Public Protection in Oil and Gas Leasing Act of 2021, and once every 4 years thereafter, to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics; and

“(II) at any time, if the Secretary finds that such a higher amount is necessary to enhance financial returns to the United States or to promote more efficient management of oil and gas resources on Federal lands.

“(iii) NOT A MAJOR FEDERAL ACTION.—The proposal or issuance of any regulation to establish a higher national minimum acceptable bid under clause (ii) shall not be considered a major Federal action that is subject to the requirements of
section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

(d) RENTALS.—Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is amended to read as follows:

“(d) ANNUAL RENTALS.—All leases issued under this section shall be conditioned upon the payment by the lessee of a rental of—

“(1) not less than $3.00 per acre per year during the 2-year period beginning on the date the lease begins for new leases, and after the end of such two year period not less than $5 per acre per year; or

“(2) such higher rental rate as the Secretary may establish if the Secretary finds that such action is necessary to enhance financial returns to the United States and promote more efficient management of oil and gas and alternative energy resources on Federal lands.”.

(e) ELIMINATION OF NONCOMPETITIVE LEASING.—

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—

(1) in section 17(b) (30 U.S.C. 226(b)), by striking paragraph (3);

(2) by amending section 17(c) (30 U.S.C. 226(c)) to read as follows:
“(c) Lands made available for leasing under subsection (b)(1) but for which no bid is accepted may be made available by the Secretary for a new round of sealed bidding under such subsection.”;

(3) in section 17(e) (30 U.S.C. 226(e))—

(A) by striking “Competitive and non-competitive leases” and inserting “Leases, including leases for tar sand areas,”; and

(B) by striking “Provided, however” and all that follows through “ten years.”;

(4) in section 31(d)(1) (30 U.S.C. 188(d)(1)) by striking “or section 17(e)”;

(5) in section 31(e) (30 U.S.C. 188(e))—

(A) in paragraph (2) by striking “, or the inclusion” and all that follows and inserting a semicolon; and

(B) in paragraph (3) by striking “(A)” and by striking subparagraph (B);

(6) by striking section 31(f) (30 U.S.C. 188(f)); and

(7) in section 31(g) (30 U.S.C. 188(g))—

(A) in paragraph (1) by striking “as a competitive” and all that follows through the period and inserting “in the same manner as
the original lease issued pursuant to section 17.”;

(B) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2), as redesignated, by striking “, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except,” and inserting “, except”.

(f) LEASE TERM.—Section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended by striking “10 years:” and inserting “5 years.”.

(g) OTHER LEASING REQUIREMENTS.—Section 17(g) of the Mineral Leasing Act (30 U.S.C. 226(g)), as amended by section 8 of this Act, is further amended—

(1) by striking “The Secretary” at the beginning and inserting “(1) IN GENERAL.—The Secretary”; and

(2) by adding at the end the following:

“(2) LIMITATION.—The Secretary shall not issue a lease or approve the assignment of any lease to any person, or to any subsidiary or affiliate of such person or any other person controlled by or under common control with such person, unless such
person has the demonstrated capability to explore
and produce oil and gas under the lease.

“(3) Protection of leased lands for
other uses.—Each lease under this section shall
include such terms as are necessary to preserve the
United States flexibility to control or prohibit activi-
ties that pose serious and unacceptable impacts to
the value of the leased lands for uses other than pro-
duction of oil and gas.”.

SEC. 3. TRANSPARENCY AND LANDOWNER PROTECTIONS.

(a) Disclosure of identities filing disclosures of interest and bids.—Section 17(b) of the
Mineral Leasing Act (30 U.S.C. 226(b)), as amended by
this Act, is further amended by adding at the end the fol-
lowing:

“(3) Bidder identity.—The Secretary—

“(A) shall require that each expression of
interest to bid for a lease under this section and
each bid for a lease under this section shall in-
clude the name of the person for whom such ex-
pression of interest or bid is submitted; and

“(B) shall promptly publish each such
name.”.

(b) Notice requirements.—Section 17(f) of the
Mineral Leasing Act (30 U.S.C. 226(f)) is amended by
striking “At least” and all that follows through “agencies.” and inserting the following:

“(1) REQUIRED NOTICE.—At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease, modifying the terms of any lease issued under this section, or granting a waiver, exception, or modification of any stipulation of a lease issued under this section, the Secretary shall provide notice of the proposed action to—

“(A) the general public by posting such notice in the appropriate local office and on the electronic website of the leasing and land management agencies offering the lands for lease;

“(B) all surface land owners in the area of the lands being offered for lease; and

“(C) the holders of special recreation permits for commercial use, competitive events, and other organized activities on the lands being offered for lease.

“(2) REQUIRED INFORMATION.—”.

(e) SURFACE OWNER PROTECTION.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226), is amended by adding at the end the following:
“(r) **POST-LEASE SURFACE USE AGREEMENT.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary may not authorize any operator to conduct exploration and drilling operations on lands with respect to which title to oil and gas resources is held by the United States but title to the surface estate is not held by the United States, until the operator has filed with the Secretary a document, signed by the operator and the surface owner or owners, showing that the operator has secured a written surface use agreement between the operator and the surface owner or owners that meets the requirements of subparagraph (B).

“(2) **CONTENTS.**—The surface use agreement shall provide for—

“(A) the use of only such portion of the surface estate as is reasonably necessary for exploration and drilling operations based on site-specific conditions;

“(B) the accommodation of the surface estate owner to the maximum extent practicable, including the location, use, timing, and type of exploration and drilling operations, consistent with the operator’s right to develop the oil and gas estate;
“(C) the reclamation of the site to a condition capable of supporting the uses which such lands were capable of supporting prior to exploration and drilling operations; and

“(D) compensation for damages as a result of exploration and drilling operations, including—

“(i) loss of income and increased costs incurred;

“(ii) damage to or destruction of personal property, including crops, forage, and livestock; and

“(iii) failure to reclaim the site in accordance with clause (iii).

“(3) PROCEDURE.—

“(A) NOTICE OF INTENT TO CONCLUDE AGREEMENT.—An operator shall notify the surface estate owner or owners of the operator’s desire to conclude an agreement under this section. If the surface estate owner and the operator do not reach an agreement within 90 days after the operator has provided such notice, the operator may submit the matter to third-party arbitration for resolution within a period of 90
days. The cost of such arbitration shall be the responsibility of the operator.

“(B) **List of Arbitrators.**—The Secretary shall identify persons with experience in conducting arbitrations and shall make this information available to operators.

“(C) **Referral.**—Referral of a matter for arbitration by an operator to an arbitrator identified by the Secretary pursuant to clause (ii) shall be sufficient to constitute compliance with clause (i).

“(4) **Attorneys Fees.**—If action is taken to enforce or interpret any of the terms and conditions contained in a surface use agreement, the prevailing party shall be reimbursed by the other party for reasonable attorneys fees and actual costs incurred, in addition to any other relief which a court or arbitration panel may grant.

“(5) **Authorized Exploration and Drilling Operations.**—

“(A) **Authorization without Surface Use Agreement.**—The Secretary may authorize an operator to conduct exploration and drilling operations on lands covered by paragraph
(1) in the absence of an agreement with the surface estate owner or owners, if—

“(i) the Secretary makes a determination in writing that the operator made a good faith attempt to conclude such an agreement, including referral of the matter to arbitration pursuant to paragraph (1)(C), but that no agreement was concluded within 90 days after the referral to arbitration;

“(ii) the operator submits a plan of operations that provides for the matters specified in paragraph (1)(B) and for compliance with all other applicable requirements of Federal and State law; and

“(iii) the operator posts a bond or other financial assurance in an amount the Secretary determines to be adequate to ensure compensation to the surface estate owner for any damages to the site, in the form of a surety bond, trust fund, letter of credit, government security, certificate of deposit, cash, or equivalent.
“(B) SURFACE OWNER PARTICIPATION.—

The Secretary shall provide surface estate owners with an opportunity to—

“(i) comment on plans of operations in advance of a determination of compliance with this Act;

“(ii) participate in bond level determinations and bond release proceedings under this section;

“(iii) attend an on-site inspection during such determinations and proceedings;

“(iv) file written objections to a proposed bond release; and

“(v) request and participate in an on-site inspection when they have reason to believe there is a violation of the terms and conditions of a plan of operations.

“(C) PAYMENT OF FINANCIAL GUARANTEE.—A surface estate owner with respect to any land subject to a lease may petition the Secretary for payment of all or any portion of a bond or other financial assurance required under this section as compensation for any damages as a result of exploration and drilling operations. Pursuant to such a petition, the
Secretary may use such bond or other guarantee to provide compensation to the surface estate owner for such damages.

“(D) Bond release. — Upon request and after inspection and opportunity for surface estate owner review, the Secretary may release the financial assurance required under this section if the Secretary determines that exploration and drilling operations are ended and all damages have been fully compensated.

“(6) Surface owner notification. — The Secretary shall notify surface estate owners in writing—

“(A) not less than 45 days before lease sales;

“(B) of the identity of the lessee, not more than 10 business days after a lease is issued;

“(C) concerning any subsequent request or decision regarding a lease not more than 5 business days after such request or decision, including regarding modification of a lease, waiver of a stipulation, or approval of a right of way; and

“(D) not more than 5 business days after issuance of a drilling permit under a lease.”.
SEC. 4. LEASE STIPULATIONS.

(a) ENERGY POLICY ACT OF 2005.—Section 363(b)(3)(C) of the Energy Policy Act of 2005 (42 U.S.C. 15922(b)(3)(C)) is amended to read as follows:

“(C) adequately protective of the resource for which the stipulations are applied;”.

(b) REVISION OF EXISTING MEMORANDUM.—Not later than 180 days after the date of the enactment of this Act the Secretary of the Interior and the Secretary of Agriculture shall revise the memorandum of understanding under section 363(b)(3)(C) of the Energy Policy Act of 2005 (42 U.S.C. 15922) in accordance with the amendment made by subsection (a).

SEC. 5. MASTER LEASING PLANS.

Section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)), as amended by section 2, is further amended by adding at the end the following:

“(3) MASTER LEASING PLANS.—

“(A) IN GENERAL.—The Secretary may adopt and implement a master leasing plan to govern the issuance of oil and gas leases under this Act for any Federal lands, in accordance with Bureau of Land Management Instruction Memorandum No. 2010–117, dated May 17, 2010, as in effect on April 24, 2017.
“(B) FACTORS AND CONSIDERATIONS.—In deciding whether to adopt and implement a master leasing plan, the Secretary—

“(i) shall consider the criteria set forth in Bureau of Land Management Instruction Memorandum No. 2010–117, dated May 17, 2010, as in effect on April 24, 2017; and

“(ii) shall consider the benefits of avoiding conflicts between mineral leasing and other land uses, including conservation, recreation, and protection of cultural and historic resources.

“(C) STATE REQUEST.—The Secretary shall adopt and implement a master leasing plan under subparagraph (A) applicable to leases for Federal lands in a State or county of a State, if requested by the government of such State or county, respectively.

“(D) REQUEST BY AN INDIVIDUAL.—

“(i) IN GENERAL.—Any individual who is a resident of a State or county of a State may submit a petition to the Secretary requesting that the Secretary adopt and implement a master leasing plan under
subparagraph (A) applicable to the
issuance of leases for Federal lands in such
State or county, respectively.

“(ii) CONSIDERATION.—The Secretary
shall, not later than 60 days after receiving
such a petition, issue a determination of
whether or not the adoption and implemen-
tation of such a master leasing plan is ap-
propriate.”.

SEC. 6. PARCEL REVIEW.

Section 17(a) of the Mineral Leasing Act (30 U.S.C.
226(a)), as amended by sections 2 and 5 of this Act, is
further amended by adding at the end the following:

“(4) PARCEL REVIEW.—The Secretary shall
issue oil and gas leases under this Act only in ac-
cordance with subsections C through I of section III
of Bureau of Land Management Instruction Memo-
randum No. 2010–117, dated May 17, 2010, as in
effect on April 24, 2017.”.

SEC. 7. ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30
U.S.C. 184(d)(1)) is amended by striking “, and acreage
under any lease any portion of which has been committed
to a federally approved unit or cooperative plan or
communitization agreement or for which royalty (includ-
ing compensatory royalty or royalty in-kind) was paid in the preceding calendar year.’’

SEC. 8. LAND MANAGEMENT.

Section 17(g) of the Mineral Leasing Act (30 U.S.C. 226(g)), as amended by section 2(g) of this Act, is further amended by adding at the end the following:

“(4) MULTIPLE-USE MANAGEMENT.—The Secretary, and for National Forest lands, the Secretary of Agriculture, shall manage lands that are subject to an oil and gas lease under this Act in accordance with the principles, policies, and requirements relating to multiple use under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), until the beginning of operations on such lease.”.

SEC. 9. OIL SHALE.

Section 21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is amended—

(1) in paragraph (1), by striking “The Secretary of the Interior” and inserting “Subject to paragraph (6), the Secretary of the Interior”; and

(2) by adding at the end the following:

“(6) Beginning on the date of enactment of the Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021, The Secretary...
may not issue any lease for oil shale under this Act before the date the Secretary issues a finding that the technical and economic feasibility of development of and production from such deposit has been demonstrated under section 369 of the Energy Policy Act of 2005 (42 U.S.C. 15927).”.

SEC. 10. TRANSPARENCY IN MANAGEMENT OF LEASES.

Section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)), as amended by sections 2, 5, and 6 of this Act, is further amended by adding at the end the following:

“(5) TRANSPARENCY IN MANAGEMENT OF LEASES.—For each lease under this section, the Secretary shall make available on a public website—

“(A) the identity of—

“(i) each person who is or has been a lessee under the lease; and

“(ii) each person who is or has been an operator under the lease;

“(B) notice of each transfer of the lease; and

“(C) notice of each suspension of operations, each suspension of production, and each suspension of operations and production.”.
SEC. 11. LEASE CANCELLATION FOR IMPROPER ISSUANCE.

Section 31(b) of the Mineral Leasing Act (30 U.S.C. 188(b)) is amended by inserting “if the lease was improperly issued or” after “30 days notice”.

SEC. 12. FEES FOR EXPRESSIONS OF INTEREST.

(a) IN GENERAL.—The Secretary shall charge any person who submits an expression of interest, as that term is defined by the Secretary, a fee, in an amount determined by the Secretary under paragraph (2).

(b) AMOUNT.—The fee authorized under paragraph (1) shall be established by the Secretary in an amount that is determined by the Secretary to be appropriate to cover the aggregate cost of processing an expression of interest under this section, but not less than $15 per acre of the area covered by the applicable expression of interest.

(c) ADJUSTMENT OF FEES.—The Secretary shall, by regulation at least every 4 years, establish a higher expression of interest fee—

(1) to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics; and

(2) as the Secretary determines to be necessary to enhance financial returns to the United States or to promote more efficient management of oil and gas resources on Federal land.
SEC. 13. PROTECTION OF WATER RESOURCES.

(a) Mineral Leasing Act Requirements.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended—

(1) in subsection (g) by striking “lands or surface waters adversely” and inserting “surface or ground waters or lands adversely”;

(2) by redesignating subsection (p) as subsection (q); and

(3) by inserting after subsection (o) the following:

“(p) Water Requirements.—

“(1) An operator producing oil or gas (including coalbed methane) under a lease issued under this Act shall—

“(A) replace the water supply of a water user who obtains all or part of such user’s supply of water from an underground or surface source that has been affected by contamination, diminution, or interruption proximately resulting from drilling, fracking, or production operations for such production;

“(B) ensure that if a surface or ground water source is affected by contamination, diminution, or interruption proximately resulting from such production, best management practi-
practices and appropriately available technologies are used to prevent, to the maximum extent possible, the long-term or permanent degradation of the surface or ground water source; and

“(C) comply with all applicable requirements of Federal and State law with respect to—

“(i) discharge of any water produced under the lease; and

“(ii) activities that would divert or otherwise alter a surface or ground water source or lead to a discharge not covered by clause (i).

“(2) An application for a permit to drill under a lease under this Act shall be accompanied by a proposed water management plan including provisions to—

“(A) protect the quantity and quality of surface and ground water systems, both on-site and off-site, from adverse effects of the exploration, development, and reclamation processes or to provide alternative sources of water if such protection cannot be assured;

“(B) protect the rights of present users of water that would be affected by operations
under the lease, including the discharge of any
water produced in connection with such oper-
ations that is not reinjected; and

“(C) identify any agreements with other
parties for the beneficial use of produced waters
and the steps that will be taken to comply with
State and Federal laws related to such use.

“(3) The Secretary may not approve an applica-
tion if the Secretary determines that the applicant
did not submit a water management plan that meets
the requirements described in paragraph (2).”.

(b) RELATION TO STATE LAW.—Nothing in this sec-
tion or any amendment made by this section shall be con-
strued as—

(1) impairing or in any manner affecting any
right or jurisdiction of any State with respect to the
waters of such State; or

(2) limiting, altering, modifying, or amending
any of the interstate compacts or equitable apportion-
ment decrees that apportion water among and
between States.

SEC. 14. FRACKING REGULATION ON FEDERAL LANDS.

(a) IN GENERAL.—Not later than 1 year after the
date of enactment of this Act, the Secretary of the Inte-
rior, acting through the Bureau of Land Management,
shall issue regulations governing the use of hydraulic fracturing under oil and gas leases for Federal lands.

(b) INCLUDED PROVISIONS.—The regulations under this section shall require—

(1) baseline water testing, the results of which shall be posted on an appropriate internet website; and

(2) public disclosure of each chemical used for hydraulic fracturing on an appropriate internet website.

(c) INTERIM APPLICATION OF PRIOR RULE.—The final rule entitled “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands”, as published in the Federal Register March 26, 2015 (80 Fed. Reg. 16128), and corrected by the rule published on March 30, 2015 (80 Fed. Reg. 16577), shall apply until the effective date of a final rule under subsection (a).