H. R. 1505

To amend the Mineral Leasing Act to make certain adjustments to the regulation of surface-disturbing activities and to protect taxpayers from unduly bearing the reclamation costs of oil and gas development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Lowenthal introduced the following bill; which was referred to the Committee on __________________________

A BILL

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

2 SECTION 1. SHORT TITLE.

3 This Act may be referred to as the “Bonding Reform and Taxpayer Protection Act of 2021”.

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February 24, 2021 (11:01 a.m.)
SEC. 2. SURFACE DISTURBANCE AND RECLAMATION.

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

“(g) BONDING REQUIREMENTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) INTERIM RECLAMATION PLAN.—The term ‘Interim Reclamation Plan’ means an on-going plan specifying reclamation steps to be taken on all disturbed areas covered by any lease issued under this Act that are not needed for active operations.

“(B) FINAL RECLAMATION PLAN.—The term ‘Final Reclamation Plan’ means a plan describing all reclamation activity to be conducted for all disturbed areas, including locations, facilities, trenches, rights-of-way, roads, and any other surface disturbance covered by a lease issued under this Act prior to final abandonment.

“(C) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—

“(i) the Secretary of the Interior for public lands administered by such Secretary;

“(ii) the Secretary of Agriculture for forest service lands,
“(2) IN GENERAL.—The Secretary concerned shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources.

“(3) RECLAMATION PLANS REQUIRED.—

“(A) ANALYSIS AND APPROVAL REQUIRED.—No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of both an interim reclamation plan and a final reclamation plan covering proposed surface-disturbing activities within the lease area.

“(B) PLANS OF OPERATIONS.—All Plans of Operations submitted and approved pursuant to this Act shall include an Interim Reclamation Plan.

“(C) SECRETARIAL REVIEW.—The Secretary concerned shall review each Interim Reclamation Plan at regular intervals and shall require such plans to be amended as warranted, subject to the approval of such Secretary.

“(4) BONDING.—
“(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Bonding Reform and Taxpayer Protection Act of 2021, the Secretary concerned shall, by regulation, require that an adequate bond, surety, or other financial arrangement be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease.

“(B) PROHIBITION.—The Secretary concerned shall not issue or approve the assignment of any lease under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the relevant Secretary, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established
under this section for any prior lease to which such requirements and standards applied.

“(C) NOTICE AND OPPORTUNITY FOR COMPLIANCE.—Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned each oil or gas lease may be issued to such entity under this Act.

“(D) LIMITATION ON BONDS.—The Secretary concerned shall review the adequacy of a bond, surety, or other financial instrument anytime a lease is transferred. A bond, surety, or other financial arrangement described in subparagraph (A) shall not be adequate if it is less than—

“(i) $150,000 in the case of an arrangement for an individual surface-disturbing activity of each entity on an individual oil or gas lease; or
“(ii) $500,000 in the case of an arrangement for all surface-disturbing activities of each entity in a State.

“(E) ADJUSTMENTS FOR INFLATION.—In the application of subparagraph (B), the Secretaries concerned shall jointly at least once every three years, at the beginning of the fiscal year, adjust the dollar amounts in subparagraph (B) to account for inflation based on the Consumer Price Index for all urban consumer published by the Department of Labor.

“(F) REQUIRING HIGHER BOND AMOUNTS.—The Secretary concerned may require a higher level of a financial assurance above the applicable minimum level required under paragraph (D) as the Secretary concerned determines to be appropriate or necessary to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease.

“(5) STANDARDS.—Not later than 180 days after the date of enactment of the Bonding Reform
and Taxpayer Protection Act of 2021, the Secretary of the Interior and the Secretary of Agriculture shall, by regulation, establish uniform standards for all Interim and Final Reclamation Plans. The goal of such plans shall be the restoration of the affected ecosystem to a condition approximating or equal to that which existed prior to the surface disturbance. Such standards shall include restoration of natural vegetation and hydrology, habitat restoration, salvage, storage and reuse of topsoils, erosion control, control of invasive species and noxious weeds and natural contouring.

“(6) MONITORING.—The Secretary concerned shall not approve final abandonment and shall not release any bond required by this Act until the standards and requirement for final reclamation established pursuant to this Act have been met.

“(7) FINANCIAL ASSURANCES.—The Secretary concerned shall not release the financial assurance established for a lease until the applicable lessee has paid the inspection fees required under section 4 for the lease covered by the financial assurance instrument.

“(8) BOND ADEQUACY REVIEW.—The Secretary shall conduct bond adequacy reviews as required
under paragraph (4)(D) in accordance with Bureau of Land Management Instruction Memorandum No. 2019-014, dated November 15, 2018.”.

SEC. 3. CHANGES TO THE BLM PERMIT PROCESSING IMPROVEMENT FUND.

(a) NAME OF FUND.—Section 35(c)(2)(B) of the Mineral Leasing Act (30 U.S.C. 191(c)(2)(B)) is amended by striking “BLM Permit Processing Improvement Fund” and inserting “BLM Administration and Accountability Fund”.

(b) ADDITIONAL USES.—Section 35(c)(3)(A) of such Act (30 191(c)(3)(A)) is amended by adding at the end the following: “Such coordination and processing shall include—

“(i) the coordination and review process for financial assurances for oil and gas leases and bond releases for oil and gas leases;

“(ii) the inventory of orphaned wells and coordinate the processing of requests for delays in the permanent closure of inactive wells; and

“(iii) coordination and processing related to environmental and cultural re-
sources reviews applicable to oil and gas
activities.”

SEC. 4. INSPECTION FEES.

(a) In General.—Section 108 of the Federal Oil
and Gas Royalty Management Act of 1982 (30 U.S.C.
1718) is amended by adding at the end the following:

“(d) Inspection Fees.—

“(1) In General.—The designated operator
under each oil and gas lease on Federal or Indian
lands, or each unit and communitization agreement
that includes one or more such Federal or Indian
leases, that is subject to inspection under subsection
(b) and that is in force at the start of the fiscal year
2021, shall pay a nonrefundable annual inspection
fee in an amount that, except as provided in para-
graph (2), is established by the Secretary by regula-
tion and is sufficient to recover the full costs in-
curred by the United States for inspection and en-
forcement with respect to such leases.

“(2) Amount.—Until the effective date of reg-
ulations under paragraph (1), the amount of the fee
shall be—

“(A) $700 for each lease or unit or
communitization agreement with no active or
inactive wells, but with surface use, disturbance or reclamation;

“(B) $1,225 for each lease or unit or communitization agreement with 1 to 10 wells, with any combination of active or inactive wells;

“(C) $4,900 for each lease or unit or communitization agreement with 11 to 50 wells, with any combination of active or inactive wells; and

“(D) $9,800 for each lease or unit or communitization agreement with more than 50 wells, with any combination of active or inactive wells.

“(3) DUE DATE.—Payment of the fee under this section shall be due, annually, not later than 30 days after the Secretary provides notice of the assessment of the fee.

“(4) PENALTY.—If the designated operator fails to pay the full amount of the fee as prescribed in this section, the Secretary may, in addition to utilizing any other applicable enforcement authority, assess civil penalties against the operator under section 109 in the same manner as if this section were a mineral leasing law.”.
(b) **ASSessment for Fiscal Year 2022.**—The Secretary of the Interior shall assess the fee under the amendment made by subsection (a) for fiscal year 2022, and provide notice of such assessment to each designated operator who is liable for such fee, by not later than 60 days after the date of enactment of this Act.

**SEC. 5. BONDING EQUITY FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS.**

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) is amended—

(1) by redesignating subsections (h) through (o), as (i) through (p), respectively; and

(2) by inserting after subsection (g) the following new subsection:

“(h) **Reclamation, Damages, and Financial Assurance for Oil and Gas Operations on Refuge Lands.**—

“(1) The Secretary, acting through the Director, shall obtain adequate financial assurances from non-Federal entities to repair potential damages to refuge resources, prior to the commencement of surface-disturbing activities as part of the development of non-Federal minerals below refuge surface estate, including—
“(A) to ensure the complete and timely reclamation of the land, and the restoration of any lands or surface waters adversely affected by operations after the abandonment or cessation of oil and gas operations on the land; and

“(B) to meet potential response and assessment costs and other damages to refuge resources as a result of oil and gas operations.

“(2) Financial assurances forfeited by a non-Federal entity under this subsection shall be retained and available to the Secretary, without further appropriation, and shall remain available until expended, for—

“(A) plugging and abandoning wells;

“(B) removing structures, equipment, materials, and other infrastructure;

“(C) response costs and damage assessments conducted;

“(D) restoration, replacement, or acquisition of the equivalent refuge resources; and

“(E) monitoring and studying affected refuge resources.”.