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H.R. 4293, "NATURAL GAS GATHERING ENHANCEMENT ACT"; AND H.R. 1587, "ENERGY INFRASTRUCTURE IMPROVEMENT ACT"

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

Friday, June 20, 2014

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LEGISLATIVE HEARING ON H.R. 4293, TO AUTHORIZE THE APPROVAL OF NATURAL GAS PIPELINES AND ESTABLISH DEADLINES AND EXPEDITE PERMITS FOR CERTAIN NATURAL GAS GATHERING LINES ON FEDERAL LAND AND INDIAN LAND, "NATURAL GAS GATHERING ENHANCEMENT ACT"; AND H.R. 1587, TO AUTHORIZE THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF AGRICULTURE TO ISSUE PERMITS FOR RIGHTS-OF-WAY, TEMPORARY EASEMENTS, OR OTHER NECESSARY AUTHORIZATIONS TO FACILITATE NATURAL GAS, OIL, AND PETROLEUM PRODUCT PIPELINES AND RELATED FACILITIES ON ELIGIBLE FEDERAL LANDS, AND FOR OTHER PURPOSES, "ENERGY INFRASTRUCTURE IMPROVEMENT ACT"

Friday, June 20, 2014
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, DC

The subcommittee met, pursuant to notice, at 9:34 p.m., in room 1334, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, Lummis, Mullin, Cramer; Holt, Costa, Lowenthal, and Garcia.

Mr. LAMBORN. The committee will come to order. The Chairman notes the presence of a quorum, which, under Committee Rule 3(e), is two Members.

The Subcommittee on Energy and Mineral Resources is meeting today to hear testimony on a legislative hearing on two bills: H.R. 4293, introduced by my colleague, Representative Kevin Cramer of North Dakota, to authorize the approval of natural gas pipelines and establish deadlines and expedite permits for certain natural gas gathering lines on Federal land and Indian land, the "Natural Gas Gathering Enhancement Act"; and H.R. 1587, introduced by my colleague, Representative Marino, to authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for rights-of-way, temporary easements, or other necessary authorizations to facilitate natural gas, oil, and petroleum product

pipelines and related facilities on eligible Federal lands and for other purposes, the "Energy Infrastructure Improvement Act."

Under Committee Rule 4(f), opening statements are limited to the Chairman and Ranking Member of the subcommittee. However, I ask unanimous consent to include any other Members' opening statements in the hearing record, if submitted to the clerk by close of business today.

[No response.]

Mr. LAMBORN. Hearing no objections?

Dr. HOLT. No objection.

Mr. LAMBORN. So ordered. I now recognize myself for 5 minutes.

STATEMENT OF THE HON. DOUG LAMBORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. LAMBORN. I would like to thank our witnesses for being with us today. Today the Natural Resources Committee, Subcommittee on Energy and Mineral Resources, is meeting for a legislative hearing on two bills: H.R. 4293, the "Natural Gas Gathering Enhancement Act"; and H.R. 1587, the "Energy Infrastructure Improvement Act." These bills aim to expedite the permitting process for pipelines, gathering lines, and field compression units. Clarifying this process will allow for increased amounts of natural gas to be produced in areas where huge quantities of this resource are flared, due to lack of infrastructure to transport the natural gas.

It is no secret the energy boom has brought tremendous economic benefits to the United States. Unfortunately, massive quantities of natural gas are flared every year, due to a serious lack of infrastructure to transport it.

For example, in North Dakota, companies are forced to flare approximately one-third of the natural gas produced each day. This equates to approximately $1.4 million in natural resources being wasted every day. Flaring this resource takes it off the market, therefore depriving Federal, State, and local governments of revenue, inhibiting job creation, and reducing energy security.

H.R. 4293, the "Natural Gas Gathering Enhancement Act," was introduced by Congressman Cramer and seeks to streamline the permitting process for natural gas gathering lines and the associated field compression unit. It allows the Secretary of the Interior to utilize categorical exclusions to issue various notices of rights-of-way to ensure that this infrastructure can be permitted in a timely fashion, and that the project can move forward. New infrastructure will supply the transportation capacity that is needed to reduce the need for flaring, and allows for increased production of natural gas.

H.R. 1587, the "Energy Infrastructure Improvement Act," sponsored by Congressman Marino, will update the U.S. Code to reflect modern energy developments. Statutes enacted 100 years ago authorize the Secretary of the Interior to approve rights-of-way on lands managed by the National Park Service for electrical and telephone lines, water pipes and pipelines, and canals and ditches.

However, it is interpreted to exclude natural gas pipelines. As a result, each time a company seeks to expand, modify, or construct a natural gas pipeline across lands managed by the National Park

system, Congress has to pass a separate piece of legislation for that particular project. In some cases this had added years to the project.

This legislation would give the Department of the Interior explicit authority to permit natural gas pipelines over Federal lands. The bills we are discussing today will clarify and streamline the natural gas infrastructure permitting process. They will reduce the need for flaring and allow more natural gas to be brought to market. As a result of increased energy production, more jobs will be created, revenue will increase, and the United States can further distinguish itself as a global leader in energy production.

Again, I would like to thank the witnesses for coming before our committee today, and I look forward to hearing your testimony.

[The prepared statement of Mr. Lamborn follows:]

PREPARED STATEMENT OF THE HON. DOUG LAMBORN, CHAIRMAN, SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

I'd like to thank our witnesses for being with us today. Today the Natural Resources Committee, Subcommittee on Energy and Mineral Resources is meeting for a legislative hearing on two bills—H.R. 4293, the "Natural Gas Gathering Enhancement Act" and H.R. 1587, the "Energy Infrastructure Improvement Act." These bills aim to expedite the permitting process for pipelines, gathering lines, and field compression units. Clarifying this process will allow for increased amounts of natural gas to be produced in areas where huge quantities of this resource are flared due to lack of infrastructure to transport the natural gas.

It is no secret the energy boom has brought tremendous economic benefits to the United States. Unfortunately, massive quantities of natural gas are flared every year due to a serious lack of infrastructure to transport it. For example, in North Dakota, companies are forced to flare approximately one-third of the natural gas produced each day—this equates to approximately $1.4 million dollars in natural resources being wasted daily. Flaring this resource takes if off the market, therefore depriving Federal, State and local governments of revenue, inhibiting job creation, and reducing energy security. H.R. 4293, the "Natural Gas Gathering Enhancement Act" was introduced by Congressman Cramer and seeks to streamline the permitting process for natural gas gathering lines and the associated field compression unit. It allows the Secretary of the Interior to utilize categorical exclusions to issue sundry notices or right-of-ways to ensure this infrastructure can be permitted in a timely fashion and the project can move forward. New infrastructure will supply the transportation capacity that is needed to reduce the need for flaring and allow for increased production of natural gas.

H.R. 1587, the "Energy Infrastructure Improvement Act," sponsored by Congressman Marino, will update the U.S. Code to reflect modern energy developments. Statues enacted in the early 20th century authorize the Secretary of the Interior to approve rights-of-ways on lands managed by the National Park Service for electrical and telephone lines, water pipes and pipelines, and canals and ditches—however it excludes natural gas pipelines. As a result, each time a company seeks to expand, modify or construct a natural gas pipeline across national park land, Congress has to pass a separate piece of legislation for the particular project. In some cases this has added years onto the project. This legislation would give the Department of the Interior explicit authority to permit natural gas pipelines over all Federal lands.

The bills we are discussing today will clarify and streamline the natural gas infrastructure permitting process. They will reduce the need for flaring and allow more natural gas to be brought to market. As a result of increased energy production, more jobs will be created, revenue will increase, and the United States can further distinguish itself as a global leader in energy production.

Again I'd like to thank the witnesses for coming before our committee today and I look forward to hearing your testimony.

Mr. LAMBORN. I would now like to recognize the Ranking Member, Representative Holt of New Jersey.

STATEMENT OF THE HON. RUSH HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Dr. HOLT. I thank the Chair, and I thank the witnesses for being here today to discuss these two pieces of legislation.

While I share the Administration's concerns with these two bills, I would like to commend the sponsors for acknowledging the fact that we are in the middle of an unprecedented oil and gas boom in this country, and that with the boom come challenges that need to be addressed.

As the BP Statistical Review of World Energy put it earlier this week, "The U.S. increase in 2013 was one of the biggest oil production increases the world has ever seen." That kind of production increase is going to create problems, and there will be conflicts with land owners, increased truck traffic in rural areas, concerns about air and water quality, induced earthquakes from wastewater injections, questions about health and safety. This sort of production boom doesn't happen in a vacuum; it happens in people's towns, off their shores, sometimes right in the backyards.

So, whether it is the fact that the natural gas is being flared at unacceptable rates in North Dakota, or companies are trying to expand pipelines to carry all their new supplies, there are problems that Congress should be debating and addressing.

Now, of course, some of the legislation that we have had here in Congress ignores, really ignores the fact that we are producing at a near-record clip. Next week the House is scheduled to debate yet another bill that would force land sales off the coasts and do other such things, and is even more obsolete and unnecessary this year than it was last year, when House Republicans forced it through to no effect, or the year before, when they did the same thing.

This kind of legislation exists in a fantasy land where President Obama is somehow shutting down U.S. energy production, not in the real world, where we are the Number-one producer of natural gas, and soon to be the Number-one producer of oil. But on the bills we are here to talk about today, as I said, I want to give credit to the sponsors for finding, or at least seeking, solutions to real problems. I do not believe that these bills would be the right solutions.

H.R. 1587 would take the responsibility for approving oil and gas pipelines through the national parks away from Congress and hand it to the National Park Service. It is a responsibility they don't want, and they have said so, and that they are not best suited to carry out.

When Congress amended the Mineral Leasing Act of 1973 to allow land managers to site oil and gas pipelines on their lands, it specifically carved out the Outer Continental Shelf and Indian lands, which were both covered by their own laws. Congress retained the authority to site pipelines in the national parks. It wasn't an oversight or a mistake; it was deliberate and, I believe, with good reason.

Congress has repeatedly, and in a timely manner, passed laws to authorize oil and gas pipelines through national parks, and I believe our parks are too precious a resource for us simply to abandon our responsibility in that matter.

The other bill we are discussing today, H.R. 4293, would create a new statutory categorical exclusion to accelerate the siting of nat-

ural gas gathering lines in an attempt to cut down on flaring. Now, I appreciate the goal of the legislation, but I believe it is the wrong way to go about it.

Congress enacted five categorical exclusions in the Republican-led Energy Policy Act of 2005, and those have created enormous problems, according to the Government Accountability Office. In particular, these exclusions don't even allow land managers to look for special circumstances that may make them inappropriate in a given situation. Legislative categorical exclusions are really clumsy tools that create more harm than good, and I believe we should be repealing the ones from 2005, not creating new ones.

Now, more fundamentally, I simply haven't seen any evidence that the environmental review process for natural gas gathering lines is in any way responsible for the incredible amounts of flaring in North Dakota. Without that evidence, this bill appears to be a classic example of a solution in search of a problem or, perhaps, an attempt to accomplish something ideological and unrelated to the problem at hand.

[The prepared statement of Dr. Holt follows:]

PREPARED STATEMENT OF THE HON. RUSH HOLT, RANKING MEMBER, SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Thank you Mr. Chairman, and I'd like to thank the witnesses for being here today to discuss these two pieces of legislation.

While I share the Administration's concerns with these two bills, I would like to commend the sponsors for acknowledging the fact that we are, in fact, in the middle of an unprecedented oil and gas boom in this country, and that with this boom comes challenges that need to be addressed.

After all, as the BP Statistical Review of World Energy put it earlier this week, "the U.S. increase in 2013 was one of the biggest oil production increases the world has ever seen."

That kind of production increase is going to create problems. Conflicts with landowners. Increased truck traffic in rural areas. Concerns about air and water quality. Induced earthquakes from wastewater injection. Questions about health and safety. This sort of production boom doesn't happen in a vacuum. It happens in people's towns, off their shores, even right in their backyards.

So whether it is the fact that natural gas is being flared at unacceptable rates in North Dakota, or companies are trying to expand pipelines to carry all their new supplies, there are problems that Congress should be debating and addressing.

Of course, some legislation seems oblivious to the fact that we're producing at a near-record clip. Next week the House is scheduled to debate a bill that is even more obsolete and unnecessary this year than it was last year, when the House Republicans forced it through to zero effect. Or the year before, when they did the exact same thing.

That legislation exists in a fantasy land where President Obama is somehow shutting down U.S. energy production, not in the real world where we're the #1 producer of natural gas, and soon to be the #1 producer of oil.

But on the bills we are here to talk about today: as I said, I give their sponsors credit for trying to find solutions to real problems. I do not believe, however, that these bills would be the right solutions.

H.R. 1587 would take the responsibility for approving oil and gas pipelines through National Parks away from Congress, and hand it to the National Park Service, a responsibility they have told us they do not want.

When Congress amended the Mineral Leasing Act in 1973 to allow land managers to site oil and gas pipelines on their lands, it specifically carved out the Outer Continental Shelf and Indian lands, which were both covered by their own laws. And Congress retained the authority to site pipelines in National Parks. This was not an oversight or a mistake. It was deliberate, and I believe with good reason.

Congress has repeatedly, and in a timely manner, passed laws to authorize oil and gas pipelines through National Parks, and I believe our parks are too precious a resource for us to simply abrogate our responsibility in this matter.

The other bill we are discussing today, H.R. 4293, would create a new statutory categorical exclusion to accelerate the siting of natural gas gathering lines in an attempt to cut down on flaring. I appreciate the goal of the legislation, but I believe this is the wrong way to go about it.

Congress enacted five categorical exclusions in the Republican-led Energy Policy Act of 2005, and those have created enormous problems according to the Government Accountability Office. In particular, those exclusions don't even allow land managers to look for special circumstances that may make them inappropriate in a given situation. Legislative categorical exclusions are a ham-fisted tool that create more harm than good, and I believe we should be repealing the ones from 2005, not creating new ones.

But more fundamentally, I have simply not seen any evidence that the environmental review process for natural gas gathering lines is at all responsible for the incredible amounts of flaring in North Dakota. Without that evidence, this bill appears to be a classic example of a solution in search of a problem.

With that, I would like to thank the witnesses again, and I yield back my time.

Dr. HOLT. So, with that, I would like to thank the witnesses. And I would also like to ask unanimous consent, Mr. Chairman, to include two items in the record: a letter from the Wilderness Society stating their concerns about H.R. 1587, and a document from the Clean Air Task Force, entitled, "A Close Look at Natural Gas Flaring in North Dakota."

[No response.]

Mr. LAMBORN. With no objection, so ordered.

[The information submitted by Dr. Holt for the record follows:]

LETTER SUBMITTED FOR THE RECORD ON H.R. 1587

THE WILDERNESS SOCIETY,
WASHINGTON, DC,
JUNE 20, 2014.

Hon. DOUG LAMBORN, *Chairman*,
House Subcommittee on Energy and Mineral Resources,
1334 Longworth House Office Building,
Washington, DC 20515.

Hon. RUSH HOLT, *Ranking Member*,
House Subcommittee on Energy and Mineral Resources,
1334 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMAN LAMBORN AND RANKING MEMBER HOLT:

The Wilderness Society appreciates the opportunity to submit this statement in regard to H.R. 1587, the Energy Infrastructure Improvement Act. We write to oppose the legislation based on serious concerns about several of its provisions and an overriding belief that this legislation is not needed. This bill could be harmful for some of our most important Federal lands, as well as needlessly overriding many important aspects of the National Environmental Policy Act (NEPA) and the benefits of meaningful public and local participation in developing new infrastructure.

Section 2(d)(2) says the "Secretary shall renew any right-of-way issued under this section, in accordance with the provisions of this section, if the pipeline and its related facility is in commercial operation and operated and maintained in accordance with this section . . ." (emphasis added). This means that if changes are needed (e.g., better corrosion prevention to prevent leaks on an older pipeline or to require more advanced leak detection), it might be tougher for the Bureau of Land Management (BLM) or the U.S. Fish and Wildlife Service (FWS) to get them implemented. If BLM or FWS were delayed in rectifying potential safety or environmental concerns, that could greatly endanger Federal lands and waters and the habitat and recreation opportunities they support.

Section 2(e)(4) provides for judicial review for a pipeline operator (called "permittee" in the bill) who does not like the Secretary's decision on a pipeline right-of-way. What is not clear, however, is whether the public can bring suit against the pipeline operator if the operator is in non-compliance with its right-of-way authorization. There is also no provision allowing the public to get involved on the administrative level to challenge a Secretary's decision. This goes counter to NEPA and the idea that public participation is crucial in administrative decisionmaking on project-level decisions.

Section 2(f) further undermines NEPA by allowing Secretarial modification—regardless of the extent of changes in pipeline design or operation—without doing an Environmental Impact Study, which could result in major changes to a pipeline without public review. This is especially problematic since NEPA analyses are crucial for projects that cross State and international boundaries as well as public lands and waters. Environmental Impact Statements are essential for assessing routing, safety and land/water considerations.

The Federal Energy Regulatory Commission (FERC) is responsible for approving rights-of-way for interstate natural gas pipelines and States approve rights-of-way for interstate hazardous liquid (generally, oil) pipelines. This legislation would trump FERC's process and State decisionmaking processes on pipeline projects. The legislation is unnecessary, would be harmful for public participation, and could endanger federal lands, waters, and habitats given the lack of appropriate public and local input and expertise.

We look forward to working with the Chairman and the committee on any alternative measures needed to address concerns this legislation attempts to respond to.

Sincerely,

CHASE HUNTLEY,
Senior Director of Government Relations, Energy.

CATF FACT SHEET:

BAKKEN FLARING IN FOCUS:

A CLOSE LOOK AT NATURAL GAS FLARING IN NORTH DAKOTA

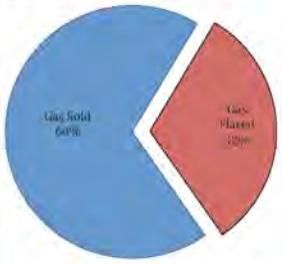
CLEAN AIR TASK FORCE

JUNE 2014

The Bakken formation in North Dakota is experiencing an oil and gas boom driven by the use of newer drilling technologies, specifically horizontal drilling and hydraulic fracturing. A considerable amount of attention has recently been directed at the Bakken and its high flaring rate. Local residents, state government and Federal officials have voiced concerns over the flaring of gas in North Dakota. In 2013, industry flared 32% of all gas produced in the Bakken. A number of reasons have been cited for why so much flaring is occurring, including inability to get permits for pipelines from federal land managers and lack of pipeline infrastructure, among others. However, a close look at the data for flaring on a well-by-well basis tells a very different story.

The majority of flaring in 2013 occurred at wells located on private- or state-owned land (72%). The rate of flaring is no higher on Federal public lands than on private / state land.* In addition, 57% of the flaring statewide is from wells that are already connected to natural gas gathering pipelines.

Figure 1: Gas Utilization in North Dakota, 2013



There are several reasons why gas is flared from wells connected to pipelines:

- Gathering and processing infrastructure (pipelines, processing plants, and compressors) is not sufficient to handle the amount of gas being produced. If pipelines are too small, they won't be able to transport all the produced gas. If compression is insufficient, there could be pressure imbalances between multiple wells connected to the same gathering pipeline, which could make it difficult to transport gas.
- Production companies might not be able to come to agreement to sell their gas to midstream gas processing companies.

Figure 2: Breakdown of Flaring by Land Status, 2013

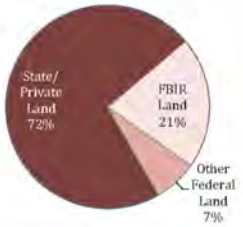
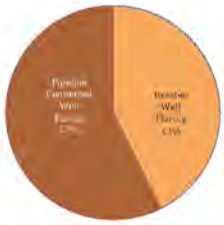
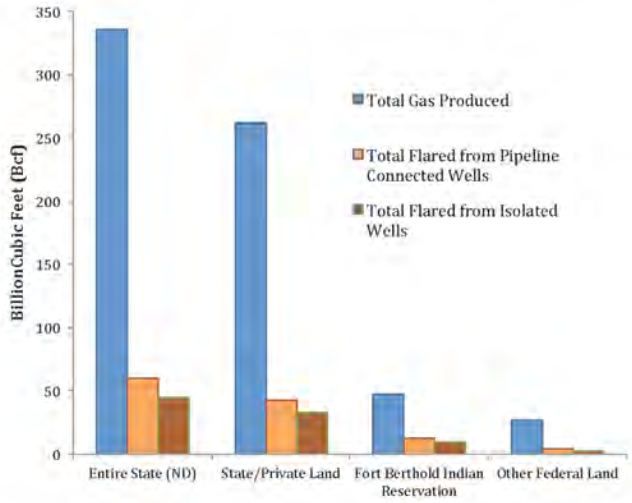


Figure 3: Breakdown of Flaring by Well Status, 2013



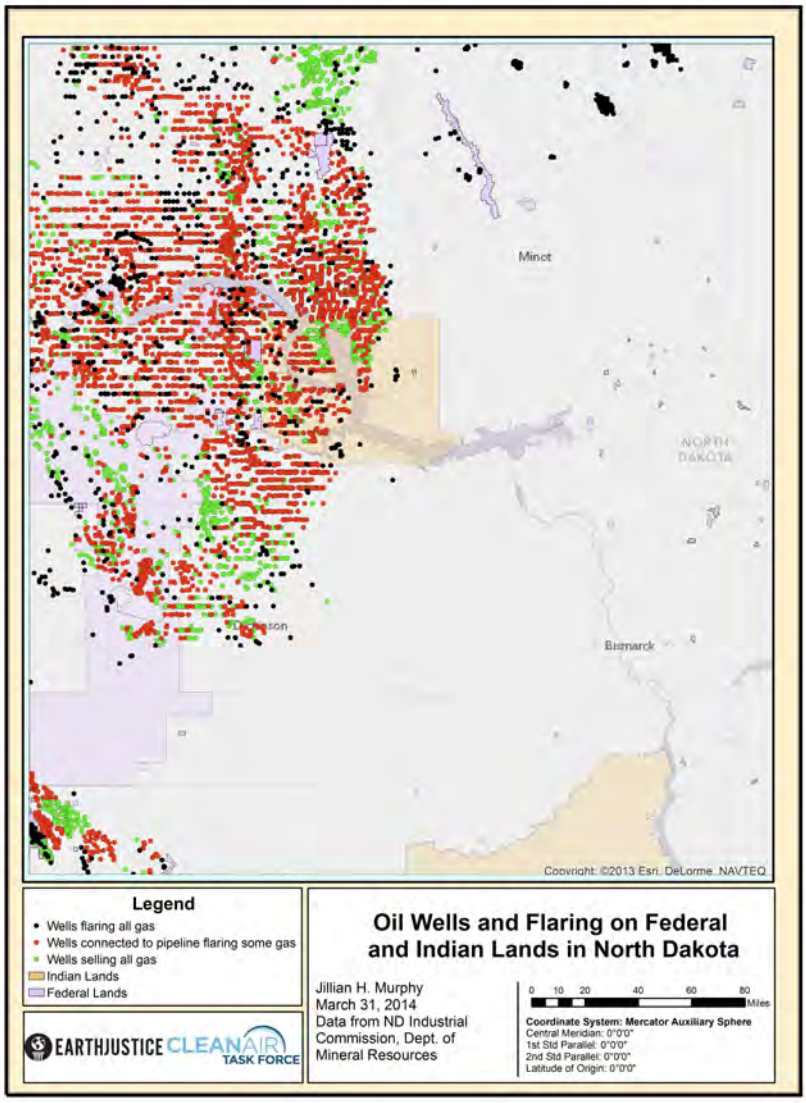
*These statistics are for wells located on Federal Public lands and Private/State lands. Some of the wells on Federal lands are producing gas from state or private mineral estate, so these figures do not match ONRR figures for production from Federal or American Indian mineral estate.

For each type of land, both Private/State and Federal, the majority of flaring occurs from wells that are already connected to pipelines. Although the total flaring rate (the portion of gas that is produced that is flared) is higher on the Fort Berthold Indian Reservation than the statewide average, it is no higher on Federal public lands – **in fact, it is slightly *lower* on Federal public lands than on Private / State land.**



2013 Production or Flaring (Million Cubic Feet)	Entire State (ND)	Private / State Land	Fort Berthold Indian Reservation	Other Federal Land
Total Gas Produced	335,665	262,123	46,849	26,693
Total Flared from Isolated Wells	44,284	32,660	9,308	2,316
Flared from Isolated Wells as Percent of Total Produced	13%	12%	20%	9%
Total Flared from Pipeline Connected Wells	59,539	42,252	12,444	4,843
Flared from Pipeline Connected Wells as Percent of Total Produced	18%	16%	27%	18%
Total Flared	103,823	74,912	21,751	7,160
Total Flared as Percent of Total Produced	31%	29%	46%	27%

Data for this fact sheet was calculated from individual well production and flaring data from the North Dakota Industrial Commission. Analysis was performed by Clean Air Task Force and Earthjustice.



Dr. HOLT. Thank you.

Mr. LAMBORN. I would now recognize the author of H.R. 4293, Representative Kevin Cramer of North Dakota, for a brief statement about his bill.

Mr. CRAMER. Thank you, Mr. Chairman, and I thank the Ranking Member as well for agreeing to allow this brief opening statement.

STATEMENT OF THE HON. KEVIN CRAMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. CRAMER. It is no secret that in North Dakota crude oil production has significantly increased. In fact, just announced this week that we have gone over a million barrels per day, with, of course, the good fortune of geology that is beneath private and State land, largely, and very little under Federal land. Obviously, the advent of horizontal drilling and hydraulic fracturing and common-sense energy development policy in North Dakota has resulted in this spike in production.

While natural gas in the Bakken is considered a secondary or a byproduct of North Dakota's crude oil development, significant infrastructure investment and technological innovation is being done to ensure it is captured. Since 2006, approximately 9,600 miles of gas gathering line and 1.3 billion cubic feet per day of gas processing capacity has been installed with an investment of over $6 billion.

Several laws and agencies may come into play when permitting a natural gas pipeline. But when Federal resources are developed, the National Environmental Policy Act (NEPA) applies to assess environmental impacts, if any. Environmental impact statements are required for proposed projects determined to have a significant impact on the environment. Environmental assessments are prepared when it is unclear whether a proposed project will have a significant impact, and a categorical exclusion is utilized if determined to have no significant environmental impact.

Now, categorical exclusions alone save time and precious resources. But when applied to areas where a NEPA document has already been developed—this is an important distinction, a NEPA document has already been developed and scrutinized, it prevents duplicative efforts. And that is what this legislation does.

Within a field or unit where an approved land use plan or an environmental document prepared pursuant to NEPA has already been done, and transportation of natural gas from one or more oil wells was seen as a reasonably foreseeable activity, and the gathering line will be located adjacent to an existing disturbed area for the construction of a road or well pad, a natural gas gathering line shall be considered an action that is categorically excluded for purposes of NEPA.

We can reduce the workload on already strained Federal workers and agencies, and I have to tell you they are strained, as I am sure we will hear in a little bit. And we can protect the environment, we can reduce the amount of flaring, we can increase royalty revenues to the government, and we can get more natural gas to market. To me, this is just common sense.

With regard to evidence, as Mr. Holt referred to, the fact of the matter is that statewide in North Dakota, or Bakken-wide, if you want, we are flaring on non-Federal lands, we are flaring about 28 percent, while we are trying to get the infrastructure caught up. On Federal and Indian lands it is 40 percent that is being flared. These are just facts. The Bureau of Indian Affairs is responsible, of course, for approving rights-of-way across lands held in trust for an Indian tribe. And BLM is for other Federal lands.

So, with that, I look forward to the hearing and thank the witnesses again. Thank you for your indulgence.

[The prepared statement of Mr. Cramer follows:]

PREPARED STATEMENT OF THE HON. KEVIN CRAMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

In North Dakota, crude oil production has significantly increased with the luck of geology beneath private and State land, the advent of horizontal drilling and hydraulic fracturing, and common sense energy development policy. While natural gas is considered a byproduct to North Dakota's crude oil development, significant infrastructure investment and technological innovation is being done to ensure it's captured. Since 2006 approximately 9,600 miles of gas gathering pipe and 1.3 billion cubic feet per day of gas processing capacity has been installed at over $6 billion.

Several laws and agencies may come into play when permitting a natural gas pipeline. When Federal resources are developed the National Environmental Policy Act (NEPA) applies to assess environmental impacts, if any. Environmental impact statements (EIS) are required for proposed projects determined to have a significant impact on the environment, environmental assessments (EA) are prepared when it's unclear whether a proposed project will have a significant impact, and a categorical exclusion is utilized if determined to have no significant environmental impact.

A categorical exclusion alone saves time and precious resources, but when applied to areas where a NEPA document has already been developed and scrutinized it prevents duplicative efforts, and that's what this legislation does. Within a field or unit where an approved land use plan or an environmental document prepared pursuant to NEPA has already been done, and transportation of natural gas from one or more oil wells was seen as a reasonably foreseeable activity, AND the gathering line will be located adjacent to an existing disturbed area for the construction of a road or well pad, a natural gas gathering line shall be considered an action that is categorically excluded for purposes of NEPA.

We can reduce the work load on strained Federal workers, we can protect the environment, we can reduce the amount of flaring, we can increase royalty revenues, and we can get more natural gas to market. This is pure common sense.

The fact is that statewide we are flaring about 28 percent on non-Federal land and on Federal and Indian lands it is 40 percent.

Mr. LAMBORN. Thank you. We will now hear from our witnesses. I would like to welcome Mr. Jeffrey Soth, Legislative and Political Director for the International Union of Operating Engineers; Mr. Donald Santa, President and CEO of the Interstate Natural Gas Association of America; Ms. Amy Mall, Senior Policy Analyst for the Natural Resources Defense Council; Mr. Nicholas Lund, Program Manager of Landscape Conservation for the National Parks Conservation Association; and Mr. Michael Nedd, Assistant Director for Minerals and Realty Management for the Bureau of Land Management.

Like all of our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to 5 minutes. Our microphones are not automatic, so you need to turn them on when you are ready to begin.

I also want to explain how our timing lights work. When you begin to speak, our clerk will start the timer, and a green light will appear. After 4 minutes, a yellow light will appear. And at that time you should begin to conclude your statement. At 5 minutes the red light will come on. You may finish your sentence, but at that time I ask that you stop your statement.

Shortly I will be turning over the gavel to Representative Cramer of North Dakota.

Mr. Soth, you may begin.

STATEMENT OF JEFFREY SOTH, LEGISLATIVE AND POLITICAL DIRECTOR, INTERNATIONAL UNION OF OPERATING ENGINEERS

Mr. SOTH. Thank you, Mr. Chairman. It is an honor to join you and members of the subcommittee for what operating engineers believe is a critical conversation about the future of the natural gas industry, with a particular focus on the pipeline segment of it. My name is Jeffrey Soth. I am the Legislative and Political Director of the International Union of Operating Engineers. The union represents almost 400,000 men and women in the United States and Canada.

I would like to touch on three things quickly this morning in my testimony. First, I will cover the role that operating engineers play in the pipeline industry. Second, I will share some economic analysis and data with you. And last, I will speak more directly to the legislation, the two bills before the subcommittee this morning.

First, operating engineers are one of the key occupations directly employed in the construction of this Nation's energy infrastructure. Every day across the United States, thousands of our members are building the Nation's pipelines, power plants, and natural gas wellpads. The IUOE is one of four unions signatory to the National Pipeline Agreement. In 2013, operating engineers performed nearly 14 million hours of work on all types of pipelines, from gathering lines to transmission lines. The pipeline industry is indeed at the heart of work opportunities for members of the IUOE.

Now I would like to turn quickly to some broader industry dynamics and economics. The development of the natural gas resources in this country has really presented an amazing opportunity. It also has created a number of policy and regulatory challenges for decisionmakers. But in order to capitalize on this opportunity presented by the abundant American natural resource, operating engineers strongly believe that the permitting and regulatory framework for pipelines must be updated, ensuring that domestic oil and gas industry flourishes in a safe and productive way.

I would like to share with you a quick look at employment in the pipeline industry. I have shared with you a couple of graphs that give you a visual look at some of the employment picture in the oil and gas pipeline industry group of the construction sector. As you can see, since the start of the Great Recession in December 2007, the industry has grown over 26 percent, reaching an all-time high in April.

And if I may, Chairman, let me repeat that. The United States today has seen an all-time high in oil and gas pipeline construction employment, and that is really critical. And what is particularly noteworthy is that, during the same time, and you will see in the next graph that during the same time construction employment has plummeted. We have lost about 20 percent of all construction workers; about 1 in 5 construction workers in the country over that same period have left the industry. That makes what is happening in natural gas particularly noteworthy, and has allowed that sector to counter some of the worst employment losses we have seen in construction since the Great Depression.

As you know, dramatic growth is expected in the natural gas industry. Our friends at INGAA have made dramatic estimates about

potentially 61,000 miles of additional midstream natural gas pipeline necessary through 2030, with as much as $10 billion necessary annually. IHS Global finds that about $8 billion a year could be invested in oil and gas industry for just gathering pipelines, not including distribution and transmission. That is a lot of potential, obviously, and we would like to be able to capture that.

And finally, I would like to turn more directly to the legislation before the subcommittee. Operating engineers believe that we must forge bipartisan agreements for the oil and gas permitting in this country. The bottom line is that anachronistic, out-of-date regulations prevent job growth, and it is essential that American energy policy keep pace with the innovations that are occurring in the industry.

The Natural Gas Gathering Enhancement Act reflects the simple modernization of environmental permitting of gathering lines when there is clearly no significant environmental impact. Consistently issuing a finding of "no significant environmental impact" adds no environmental value to the permitting process. Clearly, time, energy, and money of regulatory authorities could be better spent elsewhere. H.R. 4293 is a common-sense step to modernize this Nation's permitting process for natural gas pipelines.

Similarly, the Energy Infrastructure Improvement Act simply clarifies the authority to issue easements and permits to build on Federal lands. It is a common-sense step that operating engineers are pleased to see this kind of technical correction made to the law.

The United States should continue modernizing its regulatory approach to meet the needs of the growing domestic energy industry, and to encourage job growth. We believe the legislation before you will do just that, and we appreciate the committee's leadership and your leadership, Representative Cramer, on these two bills. And we thank you for the opportunity to testify this morning. Thank you.

[The prepared statement of Mr. Soth follows:]

PREPARED STATEMENT OF JEFFREY SOTH, LEGISLATIVE AND POLITICAL DIRECTOR, INTERNATIONAL UNION OF OPERATING ENGINEERS ON H.R. 4293 AND H.R. 1587

Thank you for the invitation to join you this morning, Chairman Lamborn. It is an honor to join you and members of the subcommittee for what the Operating Engineers believe is a critical conversation regarding the development of the natural gas industry in the United States, with particular focus on the regulatory framework for pipelines.

My name is Jeffrey Soth. I am the Legislative and Political Director of the International Union of Operating Engineers (IUOE). The International Union of Operating Engineers represents almost 400,000 men and women in the United States and Canada. Operating Engineers are one of the key occupations directly employed in the construction and maintenance of this Nation's energy infrastructure, including natural gas infrastructure.

Every day across the United States thousands of IUOE members are building the Nation's natural gas pipelines, power plants, and natural gas well pads. Operating Engineers are also seeking other employment opportunities in the natural gas supply chain. For example, thousands of IUOE members in the Upper Mississippi Basin excavate the silica sand that is essential to the hydraulic fracturing process. In the coming years, members of the IUOE also expect to build liquefied natural gas export facilities along the United States and Canadian coasts.

Most of the Operating Engineers engaged in the construction industry run bulldozers, backhoes, cranes, and excavators—the traditional heavy equipment operated by members of the union. To perform this work at the highest levels, members of the Operating Engineers union receive extensive craft training through on-the-job apprenticeship. Local unions of the IUOE, in partnership with their contractor-

employers, invest over $107 million annually in construction training. But the work opportunities around the natural gas industry also require specialization within the Operating Engineer craft.

What I would like to focus on this morning is the role that members of the IUOE play in the pipeline industry. The IUOE is one of four unions signatory to the National Pipeline Agreement. In 2013, Operating Engineers performed nearly 14 million hours of work on all manner of pipeline projects, from gathering lines to mainline transmission projects. The pipeline industry is a key sector to members of the Operating Engineers. It is at the heart of IUOE members' opportunities for work.

The pipeline industry has a unique set of skill requirements and Operating Engineers are perfectly suited to what the industry demands—the safest, most productive workforce available. That is why IUOE members develop their skills through a robust national training program in partnership with the Pipe Line Contractors Association to meet that specific part of the industry's needs.

After that summary of who we are and how we fit into the sector, let me turn to the broader industry dynamics. The development of American natural gas resources has presented the country an amazing opportunity; it has also created a number of policy and regulatory challenges for decisionmakers.

In order to keep pace, in order to capitalize on the opportunity presented by this abundant American natural resource, the Operating Engineers strongly believe that Congress must ensure that there is an updated, streamlined permitting and regulatory framework, ensuring that the domestic oil and gas industry flourishes in a safe, predictable way.

First, I wanted to share with you some numbers that help describe what has occurred in the pipeline industry as a result of the increase in domestic oil and gas production. In the first chart attached to my testimony, you can see employment in the oil and gas industry group within the construction industry. It shows dramatic growth since the start of the Great Recession in December 2007. Since that time, the industry has grown over 26 percent. According to the most recent data available from the Bureau of Labor Statistics, employment in the oil and gas industry hit an all-time high. That is especially noteworthy and important because of what has occurred in the broader construction sector during the same period. You can see that construction has lost over 1.5 million jobs over the same timeframe. Although a small part of the overall industry, the burgeoning natural gas industry has helped the broader construction sector counter some of the worst employment losses seen since the Great Depression.

Family sustaining jobs in the oil and gas pipeline construction industry group are created at higher than average wages. Wage estimates for production and nonsupervisory workers in the oil and gas pipeline industry are over $26 an hour, according to the most recent data from the Bureau of Labor Statistics. That compares to $19.75 an hour for production workers in all of the private sector.

Please allow me to turn more directly to the legislation before the subcommittee. The Operating Engineers believe that Congress must work to forge bipartisan agreements around common-sense changes to oil and gas permitting processes. The bottom line is that an anachronistic regulatory structure inhibits the development of the industry and the jobs that go along with it.

The Interstate Natural Gas Association of America (INGAA) estimated in 2009 that North America may need more than 61,000 miles of additional natural gas pipelines through 2030. INGAA estimates that investments in midstream natural gas pipelines could reach around $10 billion annually for the next 20 years. An IHS Global study finds that $8 billion a year could be invested in just gathering pipelines, not including distribution and transmission, for both the oil and gas industry.

I also wanted to mention to the subcommittee that the IUOE is part of a newly formed industry group, the Energy Equipment and Infrastructure Alliance (EEIA), the voice of the shale energy supply chain. The EEIA pulls together a number of key industry players beyond oil and natural gas companies themselves. It includes contractors, materials and equipment suppliers, and essential unions in the industry. EEIA has commissioned a new economic study that should provide keen new insights into the future of the industry, including a new, updated analysis of jobs, labor income, and dollar outputs by the sector. We look forward to sharing the study with the committee when it is formally released in July.

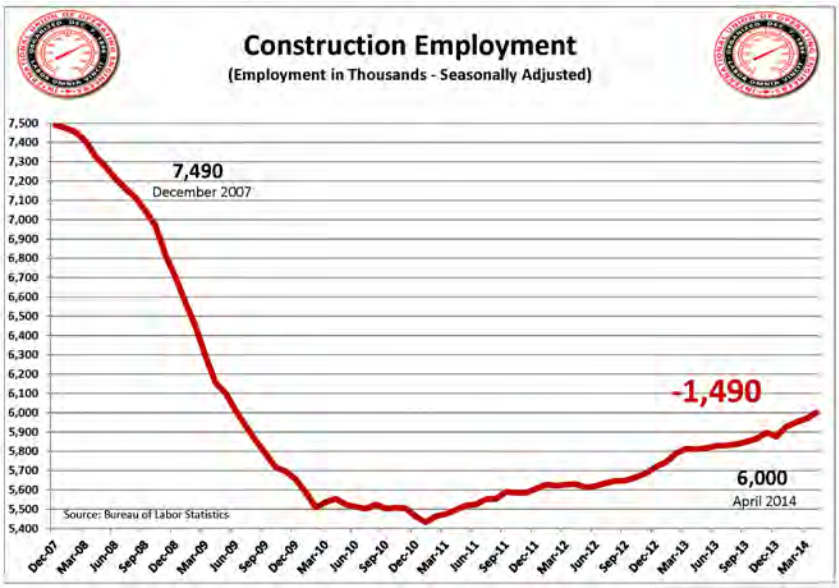
It is essential that the American energy policy support the development of this domestic resource by keeping pace with the dramatic innovations that are occurring in the sector. In a number of cases, the growth in the industry has simply outpaced the Nation's regulatory framework. That is how the Operating Engineers view the two pieces of legislation under consideration by the subcommittee.

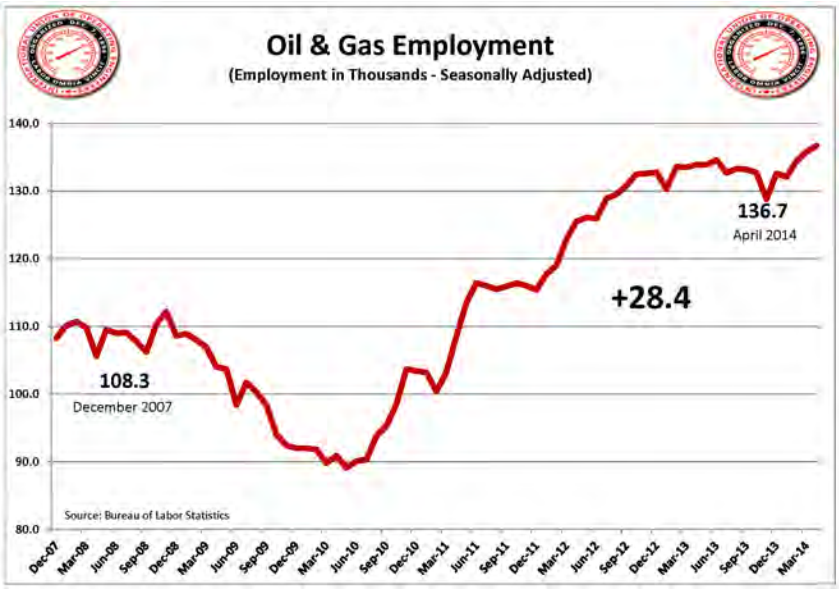
Representative Cramer's legislation, H.R. 4293, the Natural Gas Gathering Enhancement Act, reflects a straightforward modernization of the environmental permitting of gathering lines when there is clearly no significant environmental impact. The process of developing an Environmental Assessment and consistently issuing a Finding of No Significant Impact (FONSI) adds no environmental or economic value to the permitting process. It merely adds procedural impediments and associated cost for both developers and regulators without associated improvements in environmental quality. The time, energy, and money of regulatory authorities should be spent elsewhere in the permitting process. It is also my understanding that an agency could still conduct an Environmental Assessment and take a gathering line on Federal or tribal land through the process of determining whether, in fact, there is a significant environmental impact. Representative Cramer's legislation is a common-sense step to modernize the Nation's permit processes for natural gas pipelines.

Similarly, Congressman Marino's bill, the Energy Infrastructure Improvement Act, merely clarifies the authority of the Secretary of Interior and Secretary of Agriculture to issue easements and permits to construct pipelines on eligible Federal lands. The Operating Engineers are pleased to see this technical correction made to the law so that we may continue to responsibly develop this important American energy resource, and with it the jobs of Operating Engineers and other workers who depend on it for their livelihoods.

The United States should continue updating and modernizing its regulatory approach to meet the needs of the growing domestic energy industry. We believe the legislation before you will do just that and we appreciate the committee's leadership to advance these two bills.

Thank you for the opportunity to testify this morning, Chairman Lamborn.





QUESTIONS SUBMITTED FOR THE RECORD BY CHAIRMAN LAMBORN TO JEFFREY SOTH, LEGISLATIVE AND POLITICAL DIRECTOR, INTERNATIONAL UNION OF OPERATING ENGINEERS

Question 1. In your testimony you say these bills modernize the approach to pipeline regulation and meet the needs of the growing energy industry. What current impacts to production and job creation are we seeing from the hurdles imposed by the current process and what will we see if permitting process is modernized and improved?

Answer. Literally, waiting for an Act of Congress to approve rights-of-way and easements through National Parks, for example, places unnecessary obstacles to the permitting of essential energy infrastructure. In some cases, there are existing utility corridors through parks that should be considered desirable, already-disturbed surfaces well suited for oil and gas pipelines. Updating and clarifying the authority of Secretaries of Agriculture and Interior to approve easements would eliminate the need for statutory approval and place the authority where it should have been all along—with natural-resource agencies.

Similarly, the Bureau of Land Management testified that they did not know of a situation where there was anything other than a Finding of No Significant Impact (FONSI) issued for gathering lines under the conditions imposed by H.R. 4293. In that case it is hard to imagine what value the process of making a determination delivers in terms of environmental integrity; the process of issuing a determination (and, ultimately, a FONSI) merely presents an obstacle—averaging 3 months, according to BLM testimony—to securing the necessary permits to construct gathering lines. Clearly, the process stands in the way of building pipeline infrastructure and the jobs that go along with it.

The Keystone XL is a high-profile example of the hurdles imposed by the anachronistic regulatory framework for trans-boundary oil and gas pipeline projects. The Presidential Permit process, which lives only by Executive Order and administrative fiat, is cumbersome, uncertain, and delivers important responsibilities for the environmental review of projects to a non-resource agency, the State Department. Although not necessarily in the jurisdiction of the Committee on Natural Resources, the IUOE supports H.R. 1900 that restructures the process for permitting this type of trans-boundary infrastructure. The failure to permit Keystone XL has left thousands of Operating Engineers' jobs on the drawing board, denying members of the union with concrete opportunities to go to work.

Much more pipeline infrastructure is necessary in order to realize America's domestic energy future. While the oil and gas pipeline industry group of the construction sector is at an all-time high currently, reaching over 140,000 jobs for the first time in American history, more jobs opportunities await Operating Engineers and other construction craftworkers. The International Union of Operating Engineers appreciates the leadership of your committee and the sponsors of H.R. 15787 and H.R. 4293 on these vital issues.

Thank you again for the opportunity to testify before the Committee on Natural Resources. The International Union of Operating Engineers looks forward to working with you to enact this legislation into law.

Mr. CRAMER [presiding]. Thank you, Mr. Soth.

Mr. Santa, you are recognized for 5 minutes.

STATEMENT OF DONALD F. SANTA, PRESIDENT AND CEO, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

Mr. SANTA. Good morning, Mr. Cramer, Ranking Member Holt, and members of the subcommittee. My name is Donald Santa, and I am President and CEO of the Interstate Natural Gas Association of America, or INGAA. INGAA represents interstate natural gas transmission pipeline operators in the United States and Canada. Our 26 members account for virtually all of the major interstate natural gas transmission pipelines in North America, and operate about 200,000 miles of transmission pipe in the United States.

Thank you for the opportunity to share INGAA's views on H.R. 1587, the Energy Infrastructure Improvement Act, introduced by Representative Tom Marino. This bill addresses a process problem rooted in statute that affects permitting for natural gas pipelines. Largely through a historical oversight, the current law governing lands administered by the National Park Service authorizes the administrative review and approval of rights-of-way for certain enumerated types of infrastructure, but not rights-of-way for natural gas pipelines.

Natural gas pipelines were not common when these statutes were enacted in the early 20th century. Consequently, when Congress enumerated the types of rights-of-way that could be approved by the National Park Service or the Secretary of the Interior, natural gas pipelines were not listed. Electric facilities, communications facilities, mining facilities, and even telegraph lines and water flumes are listed in the existing statute, but not natural gas pipelines. The statute mentions pipelines only in the context of water transportation.

The result is this: while the National Park Service has authority to approve certain types of rights-of-way, it cannot approve rights-of-way for natural gas pipelines absent enactment of project-specific legislation by the Congress. In other words, the current law puts Congress in the role of being a permitting agency for pipelines seeking authority to traverse NPS lands. This cumbersome process creates unnecessary delays and, in some cases, illogical outcomes. This framework needlessly consumes the time and resources of the Congress, and compels the National Park Service or the Secretary, the operators of natural gas pipelines, and all affected stakeholders to engage in a duplicative process in which both congressional action and administrative approval are required to grant the same right-of-way.

The National Park Service or the Secretary should have the authority to review and approve pipeline rights-of-way, in the same manner as other types of rights-of-way, as long as such approval is not inconsistent or detrimental to the primary purposes of these lands. H.R. 1587 grants such authority, and represents a long-overdue amendment to the law. INGAA agrees with the intent behind Representative Marino's efforts, and therefore endorses H.R. 1587.

Mr. Chairman, thank you again for allowing INGAA to share its views on this matter. Given the need to expand our natural gas infrastructure to keep pace with demand growth, we need to ensure that permitting questions are handled in an efficient and effective manner. The severe winter that we just experienced amply demonstrates the need and the importance of making these decisions to benefit American consumers. Natural gas pipeline companies do not look lightly on the question of placing energy infrastructure on lands administered by the National Park Service. Where there is a public need to locate pipelines across these areas, though, or to expand existing pipelines in these areas, we need a better and more efficient process.

We thank Representative Marino for introducing his bill and starting Congress on the path toward creating a better process.

[The prepared statement of Mr. Santa follows:]

PREPARED STATEMENT OF DONALD F. SANTA, PRESIDENT AND CEO, THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA ON H.R. 1587

Good morning Chairman Lamborn, Ranking Member Holt and members of the subcommittee. My name is Donald F. Santa, and I am President and CEO of the Interstate Natural Gas Association of America, or INGAA. INGAA represents interstate natural gas transmission pipeline operators in the United States and Canada. Our 26 members account for virtually all of the major interstate natural gas transmission pipelines in North America and operate about 200,000 miles of transmission pipe in the United States.

Thank you for the opportunity to share INGAA's views on H.R. 1587, the "Energy Infrastructure Improvement Act" introduced by Rep. Tom Marino. This bill addresses a *process problem* rooted in statute that affects permitting for natural gas pipelines. Largely through a historical oversight, the current law governing lands administered by the National Park Service (NPS) authorizes the administrative review and approval of rights-of-way for certain enumerated types of infrastructure, but not rights-of-way for natural gas pipelines. Natural gas pipelines were not common when these statutes were enacted in the early 20th century. Consequently, when Congress enumerated the types of rights-of-way that could be approved by the NPS and/or the Secretary of the Interior (the Secretary), natural gas pipelines were not listed.[1] Electric facilities, communications facilities, mining facilities, and even telegraph lines and water flumes are listed in the existing statute, but not natural gas pipelines. The statute mentions "pipelines" only in the context of water transportation.

The result is this: While the NPS has the authority to approve certain types of rights-of-way, it cannot approve rights-of-way for natural gas pipelines absent the enactment of project-specific legislation by the Congress. In other words, current law puts Congress in the role of being a "permitting agency" for pipelines seeking authority to traverse NPS lands. This cumbersome process causes unnecessary delays, and in some cases, illogical outcomes. This framework needlessly consumes the time and resource of the Congress and compels the NPS and/or the Secretary, the operators of natural gas pipelines and all affected stakeholders to engage in duplicative processes in which both Congressional action and administrative approval are required to grant the same right-of-way. The NPS, and/or the Secretary, should have the authority to review and approve pipeline rights-of-way in the same manner as other types of rights-of-way, as long as such approval is not inconsistent or detri-

[1] 16 U.S.C. Sec. 5 (1911) and 16 U.S.C. Sec. 79 (1901).

mental to the primary purposes of these lands. H.R. 1587 grants such authority, and represents a long-overdue amendment to the law. INGAA agrees with the intent behind Rep. Marino's efforts, and therefore endorses H.R. 1587.

Current Law

As mentioned, the statutes governing Federal lands include sections authorizing the review and approval of rights-of-way across Federal lands. These provisions, originally enacted in 1901 and 1911, authorize the Department of the Interior (DOI) to approve rights-of-way associated with specific types of infrastructure. For example, Title 16, Section 5, authorizes the head of the department with jurisdiction over the lands to approve rights-of-way for:

> *electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of 200 feet on each side of the center line of such lines and poles and not to exceed 400 feet by 400 feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities . . ..*

Also in Title 16, Section 79, the Secretary is authorized to approve rights-of-way across public lands for:

> *electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed 50 feet on each side of the marginal limits thereof, or not to exceed 50 feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States.*

Section 5 was amended in 1952 to add the references to radio, television and other communications facilities. Other than that, the law governing this area has remained largely unchanged for more than 100 years.[2]

The Mineral Leasing Act of 1920[3] (MLA) includes a provision granting either the Secretary or the appropriate agency head the authority to approve rights-of-way "through any Federal lands" for "the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom . . .." The MLA, however, defines "Federal lands" to mean "all lands owned by the United States except lands in the National Park System . . .." For lands within the National Park System, the statute defers to the provisions in Title 16, which do not include natural gas pipelines among the enumerated forms of infrastructure.

Practice for Many Years

Even with this apparent oversight, DOI assumed for decades that it possessed the authority to approve natural gas pipeline rights-of-way across NPS lands. It made this assumption based on the general spirit of the law. And based on this assumption, DOI granted natural gas pipeline rights-of-across these lands during the major build-out of the Nation's natural gas transmission system in the 1950s and 1960s. Pipelines were not sited on NPS lands haphazardly or carelessly. Instead, operators chose to seek such approvals from the NPS only when viable alternatives were unavailable, when the impact of the right-of-way was viewed as negligible, and/or when facilities within NPS lands (such as concessionaires) needed natural gas service.

This process changed in the late 1980s after a DOI legal analysis in connection with an application for a pipeline right-of-way across NPS lands concluded that the statute did not authorize such action. In denying the application, DOI stated that it lacked the authority under Title 16 to approve pipeline rights-of-way, other than

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[2] The communications-related amendment is the only major amendment since original enactment. There have been some re-codification changes over the years, but nothing altering the substance of the statute in any major way.

[3] 30 U.S.C. Sec. 181 et seq.

those pipelines associated with water transportation.[4] Since then, DOI has taken the position that any natural gas pipeline needing a right-of-way across NPS lands must first secure the enactment of specific authorizing legislation from Congress. Such legislation, however, does not grant the right-of-way sought by the pipeline operator. It only grants DOI the authority to approve the specific right-of-way *if it so chooses*.

In practice, pipeline operators seeking a NPS right-of-way now first seek to negotiate the terms and conditions for constructing the proposed pipeline (or altering an existing pipeline) with the NPS. If agreement is reached, the pipeline operator seeks congressional authorization with the support of the NPS. Given the vagaries of the legislative process, this step can take several years.

Recent Examples

Mr. Chairman, this committee has dealt with several specific pipeline right-of-way bills in recent years. The most recent is the "Denali National Park Improvement Act" (P.L. 113–33). The President signed this legislation last September, after *4 years of consideration in Congress*. In brief, the legislation allows, among other things, the NPS to approve a right-of-way through the Denali National Park for a future natural gas transmission line to serve consumers in south-central Alaska. The pipeline, if approved, would largely share an existing right-of-way with a highway through the park. This project is supported by the NPS.

Another example is the "New York City Natural Gas Supply Enhancement Act" (P.L. 112–197), which was reported by this committee, enacted by Congress and signed by the President in November 2012. This law addresses a proposed lateral pipeline from the existing Transco pipeline in New York Bay to serve increased natural gas demand in Queens and Brooklyn. The lateral pipeline will be only about 3 miles long, but must cross under the Gateway National Recreation Area in order to come ashore in Brooklyn. The Gateway National Recreation Area includes Jacob Riis Park and Floyd Bennett Field, New York City's first airport. Congress approved the legislation after about 18 months of consideration. Again, the legislation did not approve the right-of-way permit; instead, it allowed DOI to consider the construction permit for possible approval. After an additional 19 months of review by DOI, the permit was approved just 2 weeks ago, and pipeline construction is now underway.

A final example is the "Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act" (P.L. 109–156), enacted in 2005. This bill dealt with the expansion of the existing Columbia Gas Transmission pipeline. The pipeline had been built in 1948, and subsequently, in 1965, Congress created the Delaware Water Gap National Recreation Area which was situated on top of about 3.5 miles of the pipeline right-of-way. Under pre-existing agreements, the NPS was empowered to approve future expansions of the pipeline, to meet customer needs, for all but two parcels of land that the pipeline traversed. These two parcels included about 850 feet of the 3.5 miles of pipeline right-of-way in the park. When Columbia needed to repair and expand the pipeline in the early 2000s, it had to petition the Congress to enact a statute authorizing amendment of the right-of-way in those two parcels. Two years were needed to obtain the statutory authority needed to modify the terms of the right-of-way so that Columbia could replace 850 feet of 14-inch-diameter pipeline with a safe and more reliable 20-inch-diameter pipeline.

Reason for Legislation

This process begs the question: Why should Congress involve itself in a specific right-of-way permit application in the first place? This question is appropriate, because the current law does not reflect a decision by the Congress to establish this process for natural gas pipelines as matter of policy, but rather results from the fact that natural gas pipelines were not among common forms of infrastructure during the first decade of the last century. It would be more efficient to relieve the Congress of the obligation to review all applications for natural gas pipeline rights-of-way across NPS lands and to authorize the Secretary to fulfill this role without the need for case-specific statutory authority to grant a right-of-way if an application has merit. This is, in fact, how the myriad of other permits required for a new pipeline are processed now—by the agencies charged by Congress to be subject-matter experts and decisionmakers.[5]

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[4] Since this decision, a number of bills have been enacted which allow the Secretary to authorize rights-of-way for existing natural gas pipelines on certain NPS lands. Examples include P.L. 107–223, P.L. 101–573, and P.L. 105–329.

[5] For example, the Bureau of Land Management, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service.

One more point is worth mention. As "national park" status is extended to lands that were not previously so designated, especially in the eastern part of the country, we believe this problem will continue to arise, for both existing and proposed natural gas pipelines, until clear administrative authority is created.

Conclusion

Mr. Chairman, thank you again for allowing INGAA to share its views on this matter. Given the need to expand our natural gas infrastructure to keep pace with demand growth, we need to ensure that permitting questions are handled in an efficient and effective manner. The severe winter that we just experienced amply demonstrates the need, and the importance, of making these decisions to benefit American consumers. We do not look lightly on the question of placing energy infrastructure on lands administered by the NPS. Where there is a public need to locate pipelines across these areas, though, or to expand existing pipelines in these areas, we need a better and more efficient process. We thank Rep. Marino for introducing his bill and starting Congress on the path toward creating a better process.

Mr. CRAMER. Thank you, Mr. Santa, for your testimony.

Ms. Mall, you are now recognized for 5 minutes.

STATEMENT OF AMY MALL, SENIOR POLICY ANALYST, NATURAL RESOURCES DEFENSE COUNCIL

Ms. MALL. Thank you, Mr. Cramer, Mr. Holt, and members of the subcommittee, for inviting me to present NRDC's views on H.R. 4293, the Natural Gas Gathering Enhancement Act.

Flaring is a serious environmental problem that needs to be addressed, and we are pleased that the committee is discussing it. Flares have produced a significant amount of CO2 that contributes to global warming, NOx, an ozone precursor, volatile organic compounds, methane, and particulate matter. Flaring of gas associated with oil wells in 2012 released more CO2 than 1.5 million passenger vehicles. So flaring must be eliminated, except for safety cases, to reduce environmental impacts and also waste.

Federal policy currently allows gas to be flared royalty free, robbing U.S. taxpayers of revenue.

The genuine need to eliminate flaring, however, is not a reason to waive environmental review of new gathering lines and compressor stations. Gathering lines and compressor stations themselves pose serious safety and environmental risks, including risks of explosion, leaks, water contamination, dangerous air pollution, habitat destruction, and severe noise.

Yet gathering lines and compressor stations currently have too little environmental oversight, not too much. Gathering lines in rural areas are not regulated by the Pipeline and Hazardous Material Safety Administration, and regulations in non-rural areas are much too weak. While historically gathering lines were small and thought to be low-risk, gathering lines today can be as big as or bigger than transmission pipelines, and may operate at the same extremely high pressures.

The Government Accountability Office (GAO), in a recent report, found that there is not even basic information on where gathering lines are, or whether any safety procedures are being observed. GAO concluded that pipeline safety officials are unable to assess and manage safety risks from unregulated gathering lines. No regulation means that there are no requirements for pipe thickness, strength, welding, burial depth, inspections, corrosion resistance,

installation practices, periodic maintenance, or to record the location.

The National Environmental Policy Act, or NEPA, process is, therefore, crucial to maximize the benefits of a project and minimize its health and environmental costs. Excluding projects from NEPA review or imposing arbitrary deadlines for issuing permits would shortcut the essential work needed to reduce risk, improve safety, and ensure all health and environmental threats are considered.

While a project located adjacent to an existing disturbed area such as a road or a wellpad may seem like an innocuous location for a gathering line or compressor station, there may be new or cumulative impacts of additional large-scale industrial development. If those impacts have already truly been considered and vetted in a prior NEPA analysis, then under current law new analysis is not needed, which makes legislation unnecessary.

And the Interior Department already has discretion under NEPA to establish administrative categorical exclusions, or CEs, where environmental review is genuinely unnecessary, and to take other action. For example, the Bureau of Land Management (BLM) is currently considering new rules to reduce waste, including flaring, under its current authorities. BLM has a duty under the law to minimize the waste of Federal oil and gas resources, and can and should use the full scope of its current authority to do so.

Efforts to legislate CEs from NEPA are unnecessary, and have historically proven to be problematic. For example, after Section 390 of the 2005 Energy Policy Act created CEs for oil and gas projects, GAO analyzed them and found that BLM had issued more than 6,000 oil and gas drilling exemptions between Fiscal Year 2006 and 2008, but that the use of these exemptions often did not comply with either the law or BLM's guidance.

The Federal Government can and should take other actions to reduce flaring. For example, expand the green completion requirement of the Clean Air Act to cover oil-producing wells, limit production and new well drilling to areas with sufficient pipeline resources, mandate maximum on-site and nearby use of captured gas and natural gas liquids, charge royalties on all flared gas, and limit the cumulative duration of flaring.

While dramatically reducing flaring is a very important goal that we should all work to achieve, ignoring other environmental impacts to achieve this goal is not appropriate. NRDC, therefore, opposes H.R. 4293. We would be happy to work with the subcommittee to develop the right solutions to directly reduce flaring, as well as to reduce our dependence on fossil fuels and promote energy efficiency and clean energy. Thank you.

[The prepared statement of Ms. Mall follows:]

PREPARED STATEMENT OF AMY MALL, SENIOR POLICY ANALYST, NATURAL RESOURCES DEFENSE COUNCIL ON H.R. 4293

Thank you Chairman Lamborn, Ranking Member Holt, and members of the subcommittee, for inviting me to present NRDC's views on H.R. 4293, the Natural Gas Gathering Enhancement Act.

Flaring is a serious environmental problem that needs to be addressed. Flares produce significant amounts of CO2, contributing to global warming, as well as NOx, an ozone precursor, and volatile organic compounds, methane, and particulate matter. The genuine need to eliminate flaring, however, is not a reason to waive

environmental review of new gathering lines and compressor stations. Gathering lines and compressor stations come with their own serious environmental hazards and the National Environmental Policy Act (NEPA) ensures that these risks are understood, that the public has an opportunity for review and input, and that better alternatives are considered. Efforts to legislate categorical exclusions from NEPA have historically created confusion and resulted in administrative abuses and the Department of the Interior already has discretion under NEPA to establish administrative CEs where appropriate and to take other action. While dramatically reducing flaring is an important goal we should all work to achieve, ignoring other environmental impacts to achieve this goal is not appropriate and NRDC therefore opposes H.R. 4293.

FLARING IS A SERIOUS ENVIRONMENTAL PROBLEM THAT NEEDS TO BE ADDRESSED

Flares produce significant amounts of CO2, contributing to global warming. Flares also release NOx (an ozone precursor) as well as volatile organic compounds, methane, and particulate matter due to incomplete combustion. According to the Greenhouse Gas Reporting Program mandated by Congress, associated gas flaring released around 7 million metric tons of CO2 in 2012, which is equal to the annual greenhouse gas emissions from more than 1.5 million passenger vehicles.[1] Flaring must absolutely be eliminated, except for cases of safety, to reduce the environmental impacts of oil and gas production. It is also a waste of resources. Federal policy currently allows gas to be flared royalty-free, robbing U.S. taxpayers. Therefore, to protect the health of Americans and the planet and to protect our valuable mineral resources, the Federal Government should impose restrictions on flaring. It can do this by expanding the green completion requirement of the Clean Air Act to cover oil producing wells. Green completion is a process whereby operators capture gas from the completion phase that would otherwise be vented or flared. There should also be requirements that: (a) limit production and new well drilling to areas with sufficient pipeline resources; (b) mandate maximum onsite and nearby use of captured gas and natural gas liquids; (c) charge royalties on all flared gas; and (d) limit the cumulative duration of flaring. For example, the State of North Dakota is currently considering rules to reduce flare volume, the number of wells flaring, and the duration of flaring by, among other things, restricting production at wells that continue to flare beyond initial allowances.[2]

The genuine need to eliminate flaring, however, is not a reason to waive environmental review of new gathering lines and compressor stations. This would be the equivalent of "robbing Peter to pay Paul." Gathering lines and compressor stations themselves pose serious safety and environmental risks, including risks of explosion, leaks, water contamination, dangerous air pollution, and severe noise. Congress must not interfere with consideration and mitigation of those impacts when pursuing a solution to the problems of flaring. The National Environmental Policy Act (NEPA) requires that, where gathering lines and compressors could significantly affect the human environment, these impacts are understood and alternatives for reducing them are explained to the affected public and considered by officials; indeed, the very premise of NEPA is that a comprehensive review of significant environment-related impacts informs major Federal decisions. NEPA ensures that Federal officials understand the consequences of their choices and the public and local governments are given a voice in the development of projects on Federal lands that affect their well-being and interests. Stifling that process will not result in smart solutions to the problem of flaring. Neither our public lands nor nearby communities should be faced with the risks that would come with more gathering lines and compressors constructed without well-informed environmental review.

GATHERING LINES AND COMPRESSOR STATIONS CURRENTLY HAVE TOO LITTLE ENVIRONMENTAL OVERSIGHT, NOT TOO MUCH

This is not the time to weaken environmental review of natural gas gathering lines or compressors. Gathering lines in areas defined as rural—with 10 or fewer homes within a quarter-mile of the pipeline in any mile-long stretch of pipe—are not regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA), and regulations for gathering lines in non-rural areas are much too weak. While historically gathering lines were smaller and thought to be less risky, many gathering lines today are as big as, or bigger than, many transmission lines and

[1] U.S. Environmental Protection Agency, Greenhouse Gas Reporting Program. (2013). Retrieved June 17, 2014, from http://www.epa.gov/enviro/facts/ghg/customized.html.

[2] North Dakota Industrial Commission power point, March 3, 2014, https://www.dmr.nd.gov/oilgas/presentations/NDIC030314_100.pdf.

may operate at the same extremely high pressures. New gathering lines can be more than 24 inches in diameter and operate at pressures upwards of 1400 pounds per square inch, comparable to some transmission lines. And the regulatory definition of "gathering line"[3] is so broad that it can include large compressor stations used to pressurize the gas for long-distance transport.

In 2012, the Government Accountability Office (GAO) reported that there is not even basic information on where gathering lines are or whether any safety procedures are being observed. GAO concluded that "pipeline safety officials are unable to assess and manage safety risks" from unregulated gathering lines.[4] No regulation means that there are no requirements for pipe thickness, strength, welding, burial depth, inspections, corrosion resistance, installation practices, periodic maintenance to prevent and identify leaks and ruptures, or a record of the location. Without NEPA those issues will remained buried. While we lack any information concerning incidents on unregulated gathering lines or compressor stations in rural areas, GAO found that, in 2010, the average incident on a regulated gas gathering pipeline caused $1.8 million in property damage.

PHMSA has estimated that there are more than 200,000 miles of natural gas gathering lines in the country and an additional 30,000–40,000 miles of hazardous liquid gathering lines that carry mostly petroleum products. PHMSA estimates that only about 10 percent of these lines are regulated. These lines are generally not included in programs that require the marking of utility lines to prevent them from being damaged by excavation or demolition work because there are no requirements to mark or keep records of the locations of gathering lines.

Unfortunately, few States have chosen to add their own rules in the absence of Federal rules, so they do not regulate these facilities to ensure safety. For example, after a 2012 compressor station explosion in Pennsylvania, the Pennsylvania Department of Environmental Protection asked the operator not to restart the compressor without permission, but within 2 days the company had restarted the compressor against the agency's wishes.

THE NATIONAL ENVIRONMENTAL POLICY ACT IS CRUCIAL TO ENSURE THE BEST OUTCOME

The National Environmental Policy Act (NEPA) passed the House of Representatives by a vote of 372 to 15 and passed the Senate by voice vote with no recorded dissent during the Nixon administration. President Obama's Proclamation on NEPA's 40th anniversary noted NEPA's role in promoting ". . . open, accountable, and responsible decisionmaking that involves the American public."

NEPA establishes a process to identify and consider the environmental impacts of a government proposal. NEPA requires the government to thoroughly consider the pros and cons for the human environment of proposed significant actions and to develop alternatives that reduce harms and increase benefits. NEPA does not dictate adoption of the least environmentally harmful alternative, but rather requires disclosure and consideration of alternatives that would reduce the harm. NEPA gives the public an opportunity to review and comment on any decisions. It is a tool that improves consensus, accountability and transparency surrounding government decisionmaking, and promotes buy-in by the public because it assures them an informed voice before final decisions are made.

NEPA's process, helping to maximize the benefits of a project and minimize its health and environmental costs, is exactly what is needed for any important decisions regarding gathering lines or compressor units. Excluding projects from NEPA review or imposing arbitrary deadlines for issuing permits would shortcut the essential work needed to reduce risk, improve safety, and ensure all health and environmental threats are considered.

H.R. 4293 would categorically exclude from NEPA sundry notices or rights-of-way for natural gas gathering lines or compression units that are located within an area for which NEPA review has already occurred and adjacent to an existing disturbed area. While a project located adjacent to an existing disturbed area, such as a road or wellpad, may seem like an innocuous location for a gathering line or compressor station, this approach does not take into consideration new or cumulative impacts of additional large-scale industrial development in an area. Potential impacts include threats to surface waters such as streams, ponds, and rivers, destruction of

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[3] 49 CFR § 192.8. See also: American Petroleum Institute, "Guidelines for the Definition of Onshore Gas Gathering Lines," API Recommended Practice 80, Published April 2000, Reaffirmed March 2007 (incorporated by reference).

[4] U.S. Government Accountability Office, "Pipeline Safety: Collecting Data and Sharing Information on federally Unregulated Gathering Pipelines Could Help Enhance Safety," GAO–12–388: Published: Mar 22, 2012.

wildlife habitat, increased air pollution, severe noise, and potential impacts on historical and other important resources. Where those impacts have already been considered and vetted in a prior NEPA analysis, then under current law, new analysis is not needed and legislation is unnecessary. In addition, NEPA has built-in mechanisms by which projects with lesser impacts are subject to a less extensive review.

Efforts to legislate categorical exclusions (CEs) from NEPA have historically proven to be an invitation to confusion and administrative abuses. For example, section 390 of The 2005 Energy Policy Act created CEs for oil and gas projects. A 2011 GAO report found that the Bureau of Land Management (BLM) had issued more than 6,000 oil and gas drilling exemptions from Fiscal Year 2006 through Fiscal Year 2008 and that the use of these exemptions "often did not comply with either the law or BLM's guidance." GAO found "several types of violations of the law."[5] According to a more recent investigation by the *Casper Star-Tribune*, the BLM's Casper office issued exemptions 111 times in 2013, and only conducted environmental review seven times. In the first 4 months of 2014, the Casper office issued 53 exemptions and only conducted two environmental assessments.[6] Without any environmental review, the public is left in the dark, decisionmakers cannot understand the consequences of their actions, and industry gets a free pass on making others bear the environmental costs of their operations. We are therefore opposed to legislative CEs which undermine the NEPA process, in particular CEs that favor one industry, such as energy.

The Interior Department already has discretion under NEPA to establish administrative CEs where environmental review is genuinely unnecessary, and to take other action. For example, BLM is currently considering new rules to reduce waste, including flaring, under its current authorities. BLM has a duty under the law to minimize the waste of Federal oil and gas resources and can and should use the full scope of its current authority to do so.

CONCLUSION

Reducing flaring is a laudable goal. However, ignoring other environmental impacts to achieve this goal is short-sighted. NRDC therefore opposes H.R. 4293 and would be happy to work with the members of the subcommittee to develop the right solutions, including approaches to directly reduce flaring as well as reducing our dependence on fossil fuels and promoting energy efficiency and clean energy resources.

Mr. CRAMER. Thank you, Ms. Mall.

Mr. Lund, you are now recognized for 5 minutes.

STATEMENT OF NICHOLAS LUND, PROGRAM MANAGER OF LANDSCAPE CONSERVATION, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. LUND. Thank you. Good morning, Mr. Cramer, Ranking Member Holt, and members of the subcommittee. I am Nick Lund, Manager of the Landscape Conservation Campaign at the National Parks Conservation Association, or NPCA. Thank you for the opportunity to appear before you today to express NPCA's views on H.R. 1587 on behalf of NPCA's 800,000 members and supporters nationwide.

National parks serve and protect America's most treasured landscapes, our history, and our culture, and are a vital resource to millions of Americans. The idea of parks owned by and maintained for all citizens was born in the United States, and the existence of these national parks, representing the crown jewels of the American landscape and the shared experiences of our past em-

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[5] U.S. Government Accountability Office, "Energy Policy Act of 2005: BLM's Use of Section 390 Categorical Exclusions for Oil and Gas Development," GAO–11–941T: Published: Sep 9, 2011.

[6] Storrow, Benjamin, "BLM revives controversial fast-tracking of oil and gas permits," *Casper Star-Tribune,* April 12, 2014.

bodies our democratic ideals, and has been called the best idea we ever had.

However, the success of the national park idea depends upon careful stewardship of their resources. These lands are set aside with a mandate that they remain unimpaired for future generations, and impairment, however incremental, should be permitted only as a last resort. In certain situations where potential impacts by commercial activities are minor, the National Park Service rightly has the authority to manage for and allow impacts that are acceptable. However, that discretionary authority does not apply, nor should it, in a case where use could cause impairment or an unacceptable impact.

Where impairment to a national park is attended by a continued threat of contamination or pollution, such as the establishment of new oil and gas pipelines across park lands, the decision to allow such a use should be made by the park's owners, the public, through their representatives in Congress. The authors of the Mineral Leasing Act's 1973 pipeline provision understood this when they specifically excluded lands in the National Park System from those through which the Secretary of the Interior can grant rights-of-way for oil and gas pipelines.

In fact, the 1973 provision passed the Senate with national parks, national wildlife refuges, and wilderness areas all being excluded from the Federal lands definition. After conference with the House of Representatives, only national park lands remained excluded, highlighting the fact that Congress specifically recognized the uniqueness and importance of national parks.

Unlike other possible rights-of-way across national park lands, such as water pipelines or transmission lines, oil and gas pipelines carry the risk of leakage or contamination. The Wall Street Journal recently counted more than 1,400 pipeline accidents reported in the United States since 2010. More than 80 percent of the pipeline leaks and ruptures are discovered not by industrial leak detection monitors, but by human beings, either pipeline employees or local residents.

The risk of not detecting a leak is greater across national park lands that may be less frequently visited. And the impact of a large oil spill inside a park could be catastrophic. In these situations, the decision to permit such an incompatible use of a national park should be left to the public, their representatives, not the Administration in power.

However, there are situations where running a pipeline across park lands is preferable to some other option. In those cases, dictated by specific facts, NPCA has supported such proposals. The Congressional Research Service has found at least nine recent examples of Federal legislation authorizing oil and gas pipelines to be constructed across park lands around the country. I would like to highlight some of those examples.

In July of last year, NPCA supported provisions in the Denali National Park Improvement Act that would allow for a new oil and gas pipeline to be constructed along a highway corridor in Denali National Park. The routing of the pipeline through that area of the park is likely more environmentally friendly than any other alternative, and that bill is now law.

In 2001, NPCA did not object to a pipeline proposal through Great Smoky Mountains National Park at the Gatlinburg Spur. The area, while technically part of the park, is not an area where the park's central resources or visitor experience would be diminished by incursion. The bill became law, and the pipeline was built.

In 2012, NPCA supported the New York City Natural Gas Supply Enhancement Act, which included provisions allowing for the construction of a natural gas pipeline through Gateway National Recreation Area. Studies of the proposal have found that the impacts on the recreation area were minor and temporary, and the bill is now law.

The point of these examples is to highlight that the process works, as currently established. The drafters of the Mineral Leasing Act understood that the Federal Government should only encourage private companies to seek easements across national park lands for oil and gas pipelines when all other options are exhausted. In the few cases where this last resort is reached, Congress has been willing and able to pass legislation allowing the exception.

H.R. 1587 seeks to fix a system that isn't broken. The bill would, in its current state, increase the likelihood of injury and impairment to our national parks.

Parks continue to occupy an important place in our Nation's hearts, with 95 percent of Americans viewing national parks as something that the Federal Government should be protecting and supporting. There are a number of reasons that the increase in domestic production of oil and natural gas can be viewed as beneficial to our Nation, but the Federal Government should not encourage the use of sensitive national park lands for oil and gas pipelines.

The Mineral Leasing Act provides a logical and effective path for oil and gas pipeline easements as it is currently written.

[The prepared statement of Mr. Lund follows:]

PREPARED STATEMENT OF NICK LUND, LANDSCAPE CONSERVATION CAMPAIGN MANAGER, NATIONAL PARKS CONSERVATION ASSOCIATION ON H.R. 1587

Chairman Lamborn, Ranking Member Holt and members of the subcommittee, I am Nick Lund, Manager of the Landscape Conservation Campaign at the National Parks Conservation Association, or NPCA. NPCA is a nonpartisan, nonprofit advocacy organization that has been the leading independent voice in support of protecting and enhancing the National Park System since it was founded in 1919. Thank you for the opportunity to appear before you today to express our views on H.R. 1587 on behalf of NPCA's 800,000 members and supporters nationwide.

National parks conserve and protect America's most treasured landscapes, our history, and our culture and are a vital resource to millions of Americans. The idea of parks owned by and maintained for all citizens was born in the United States, and the existence of these national parks—representing the crown jewels of the American landscape and the shared experiences of our past—embody our democratic ideals and has been called "the best idea we ever had."

The success of our national park system is undeniable. Our national parks protect our most incredible landscapes and most sacred places, from Denali to the Liberty Bell. The huge domestic and international interest in our national park system has created robust and stable economies in communities near national parks. More than 279 million people made recreational visits to national parks in 2011, spending more than $12.95 billion in local gateway regions.

However, the success of the national park idea depends upon careful stewardship of their resources. These lands are set aside with a mandate that they remain unimpaired for future generations, and impairment, however incremental, should be permitted only as a last resort. In certain situations, where potential impacts by commercial activities are minor, the National Park Service rightly has the authority

to manage for and allow impacts that are acceptable. However, that discretionary authority does not apply, nor should it, in case where a use could cause impairment or an unacceptable impact.

Where impairment to a national park is attended by a continued threat of contamination or pollution, such as the establishment of new oil and gas pipelines across park lands, the decision to allow such a use should be made by the parks' owners, the public, through their elected representatives in Congress. The authors of the Minerals Leasing Act's 1973 pipeline provision understood this when they specifically excluded lands in the National Park System from those through which the Secretary of the Interior can grant rights-of-way for oil and gas pipelines. In fact, the 1973 provision passed the Senate with national parks, national wildlife refuges, and wilderness areas all being excluded from the "Federal lands" definition. After conference with the House of Representatives, only national park lands remained excluded, highlighting the fact that Congress specifically recognized the uniqueness and importance of national parks.

Unlike other possible rights-of-way across national parks lands, such as water pipelines or transmission lines, oil and gas pipelines carry the risk of leakage or contamination. The *Wall Street Journal* recently counted more than 1,400 pipeline accidents reported in the United States since 2010. More than 80 percent of pipeline leaks and ruptures are discovered not by industrial leak-detection monitors but by human beings—either pipeline employees or local residents.[1] The risk of not detecting a leak is greater across national park lands that might be less frequently visited, and the impact of a large oil spill inside a park could be catastrophic. In these situations, the decision to permit such an incompatible use of national park lands should be left to the public, through their representatives, not the administration in power.

However, there are situations where running a pipeline across park lands is preferable to some other option, and in those cases, dictated by specific facts, NPCA has supported such proposals. The Congressional Research Service has found at least nine recent examples of Federal legislation authorizing oil and gas pipelines to be constructed across national park lands across the country.

I'd like to highlight some of those examples. In July of last year, NPCA supported provisions in the Denali National Park Improvement Act that would allow for a new oil and gas pipeline to be constructed on a highway corridor in Denali National Park. The routing of the pipeline through that area of the park is likely more environmentally friendly than any other alternative. That bill is now law, and the pipeline will be constructed pending completion of the NEPA process.

In 2001, NPCA did not object to a pipeline proposal through Great Smoky Mountains National Park, at the Gatlinburg Spur. The area, while technically part of the park, is not an area where the park's central resources or visitor experience would be diminished by incursion. The bill became law, and the pipeline was built.

In 2012, NPCA supported the New York City Natural Gas Supply Enhancement Act, which included provisions allowing for the construction of a natural gas pipeline through Gateway National Recreation Area. Studies of the proposal have found that impacts on the recreation area would be minor and temporary, and the bill is now law.

The point of these examples is to highlight that the process works as currently established. The drafters of the Mineral Leasing Act understood that the Federal Government should only encourage private companies to seek easements across national park lands for oil and gas pipelines when all other options are exhausted. In the few cases where this "last resort" is reached, Congress has been willing and able to pass legislation allowing the exception. H.R. 1587 seeks to fix a system that isn't broken. The bill would, in its current state, increase the likelihood of injury and impairment to our national parks.

Parks continue to occupy an important place in the Nation's hearts, with 95 percent of Americans viewing national parks as something that the Federal Government should be protecting and supporting. There are a number of reasons that the increase in domestic production of oil and natural gas can be viewed as beneficial to our Nation, but the Federal Government should not encourage the use of sensitive national parks lands for oil and gas pipelines. The Mineral Leasing Act provides a logical and effective path for oil and gas pipeline easements as it is currently written.

I would be happy to answer any questions members of the subcommittee might have.

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[1] Sider, A. (2014, January 20) High-Tech Monitors Often Miss Oil Pipeline Leaks. The *Wall Street Journal*. Online at: http://online.wsj.com/news/articles/SB10001424052702303754404579310920956322040.

Mr. CRAMER. Thank you, Mr. Lund, for your testimony.
Now, Mr. Nedd, you are recognized for 5 minutes.

STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERALS AND REALTY MANAGEMENT, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY HERBERT FROST, REGIONAL DIRECTOR, ALASKA REGION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. NEDD. Mr. Chairman, Ranking Members, and members of the committee, thank you for the opportunity to present the views of the Department of the Interior on two bills pertaining to the development of oil and gas pipeline infrastructure on Federal lands. With me today to answer any questions specifically related to National Park Service is Dr. Herbert Frost, Regional Director for the Alaska Region of the National Park Service.

The Department of the Interior administers a wide range of lands and resources that includes wilderness areas, land held in trust for Native Americans, our national park system, our national wildlife refuge system, and the national system of public land. The Bureau of Land Management administers over 245 million surface acres on approximately 700 million acres of onshore subsurface mineral estate.

Together with the Bureau of Indian Affairs, the BLM also conducts energy permitting on approximately 56 million acres of land held in trust by the Federal Government on behalf of tribes and individual Indian owners. The Department of the Interior has made it a priority to ensure a clean energy future to environmentally responsible development of renewable and conventional energy on Federal and Indian lands.

Oil and gas transmission is a critical component of these energy efforts, and the BLM plays a key role by issuing rights-of-way grants for oil and natural gas gathering, distribution, transmission, pipelines, and related facility. Notably, the BLM oil and gas pilot offices authority, that has been expanded to include our Dickinson office in North Dakota, are particularly effective for permitting these pipelines.

Since 2009, the BLM has participated in the approval of seven major oil and gas projects, totaling nearly 1,750 miles, with nearly 750 of those miles crossing Federal lands. In the next 18 months, the BLM is expected to complete review and disposition of three more major pipeline projects, totaling nearly 500 additional miles, with nearly 250 of those miles crossing Federal land. This work is in addition to the thousands of miles of smaller pipeline projects that are approved every year to transport oil and gas from the production site to the larger gathering pipelines and the major transport pipeline facilities.

The activities called for in H.R. 4293, the Natural Gas Gathering Enhancement Act, are already within the scope of existing Department authorities, and consistent with our priorities and activities already underway. The Department strongly opposes the categorical exclusion from NEPA of pipelines activity, as proposed in H.R. 4293. The engagement of the public through the environmental review process under NEPA is a crucial component of the

BLM's multiple use management of the public lands. H.R. 4293 would prohibit the BLM from engaging in this important public participation and environmental analysis process, and prohibit the BLM from engaging in site-specific NEPA analysis, if needed, for particular natural gas pipelines.

The Department strongly opposes the provision of H.R. 1587, the Energy Infrastructure Improvement Act, which would authorize the Secretary to issue a permit for oil and gas pipelines on National Park Service lands, reversing the long-standing prohibition on allowing such pipeline in our Nation's national parks, unless explicitly authorized by Congress. The disturbance associated with the laying of pipelines, as well as the transportation of oil and gas products via pipeline is inconsistent with the conservation mandate in the National Park Service Organic Act, and would overturn long-standing and necessary protection of park system resources and value.

The Department also opposes H.R. 1587 because it contains provisions which are redundant or conflict with existing BLM authority under the Mineral Leasing Act to grant right-of-ways for pipelines through Federal land. These new provisions would raise confusion for land management agencies, applicants, and public regarding what authority should be followed, what requirement must be met, and what new regulation would be required. The Department continues to work hard to increase the capacity to transport energy resources, where appropriate, across Federal lands, and has been successfully coordinating with our State and tribal partners.

Thank you for the opportunity to present testimony on H.R. 4293 and H.R. 1587.

[The prepared statement of Mr. Nedd follows:]

PREPARED STATEMENT OF MICHAEL D. NEDD, ASSISTANT DIRECTOR, MINERALS AND REALTY MANAGEMENT, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR ON H.R. 4293 AND H.R. 1587

Thank you for the opportunity to testify on behalf of the Department of the Interior (Department) on H.R. 4293 and H.R. 1587. H.R. 4293 would categorically exclude from environmental review under the National Environmental Policy Act (NEPA) the permitting of natural gas gathering lines, and would establish deadlines for such authorizations on Federal and Indian lands. The Department strongly opposes H.R. 4293, which would prohibit the BLM from engaging in valuable public participation and analysis under NEPA. The NEPA process is invaluable to sound public land management, providing a formal opportunity for public engagement, consideration of environmental impacts, and identification of unknown or unforeseen issues. Both the Department of Interior and the Department of Agriculture have capabilities to effectively and efficiently evaluate and process pipeline applications including the use of categorical exclusions where relevant criteria apply. Both Departments also appreciate the need to capture natural gas and are actively seeking means to be responsive while protecting public lands.

The Department also opposes H.R. 1587 which contains provisions which are redundant or conflict with existing Mineral Leasing Act (MLA) authority regarding granting pipeline rights-of-way (ROW) through Federal lands, and strongly opposes the bill's provisions that would authorize the Secretary to issue a permit for oil and gas pipelines on Department-administered lands, which would now include National Park Service (NPS) lands.

Background

The Department of the Interior administers a wide range of lands and resources that includes wilderness areas, lands held in trust for Native Americans, our National Park System, our National Wildlife Refuge System, and our National System of Public Lands. The Bureau of Land Management (BLM) is responsible for protecting the resources and managing the uses of our Nation's public lands, which

are located primarily in 12 western States, including Alaska. The BLM administers over 245 million surface acres and approximately 700 million acres of onshore subsurface mineral estate throughout the Nation. The BLM, together with the Bureau of Indian Affairs (BIA), also provides permitting and oversight services under the Indian Mineral Leasing Act of 1938 on approximately 56 million acres of land held in trust by the Federal Government on behalf of tribes and individual Indian owners.

The BLM plays an important role in ensuring safe and effective management of mineral resources on Federal and Indian lands. The BLM works closely with surface management agencies, including the BIA and tribal governments, in the management of the subsurface mineral estate. While the BLM cooperates with its Federal partners to provide consistent and responsible oil and gas management, the BLM alone is delegated the responsibility of managing public and Indian Trust minerals.

The Mineral Leasing Act of 1920 establishes the statutory framework to promote the exploration and development of oil and natural gas from the Federal onshore mineral estate. Secretary of the Interior Sally Jewell has emphasized that, as the Nation moves toward the new energy frontier, the development of conventional energy resources from BLM-managed public lands will continue to play a critical role in meeting the Nation's energy needs. Facilitating the safe, responsible, and efficient development of these domestic oil and gas resources is one of the BLM's many responsibilities and part of the administration's broad energy strategy, outlined in the President's *Blueprint for a Secure Energy Future*. Environmentally responsible development of these resources will help protect consumers and reduce our Nation's reliance on oil imports, while protecting our Federal lands and the environment. As part of this effort, the Department is working with various agencies in support of Executive Order 13604 to improve the performance of Federal permitting and review of infrastructure projects by increasing transparency, predictability, accountability, and continuous improvement of routine infrastructure permitting and reviews.

Oil production from Federal onshore lands is at its highest level in over a decade, with onshore production about 35 percent above 2008 levels according to the most current available data. The amount of producing Federal acreage continues to increase, and grew by over 300,000 acres from 2011 to 2013. The total number of well bores on Federal lands has increased by over 3,400 wells during this same period to nearly 94,000 total wells.

Well-paying jobs are often associated with oil and gas exploration and development, and provide crucial revenues and economic activity in many communities. Royalties from onshore public land oil and gas development were nearly $3 billion in Fiscal Year 2013. Approximately half of that total ($1.4 billion) was paid directly to the States in which the development occurred and is used to fund important State priorities. Over $930 million in mineral revenues was disbursed to American Indian tribes from production on Indian lands—an increase of more than $200 million over Fiscal Year 2012 disbursements.

Fundamental to all of the BLM's management actions—including authorization of oil and gas exploration and development—is the agency's land use planning and NEPA processes. These open, public processes are the vehicle by which proposals for managing particular resources are made known to the public in advance of taking action. The BLM is committed to providing the environmental review and public involvement opportunities required by NEPA for proposals to use BLM-managed lands. In addition, as required under the Federal Land Policy and Management Act (FLPMA), the BLM strives to achieve a balance between oil and gas production and development of other natural resources and protection of the environment and cultural resources. The land-use planning and NEPA processes are vital tools used to achieve this statutory mandate.

Oil & Gas Pipelines

As authorized by the Mineral Leasing Act (MLA, Section 28), the BLM issues ROW grants for oil and natural gas gathering, distribution, and transmission pipelines and related facilities. The BLM may grant MLA ROWs on any public land, or on land administered by two or more Federal agencies, except land in the National Park System or land held in trust for Indian tribes. Oil and gas production is now outpacing pipeline capacity and creating bottlenecks in some locations, putting a strain on America's pipeline infrastructure.

Since 2009, the BLM has participated in the approval of seven major pipeline expansion projects totaling nearly 1,750 miles of new oil and gas pipeline with nearly 750 of those miles crossing Federal lands. In the next 18 months, the BLM is expected to complete review and disposition of three more major pipeline projects totaling nearly 500 hundred additional miles with nearly 250 of those miles across

Federal lands. Work on these major oil and gas pipeline projects is in addition to the thousands of miles of smaller pipeline projects that are approved every year to transport oil and gas from the production site to the larger gathering pipelines and the major transport pipeline facilities.

H.R. 4293, "Natural Gas Gathering Enhancement Act"

H.R. 4293 amends several laws to provide additional authority for the Secretary of the Interior to approve natural gas pipelines and gathering lines on Federal and Indian land. Section 4 of the bill amends the Energy Policy Act of 2005 and adds a new provision (section 319) to categorically exclude from NEPA review certain gas gathering lines and associated field compression units. Under the bill, such lines would be categorically excluded from NEPA review if they are within an area that has a land use plan or environmental document that analyzed transportation of natural gas produced from oil wells as a reasonably foreseeable activity and also are located adjacent to an existing disturbed area for the construction of a road or oil and gas pad. The bill's categorical exclusion (CX) is applicable to BLM-managed lands and other Federal lands with two exceptions: (1) if the Governor in which the lands are located requests that the CX not be applied; and (2) if an Indian tribe requests the CX be applied on tribal lands.

Section 4 of the bill further amends the Energy Policy Act of 2005 and adds a new provision to require the Secretary to conduct a study to identify any actions that may be taken under Federal law or regulation, or changes to Federal law or regulation, to expedite permitting for gas gathering lines and associated field compression units that are located on Federal land or Indian land. This section requires the Secretary to prepare a report to Congress every 180 days on the progress made in expediting permits for gas gathering lines and associated field compression units that are located on Federal or Indian land and on any issues impeding that progress.

Finally, Section 5 of H.R. 4293 amends the MLA to require the Secretary to issue a sundry notice or ROW for a gas gathering line and associated field compression unit not later than 30 days after receiving the request from the pipeline proponent if the request meets the criteria in section 4 of the bill, and not later than 60 days after receiving the request if it does not meet the section 4 criteria. The bill (section 6) also amends FLPMA to require the same approval timeframes.

Analysis

The Department strongly opposes the categorical exclusion from NEPA review of pipeline activities as proposed in H.R. 4293. The engagement of the public through the environmental review process under NEPA is a crucial component of the BLM's multiple-use management of the public lands and for the consideration and mitigation of impacts to adjacent resources and lands. These open, public processes facilitate the consideration of impacts to the affected environment and identify unknown or unforeseen issues, which is invaluable to sound public land management. The BLM is committed to providing the environmental review and public involvement opportunities required by NEPA for proposals for the use of BLM-managed lands. H.R. 4293 would prohibit the BLM from engaging in this important public participation and environmental analysis process, in addition to prohibiting the BLM from engaging in site-specific NEPA analysis if needed for particular natural gas pipelines.

The activities called for in H.R. 4293 are already within the scope of existing Department authorities and consistent with our priorities and activities already underway. For example, for an area that has a land use plan or environmental document for transportation of natural gas as a reasonably foreseeable activity, the BLM could use its existing authorities to authorize the activity following a determination that the existing NEPA is adequate, provided the necessary site-specific analysis and the environmental document found the action would not cause a significant impact to other resources.

The Department also strongly opposes the bill's provisions in section (4) that would allow each State Governor to decide the appropriate level of NEPA analysis to be done by the BLM for pipeline projects on Federal lands within that State. In addition to the practical problems that this raises with pipelines that may cross State jurisdictional lines, giving State Governors the authority to determine planning activities on Federal lands would limit the BLM's ability to comply with its obligations under Federal law. The bill contains a related provision which applies to tribal land and the Department has concerns that the provision may conflict with the agency's legal responsibility for consultation, stewardship and oversight service under the Indian Mineral Leasing Act of 1938.

The Department also has concerns about the requirement to conduct a study to identify proposed changes to Federal law or regulations and to report every 180 days on progress to expedite permitting for gas gathering lines and associated field compression units that are located on Federal land or Indian land and impediments to that progress. If enacted, these requirements would divert limited BLM resources from oil and gas permitting, inspection and enforcement activities and result in the further delay of environmentally responsible development of pipeline infrastructure.

Sections 5 and 6 of H.R. 4293, which require the Secretary to issue a sundry notice or ROW not later than 30 or 60 days after receiving the request from the project proponent, are also very concerning. The provision does not contain any requirement for the proponent's request to be fully complete prior to submission. This provision removes discretion from the Secretary to authorize the sundry notice or ROW. Furthermore, categorical exclusions still require consideration of extraordinary circumstances before they can be applied, even if NEPA analysis is not required, and this consideration may be challenging to complete within the 30- or 60-day timeframes.

Finally, the Department opposes the provision in section 6 amending section 504 of FLPMA. This provision would allow the Secretary to authorize gas gathering lines via the authority of Title V of FLPMA, which sets out the requirements for many other types of ROWs. However, section 501(a)(2) of FLPMA prohibits the Secretary from using the Title V authority to authorize oil and gas pipelines, instead deferring to the MLA. The proposed amendment to section 504 of FLPMA would give contradictory direction to the BLM. In addition, it should be noted that under the MLA, 50 percent of the receipts from annual rents for oil and gas pipelines ROWs are provided to State governments in which the pipeline is located, in contrast to the treatment of receipts from FLPMA ROWs, none of which are provided to State governments.

H.R. 1587, "Energy Infrastructure Improvement Act"

H.R. 1587 provides new direction for the Department in granting ROWs through Federal lands for petroleum pipeline purposes—separate and apart from the existing authorization provided in the Mineral Leasing Act. The bill authorizes the Secretary of the Interior and the Secretary of Agriculture to issue permits for ROWs, temporary easements, or other necessary authorizations to facilitate natural gas, oil and petroleum product pipelines and related facilities on eligible Federal lands—including lands managed by the NPS.

The bill requires the Secretary to include terms and conditions for the ROW and states modifications to these terms and conditions must be agreed to by the permittee. Under the bill, the Secretary could recover costs of processing, issuing, and monitoring the permit and an annual rental fee of the fair market value of the use. The bill also authorizes the Secretary to determine the initial term for a ROW permit based on costs incurred, useful life of the pipeline and the public and economic purposes served and requires the Secretary to renew the ROW provided the project is in commercial operation and is operated and maintained in accordance with the terms and conditions. Finally, the bill provides authority for the Secretary to impose citations, fines, or revoke a permit for failure to comply with any terms and conditions of the permit and also provides that a permittee may file suit to challenge a final decision in the United States Court of Appeals.

Analysis

The Department strongly opposes H.R. 1587's provisions that would authorize the Secretary to issue a permit for oil and gas pipelines on NPS lands—reversing the longstanding prohibition on allowing such pipelines in our Nation's national parks unless explicitly authorized by Congress. In its 1973 amendments to the MLA, Congress determined that such lands would not be part of the general ROW provisions. This specific exemption in the MLA protects the integrity, resources, and values of the National Park System. The significant infrastructure associated with the clearing, grading, trenching, stringing, welding, coating and laying of pipeline as well as the transportation of oil and gas products via pipeline, which carries the risk of oil spillage and gas explosions, is inconsistent with the conservation mandate set forth in the NPS Organic Act. H.R. 1587 would overturn longstanding and necessary protection of park system resources and values, visitor experience, and human health and safety and would undermine the very purpose for which National Park System units were created.

The Department is also concerned that H.R. 1587's provisions could be interpreted to authorize the Secretary to issue a permit for oil and gas pipelines on lands that are a component of the National Wilderness Preservation System, a concept the Department strongly opposes.

The Department also opposes H.R. 1587 because it contains provisions granting ROWs through Federal lands for pipeline purposes which are redundant or conflict with existing BLM authority under the MLA. These new provisions would raise confusion for land management agencies, applicants, and the public regarding which authority should be followed, which "sideboards" apply, what requirements must be met and what new regulations would be required. For example, the bill authorizes the Department to issue permits for pipeline ROWs, but remains silent on the width of any ROW that a permit might affect and does not provide a fixed term for the ROW as provided for under the MLA. In contrast, the MLA identifies a 50 foot maximum ROW and an initial term of no more than 30 years. The bill also fails to identify where an annual rental fee would be deposited. Also of concern are the bill's provisions that require mandatory renewal of the ROW and that allow modifications to the permit only if they are agreed upon by the permittee. The Department believes that the bill's new authority to issue citations or impose fines would be better suited for inclusion in the MLA.

Finally, H.R. 1587 omits a number of important procedural and substantive safeguards Congress previously required with the issuance of ROWs, including: a right of public notice and comment; bonding requirements; pipeline safety and environmental protection provisions; technical and financial capability requirements; disclosure regarding entity ownership; and width limitations.

Conclusion

The Department has been successful and continues working hard to increase the capacity to transport energy resources where appropriate across Federal lands and in coordination with our State and tribal partners. The BLM plays an active role in providing suitable lands to modernize the Nation's pipeline infrastructure in an environmentally responsible way to efficiently distribute the Nation's energy resources. Thank you for the opportunity to present testimony on H.R. 4293 and H.R. 1587.

Mr. CRAMER. Thank you, Mr. Nedd, and thank all of you for your statements. We will now begin questioning. Members, as you were reminded, are limited to 5 minutes for their questions, but we may have additional rounds if there are more questions after the first round. And I now recognize myself for 5 minutes.

And I want to pursue, Mr. Nedd, with you the line of your testimony because you state that my bill eliminates the NEPA requirements, and thus, the NEPA process. But isn't the use of categorical exclusions, as you have testified to, already part of the NEPA process? And, if so, can you tell me areas where the Administration does, in fact, use categorical exclusions to get around the NEPA process?

Mr. NEDD. Congressman, again, the Department recognizes the importance of public involvement. And categorical exclusion, the administrative categorical exclusion may be used within a right-of-way where site-specific NEPA has already been performed.

Mr. CRAMER. But when developing a land use, don't you assume or prepare or go through the NEPA, where you have already had public engagement of the plan, don't you assume the possibility of things like a gathering line might be an important part of other oil and gas activity on that same land? And so doesn't the public have its opportunity?

Mr. NEDD. Congressman, in a land use plan it is done for a higher level for allocation, resource allocation. That land use plan may contemplate transportation of oil or gas, but does not engage in a site-specific NEPA to understand the impacts on the ground on that site to any conservation values.

Mr. CRAMER. So doesn't it make sense, though, that we would, in that process, then, at least consolidate the NEPA process? In

other words, I am looking for a solution that doesn't shortcut public participation and involvement, but rather, consolidates it. So we can do it more efficiently, without jeopardizing the environment. Can't we do that in that process?

Mr. NEDD. I believe, Congressman, the Department already has a process that would allow site-specific NEPA at a time an APD or any type of right-of-way is contemplated. And so, during that process, it would allow a site-specific and then a right-of-way within that right-of-way, that has already been analyzed, would be appropriate with the appropriate DNA, or something to that effect.

So, again, looking for the site-specific while in the land use plan is more the resource allocation level.

Mr. CRAMER. Let me ask you this. Didn't the Department use categorical exclusion to expand the permitting for wind projects to kill birds from 5 years to 30 years without public comment, and without the NEPA public participation process? And now the Department believes a single decision to approve, say, 2 miles of gathering line in North Dakota for gas in a right-of-way that already exists requires years more environmental oversight than allowing a 30-year exclusion for killing birds with wind farms? I mean doesn't that seem inconsistent?

Mr. NEDD. Congressman, I am not familiar with the reference to wind and the killing of birds, so I cannot comment on that.

Mr. CRAMER. All right. Let me say to you, as well, as not only a Member from North Dakota, but having served 10 years as an environmental regulator in the oil and gas and coal and the energy industry as a public service commissioner in North Dakota, your employees, along with the U.S. Department of Agriculture employees out in the Forest Service really are some of the hardest working people I know. They do an incredible job with the resources they have. I get the sense sometimes, though, that they don't have the full support back here that they ought to have.

We have, as you know, tried to provide and have successfully provided you all some latitude in compensating them properly, given the fact that the rent in the Bakken is higher than Manhattan, and the standard of living is equal to many different places. We are trying to help them and help you keep people. But what I am trying to do with this bill, and I think what both bills try to do, is not shortcut anything, and try to reduce that workload in a way that is responsible for the environment.

Now, you have testified, I think, in your testimony that the government has a problem, or the Administration has a problem with the 3 months, every 3 months of responding or reporting. Is there some way that you can see in this that we can work together to ease that a little bit, and maybe report every 6 months, 1 year, every other year? Is there some compromise we can find here that we can get the support of the Administration to consolidating this process, so that we can stop flaring this gas?

Because, as Ms. Mall testified, this gas is not only a waste product, it is also a pollutant, it is an emission of CO2 gases without any value added to it. Do you see any room for compromise here?

Mr. NEDD. Congressman, I agree with you, BLM employees are certainly some of the hardest working employees I have known.

And spending time in Montana myself a few years ago, I can attest to that.

And, you know, Congressman, we are always open for looking for ways to allow our employees to get the resources. But the Administration clearly wants to make certain the NEPA process allows public participation and be able to look at those site-specific impacts. So, Congressman, again, I believe finding ways to increase resources is a good thing, and finding ways to make certain we continue to have public involvement is a great way, and the Administration, I presume, would want to talk on that level.

Mr. CRAMER. All right. Thank you very much. My time has expired. I recognize the Ranking Member, Mr. Holt.

Dr. HOLT. Thank you. Mr. Nedd, if I may continue with you, is there any evidence that the NEPA review for gas gathering pipelines has been a significant contributor to excessive flaring, a contributor to that flaring?

Mr. NEDD. No, Congressman, there has been no evidence I am aware of.

Dr. HOLT. And do you have any evidence what is causing the flaring?

Mr. NEDD. You know, Congressman, around the Nation certainly, but if I may go to North Dakota, where it seems to be one of the hot spots, it is a relatively new play, the Bakken. The infrastructure is not fully developed. And, frankly speaking, as operators look at how best to make their decision, they sometimes find that it is easier to flare than it is to go through the process of getting the gathering line.

Dr. HOLT. How long does it typically take for the BLM to do a required environmental review for a gas gathering pipeline? Do you have a typical time or a median time?

Mr. NEDD. Yes, Congressman. Less than 3 months. We have looked across a range and it is less than 3 months.

Dr. HOLT. Less than 3 months. OK.

Now, let me try to get this in perspective, too. Oil and gas production on Federal lands in North Dakota has gone up significantly in the last 4 or 5 years. According to the Office of Natural Resources Revenue, since 2009 Federal land gas production is up 33 percent. And Federal land oil production has gone up 85 percent.

But I would like to get this in perspective. The Federal production is still a very small fraction of the total in North Dakota, less than 5 percent of the oil. So why is that fraction so small on Federal lands in North Dakota?

Mr. NEDD. You know, Congressman, the majority of the development in that Bakken area is in either private or State and some tribal——

Dr. HOLT. But the Federal lands are a small fraction of——

Mr. NEDD. Very small fraction.

Dr. HOLT. Is the flaring in North Dakota just a problem on Federal lands, or is it also occurring on private lands?

Mr. NEDD. It is occurring on private lands, absolutely.

Dr. HOLT. In fact, it appears, according to the data that I have here, that the rate of flaring is higher on private lands than it is

on Federal lands, and the Federal lands are a very small fraction of the total land.

Ms. Mall, most people think about flaring in the Bakken in North Dakota. Are there other areas where flaring is a serious problem, other areas of the country?

Ms. MALL. Yes, definitely. In particular, there have been a lot of reports lately of flaring in Texas, in what is called the Eagleford Shale Area.

Dr. HOLT. And is that Federal land?

Ms. MALL. There is not Federal land there, that is private land.

Dr. HOLT. I see. Let me also ask you, Ms. Mall, in your testimony you said that flaring is an environmental problem, but there are other environmental problems to balance that must also be considered. What is the appropriate forum for balancing those various kinds of environmental risk?

Ms. MALL. NEPA, the National Environmental Policy Act, sets out a process that is tried and true over many years for developing the best projects possible, including a large priority for public input, as Mr. Nedd referenced, and independent experts, such as scientists. Generally, with the public input, the agency can then consider what are the different alternatives to accomplish a goal, what alternative will offer the greatest benefits and the least harms.

Now, the agency doesn't have to select that alternative. But they have to consider——

Dr. HOLT. But the procedure shouldn't be bypassed is what you are saying.

Ms. MALL. It should not be, no. This is an essential way to develop this project——

Dr. HOLT. I have only a moment left, or less than a minute. Let me turn to Mr. Lund—excuse me for interrupting you.

But, Mr. Lund, in Mr. Santa's testimony he said that the process in the national parks is really an oversight, that the way it used to be is the way it should be. But is it not true that in 1973 Congress deliberately amended Section 28 of the Mineral Leasing Act, specifically excluding national parks?

Mr. LUND. Yes, it is true.

Dr. HOLT. So this is not an oversight that needs to be corrected, do you think?

Mr. LUND. No. This was considered in both the Senate and the House, and conferenced out, and national park lands were left as the one needing legislation.

Dr. HOLT. Well, thank you. I wish we had more time. I appreciate your comments.

Mr. SANTA. May I respond, Mr. Holt?

Dr. HOLT. One witness wanted to say something.

Mr. CRAMER. Oh, sure, continue. We've got a little time.

Dr. HOLT. Yes, Mr. Santa.

Mr. SANTA. Oh, Mr. Holt, thank you.

Dr. HOLT. Yes.

Mr. SANTA. I would note that in the 1970s the Department of the Interior still interpreted the law to imply that it had the authority to authorize natural gas pipelines on National Park Service land, but it did not change that interpretation until the mid to late

1980s. So I would question whether an interpretation of the 1973 action by Congress to explicitly exclude that authority from National Park Service——

Dr. HOLT. Well, it may——

Mr. SANTA [continuing]. Some question on that.

Dr. HOLT. It may be that the Park Service wasn't clear on it, but Congress was. I think it is well recorded that this was a deliberate exclusion. That is the way it was intended. And the Park Service came to understand that.

Mr. CRAMER. Thank you. We may have time for a second round of questioning. We could pursue this further. At this time I would recognize Mr. Mullin.

Mr. MULLIN. Thank you, sir, and thank you for allowing me to bring my son in with me. There are never enough opportunities to have your kids with you.

Mr. CRAMER. Just so you know, Mr. Mullin, you don't get another 5 minutes because he is with you.

[Laughter.]

Mr. MULLIN. Oh, he doesn't get another 5 minutes? Well, maybe he could probably do a better job than I could.

Either way, I appreciate the panel for being here. And I just have a few questions that I kind of want to get through. Being from Oklahoma, obviously we are a State that is very well known for natural resources. And it is vitally important to our economy.

And, Mr. Nedd, I have heard you sit up here and you took a lot of credit for what this Administration supposedly has done since they have been in office. But I find it quite interesting that a lot of the stuff they are bragging about is stuff that has been done on the private land, not Federal land. But you guys are quick to take credit for it. In fact, if we start looking at the development of what has happened on private land versus Federal land, it is astonishing.

I am Cherokee, and we have a lot of land, obviously, in Oklahoma that is owned by our nations. And you brought up that BLM has quite a bit of land, and with different tribes across there, and you started to talk just a second about the improvements that you guys have made on Indian territory. And I am kind of curious what you are meaning by that, because I hear from the tribes all the time, and we have so many natural resources underneath our feet, but yet we are always having to turn around and ask you guys for permission. If we were treated like private land, we would be so much farther along than we are today. But our biggest hindrance we have is your Department.

So, how is it that you are sitting there just a second ago during your testimony, that you were referring to taking credit for something that we have been asking for? I will let you respond to that.

Mr. NEDD. Well, Congressman, the BLM, certainly through the Secretary, works on tribal land for the authorizing of minerals. And the BLM works hand in hand to ensure, whether it is through BIA leases are issued, or whether it is through the permitting of oil and gas. And so, Congressman, I will stand by that, that the BLM works with those agencies to permit those activities——

Mr. MULLIN. Works with or is a hindrance? Because if we were treated like private land, we could get it a lot farther and a lot

faster. I mean it is private land, it is our land, but yet we are asking you for permission. "Working with," you make it sound like you are trying to help us out. You are not. You are our biggest hindrance, by far. We have been trying to be treated like private land, because we are private land. But you guys, for some reason, you don't want to let go.

And I understand the bureaucracy in Washington, DC, that you never want to let go of anything. In fact, I understand that you oppose all these new bills that are coming out, because you guys want control of it. But you have to admit there are problems. There are problems with the permitting. There are problems when we have the tremendous amount of backlog.

So what would you suggest we do to try speeding this process up? Look, we are right on the verge of being able to be completely independent of other countries and keeping our gas skyrocketing every time there is a little bit of uprising happening over in Iraq or other places. And we have to pay for it here in America, when we have it underneath our feet, but yet we are trying to develop it and we can't. And we have some bills here that would help push that along, and yet you guys are opposed to it.

So, tell me, what are your suggestions? Keep it the way that it is?

Mr. NEDD. Again, Congressman, through the Indian Minerals Leasing Act, Congress granted the Secretary certain authority when it comes to Indian trust land.

Mr. MULLIN. I asked you a question on what your suggestion is. If you oppose these bills, give me a better alternative.

Mr. NEDD. Again, Congressman, I was attempting to respond to you. So through that Indian Minerals Act, the Bureau of Land Management, on behalf of the Secretary, works with tribes for the permitting of oil and gas. We believe, again, it takes about less than 3 months to approve a gathering line. And so we are willing to work with that process and continue to see how best we can move forward.

Mr. MULLIN. Less than 3 months? There are projects that have been on there a lot longer than that we have been asking for. I would like to know where you came up with less than 3 months.

Once again, I am asking you for suggestions. Give me some suggestions. I have quite a few employees that work for me. I don't mind them coming to me with their problems, except come to me with your problems with suggestions. If the only thing you want to do is oppose, you are not helping the situation. You are hindering it. You are just sitting in the way of progress. And that is what I see your Administration doing right now, is sitting in the way of progress.

We are trying to advance this country. And yet, you guys take credit for it every day. And you are not the one doing it, it is private sector doing it.

Thank you, and I will yield back my time.

Mr. CRAMER. The gentleman's time has expired. Thank you, Mr. Mullin.

Just for the good of the order, just to remind people, we expect to be voting around 11:20 now, so the House is in recess until 11:20.

At this time, Mr. Lowenthal, you are recognized for 5 minutes.

Dr. LOWENTHAL. Thank you, Mr. Chair. And I am kind of confused. I know in the opening statement that the author, the sponsor, mentioned that one of the problems with NEPA was that there were greater amounts of flaring. I would believe the understanding is because of the timing and what takes place because of NEPA on Federal lands, than there are on State or private lands where NEPA is not required.

Yet, in testimony and questions that were raised by the Ranking Member, Mr. Holt, he identified that in 2013 the majority of flaring occurred at wells located on private or State lands, 72 percent, and the rate of flaring is no higher on Federal public lands than on private State lands.

I want to ask Ms. Mall. Is there a higher rate of flaring on Federal lands? Or are there no real differences? Has NEPA been the impediment in this?

Ms. MALL. I am not aware of any projects to reduce flaring that have been delayed by the NEPA process.

Dr. LOWENTHAL. OK. I guess Mr. Nedd, is that true also? Has NEPA been an impediment? And are there higher rates to, again, I think you addressed this a little bit earlier, are there higher rates of flaring on Federal lands versus private lands? And so, where there is no NEPA requirement, to your knowledge?

Mr. NEDD. Congressman, I can't say there is a higher rate of flaring, especially in the Bakken. I have no knowledge of where NEPA has been an impediment that contributed to the flaring.

Dr. LOWENTHAL. The other question I have, Mr. Nedd, is that, are you concerned, is the Department concerned that the categorical exclusion in H.R. 4293 would be required to be carried out without any consideration of the extraordinary circumstances? And what would that mean, if it was done without taking into account extraordinary circumstances?

Mr. NEDD. Again, Congressman, from our interpretation or understanding of the bill, that is true with no extraordinary circumstances. So, therefore, the BLM would not be able to determine the impact of a specific action on the resources.

Dr. LOWENTHAL. So, therefore, you would not have an assessment by not having, when you are doing the assessment of extraordinary circumstances, I know you addressed this also. Does that have an impact in terms of the delay, in terms of getting permits?

Mr. NEDD. There is no delay in terms of extraordinary circumstances in terms of getting a permit, Congressman.

Dr. LOWENTHAL. Thank you, and I yield back.

Mr. CRAMER. Thank you, Mr. Lowenthal. Mrs. Lummis, you are now recognized for 5 minutes.

Mrs. LUMMIS. I thank the gentleman from North Dakota. My first question is for Mr. Soth. I would like to ask about not only the environmental benefits of not flaring gas, which should be obvious, but what about the economic benefits of gathering and piping natural gas instead of flaring it?

Mr. SOTH. Representative, I was able to show a chart that demonstrated that in the oil and gas pipelines subsector, the industry group of construction, according to the most recent data available from the Bureau of Labor Statistics demonstrates that we are at

an all-time high in the country right now in that sort of employment.

Those are great jobs. Those are jobs that pay, on average, for production and non-supervisory workers, over $26 an hour. These are private-sector jobs, and that compares to other jobs in the private sector of less than $20. So that is a substantial differential. Those are great jobs. We are at an all-time high in the USA right now, and there is substantial investment expected.

It should be self-evident that having limited infrastructure and capacity to move natural gas away from extraction sites to processing facilities is a necessary component to reduce flaring. Those gathering lines and the construction thereof will create jobs for operating engineers and other pipeline craft workers, and we are anxious to make sure that Congress is updating and modernizing the structure about this regulatory framework in a whole number of arenas, especially around this concern with NEPA, to ensure that we realize that energy future that all of us have identified in natural gas for this country.

Mrs. LUMMIS. I am sorry I missed that chart, but I will grab it from an exhibit from the Chairman.

You reference the existing pipeline permitting system on Federal lands. Could the pipeline infrastructure grow fast enough to catch up with the boom in oil production, if the process were more streamlined, which, as I understand it, is what the gentleman from North Dakota is attempting to accomplish with his bill?

Mr. SOTH. Well, we really believe that a comprehensive review is necessary right now. What we have seen in natural gas has been unprecedented. There are a whole range of things that need to be done.

We have been supportive, for example, of H.R. 1900 that has been in the Energy and Commerce Committee's jurisdiction around FERC regulatory authority, as well. There are really a whole host of things that need to be done, particularly around pipeline regulatory framework, to ensure that we have the energy future that we want in this country, and to ensure that we have the kind of investment and job growth that will enable all of us to have a cleaner and better economy and environment.

Mrs. LUMMIS. Quick question, Mr. Nedd, for you. Is the BLM doing anything to speed up the approval of infrastructure necessary to reduce flaring? Certainly the BLM understands and appreciates the desire of taking an economically beneficial product from being vented or flared into the air, thereby exacerbating air quality problems, and getting it into a pipeline where it can provide economic and heating benefits around the country.

Mr. NEDD. Congresswoman, certainly the BLM has taken a number of steps. For instance, in the Bakken area, they are a part of the Federal family that works with partners to see how to streamline the process.

The BLM continues to maintain, as part of the APD process, operators can, in fact, include information for a gas line gathering, that it would be allowed to be analyzed at that time and approved. So we believe there are some vehicles that already exist within our authority that can help to expedite this. And in the Bakken, again,

I said because of the newly formed play or the infrastructure not fully developed, operators are making certain decisions.

Mrs. LUMMIS. Well, let me shift then to Wyoming instead of the Bakken. In the Pinedale Anticline, in the Jonah Field and the Jonah expansion, which are Federal lands, we have seen the talent, the people, the jobs, migrate up to the Bakken because permitting is going at a more expedited manner, and there seems to have been a slow-down of permitting, especially air quality-related permitting, that is slowing down the ability of us to produce oil and gas on Federal land in Wyoming. And, of course, Wyoming being half Federal lands, we are at the mercy of the Federal Government to extract oil and gas from Federal lands.

North Dakota largely is not Federal lands, it is mostly private lands. And so, they are in a position to be more expeditious about protecting air quality because of their dealing with private lands and not the BLM.

I just find it rather frustrating that, as the focus of this Administration seems to be on air quality, and now they are shifting over to water, trying to usurp a lot of State water rights, and under new Federal regulations, just the way they did under air quality regulations, that the result is to release more hydrocarbons into the air when it could be gathered and put to beneficial use. And so I just simply express that as a frustration.

Thank you, Mr. Chairman. I yield back.

Mr. CRAMER. Thank you, Mrs. Lummis. Since we do have some time, and there are so few of us, I am going to have another round of questioning. It may not be long, but I do want to pursue a couple of things since we have you all, and we have the time. So I will recognize myself again for 5 minutes.

And I want to help clarify, because Mr. Lowenthal asked a good question, and there is a distinction I think that we should clarify since we have the opportunity. Mr. Holt placed into the record this Clean Air Task Force report that was developed in the Bakken by I think the North Dakota Industrial Commissioner as part of the North Dakota Industrial Commission's efforts. And I also will be placing into the record later, without objection, the North Dakota Industrial Commissioner's Flaring Task Force report done by the North Dakota Petroleum Council, which has similar information.

And here is, I think, why there is some conflict. The report that Mr. Holt placed into the record states that on private and State land in North Dakota, this says specifically, flaring is 29 percent. On other Federal land it is 27 percent. But specifically on the Fort Berthold Indian Reservation flaring is 46 percent. And it is this relationship, as I started to talk about earlier, with the BIA, the tribes, the BLM. Let's face it, when you take the Federal bureaucracy and throw it into another Federal bureaucracy like the BIA, it seems it is hard to deny that it wouldn't be more cumbersome than on private land or perhaps even other Federal land.

So that is the distinction. It is the distinction between the Fort Berthold Indian Reservation, which, in North Dakota, by the way, is the heart of the Bakken. A fourth to a third of the Bakken is the Fort Berthold Indian Reservation. So this distinction is really rather massive.

And I don't want to speak for anyone else, but I sat in a meeting with Chairman Tex Hall, the Chairman of the three affiliated tribes, and EPA administrator Gina McCarthy, where the Chairman was rather pointed about this reality, that the process for permitting anything, not just the drilling, but the infrastructure, is so onerous that there are at least, as he said, 10 permits required to do things on Indian lands that aren't on other lands.

And that brings me to, I think, Mr. Nedd, I want to pursue this a little bit more with you, because in your testimony you actually mentioned a provision that gives the Administration some concern regarding legal responsibility for consultation, stewardship, and oversight service for production on tribal lands.

So, this provision that you are referring to says that the provisions in this bill, that the bill, my bill, shall be applied if and only if the Indian tribe with jurisdiction over the Indian land submits to the Secretary of the Interior a written request that it apply. Can you tell me why the Administration is concerned about giving the tribe a choice of whether or not it wants a Federal agency to manage its land?

I mean I was just with the President of the United States on a North Dakota Reservation a week ago, where he talked about honoring sovereignty. And here, the Administration seems to be going against that very concept of sovereignty for the tribe.

Mr. NEDD. Congressman, what I can say, again, is the authority under the Indian Minerals Leasing Act certainly allows the BLM to work with the tribes in managing those trust lands, that 56 million acres. And in working with the tribes through consultation, the BLM certainly incorporates their input into that.

And so, the Administration feels, again, they have enough authority to proceed to conduct the work under the authority Congress has given them, and this bill would just interdict confusion. And the Administration position is that we believe they have enough authority already to do that.

Mr. CRAMER. With all due respect, I think this bill clarifies, it doesn't further confuse. It simply states that it is up to the tribe and its administration, in its sovereignty, to determine whether the Secretary of the Interior has anything to say about it or not. So, I don't find that confusing.

It may be in conflict with the Administration's position, but the Administration's own position as stated in the last week seems to be in conflict. On the one hand they support sovereignty; on the other hand, they want to continue to have this authority, which is adding burden and making job creation on the Indian reservation that much more difficult. So, with all due respect, I don't find that answer to be consistent with what I heard from the President a week ago. That concludes my questioning.

Mr. Lowenthal, anything—I thought you might. So, Mr. Lowenthal, you are recognized for 5 minutes. Thank you.

Dr. LOWENTHAL. Thank you, Mr. Chair. And I think this is a fascinating discussion.

Mr. CRAMER. I am sure you do.

Dr. LOWENTHAL. Again, and I just want to be clear, in the Clean Air Task Force it talks about in 2013 the total amount of gas pro-

duced in the entire State of North Dakota, which was approximately, I am not sure what the unit was, but it was 335,665.

Private or State lands was 262,100, which was approximately, the largest percentage of the total amount of gas produced in North Dakota came from private or State lands, 46,000, approximately, from the Indian reservation, and other Federal lands about 26,000. On private or State lands, of the amount that was flared, 74 percent—or 74,000, or 29 percent, was on private or State lands. Other Federal lands was the 27 percent. And so, when you just compare, even though the largest amount was on private or State, that is, the largest amount of total gas produced in North Dakota was on private or State lands, there really isn't any significant difference between that and the other Federal lands.

You are right that something is going on on the Indian reservation, that is true. And we should understand that. And I think what you pointed out is possibly it is the interaction of Federal agencies. But that really is not NEPA.

That is another problem that we should address, why it becomes so difficult. Because if we just look at the State and private versus Federal, it is not NEPA that is doing it in North Dakota, in terms of producing the difficulties or that we are seeing that we need a solution to this problem. The solution looks at that interaction and the inability to coordinate Federal agencies, and to do that in a more succinct way. And I think that is something that we potentially might want to look at and work on.

But I think that, as Mr. Holt, our Ranking Member, has said, if we go down this road, we may be solving a problem that doesn't exist. And it may have some help, but it really might be solving the wrong problem. Not that there is not a problem, and especially on tribal lands. There is, something is going on, and that you have identified, and that is really true.

My other question I would like to ask to Mr. Frost is, what makes oil and gas pipelines different than the other kinds of infrastructure that the National Park Service has now the authority to permit on park lands? Why is it different?

Dr. FROST. Oil and gas has a lot of infrastructure associated with it. They have pump houses, there is a lot of maintenance, there are roads. And so, just the footprint of the oil and gas pipeline necessary to move the material has a huge footprint that could impact park resources.

The other thing is, in the case of an oil spill, the potential to damage resources, both short-term and long-term, are inherently much larger than a transmission line. You know, if a transmission line tips over, it is going to maybe knock some trees down or something.

But let's look at an example. Back in 1996, at Chattanooga and Chickamauga National Battlefield, there was a 100,000-gallon oil spill that went into the park. Only 2,000 gallons were recovered. So that means 98,000 gallons of oil is still in the park somewhere. So there is a huge difference in terms of the potential impact and then the infrastructure impact needed to sort of support the facilities.

Dr. LOWENTHAL. Thank you. Ms. Mall, I have a question. Your organization pays a lot of attention to NEPA reviews, I would as-

sume. Are you aware of any environmental impact statements on gas gathering pipelines that have been particularly contentious or challenged by environmental groups?

Ms. MALL. I am not, no.

Dr. LOWENTHAL. Thank you. I wonder if Mr. Lund, if you are aware of any environmental impact statements on gas gathering pipelines that have been particularly contentious or challenged by environmental groups.

Mr. LUND. I am not aware of any, either.

Dr. LOWENTHAL. Thank you. I yield back.

Mr. CRAMER. Thank you. And I would now recognize Mrs. Lummis for 5 minutes for a second round of questioning.

Mrs. LUMMIS. I thank the Chairman. And I am delighted to hear Mr. Lowenthal say that we have problems on Indian lands with regard to multiple layers of bureaucracy. And it does transcend just oil and gas production. It goes to grazing and a whole variety of things. And it is recognized as a bipartisan issue. In other words, during Republican presidencies, heads of the BIA were extremely frustrated. During Democrat administrations the heads of the BIA were tremendously frustrated.

I know when Larry Echo Hawk was the BIA Director under the Obama administration and came to Interior and Environment Appropriations Subcommittee, which I served on, he expressed a lot of frustration about the bureaucratic web that seems almost impossible to fix. And one would think a man of his stature and knowledge and legal skills and background and capabilities might have been able to cut through some of that. And even he, I believe, left frustrated. So, you think of the frustration at the top, think of the frustration of the people who are living under this web and layers of bureaucracy.

I know that on the Wind River Reservation in Wyoming, in Indian County elsewhere in the country as well, you have to get permission from the Federal Government to turn your cattle into a specific pasture, and it can be delayed for weeks, if not months, after which the issue is moot. I mean you have to make hay while the sun shines, as they say.

And so, we have a genuine, serious problem with multiple layers of bureaucracy with regard to the Bureau of Indian Affairs. And it is just paralyzing progress in Indian country. And I appreciate that it is acknowledged as a issue by both parties that needs to be addressed. And you know, God help us do that at some point.

Question now. I am pivoting to Mr. Marino's bill. And, Mr. Santa, can you tell me if Mr. Marino's bill will modify the amount of environmental analysis that the Park Service has to conduct for a pipeline project?

Mr. SANTA. Mrs. Lummis, I do not believe that it will, because, under the current law, even though separate statutory authorization is required to authorize the Park Service to grant the right-of-way, the Park Service still needs to conduct that review. So the current law is duplicative, and I think in no way would add to the work that the Park Service would have to perform.

Mrs. LUMMIS. Following up, then, does it remove the ability of the Park Service to say no to a project?

Mr. SANTA. As with other forms of infrastructure, where it has the authority to grant rights-of-way, the Park Service would have the authority to deny or condition the grant of a right-of-way.

Mrs. LUMMIS. What other safeguards are already built into the permitting process to make sure infrastructure like pipelines have only negligible impacts on a park?

Mr. SANTA. Well, interstate pipelines have to be authorized by the Federal Energy Regulatory Commission. That involves NEPA review. In addition to that, there are a host of other Federal environmental laws with which pipelines need to comply, and with which pipelines need to obtain permits from Federal agencies or, in many cases, State agencies acting pursuant to delegated authority.

Mrs. LUMMIS. Do you have an opinion about whether the Park Service has a good track record in managing infrastructure projects to protect the parks?

Mr. SANTA. I have no reason to believe that they do not have a good record in doing so.

Mrs. LUMMIS. Do you expect anything less when it comes to gas pipelines?

Mr. SANTA. No, I do not. I think they will fulfill their responsibilities.

Mrs. LUMMIS. You know, we have created a lot of new monuments and Federal designations while I have been here in Congress, and that means more and more lands are being subject to these extra layers of scrutiny. And so I think that, because of that, and because some of these areas are absolutely geographically massive, that we do have to come to terms with this issue.

So, with that, Mr. Chairman, I yield back with appreciation for your fine work as a former regulator and a knowledgeable member of your State's——

Mr. CRAMER. Thank you.

Mrs. LUMMIS [continuing]. Massive house delegation.

Mr. CRAMER. Thank you very much. And thank all of you. This will end our questioning at this time.

I might just mention that this committee and this House did, in fact, pass the Native American Energy Act some time ago, Mr. Young's bill, you may recall, that did similar things, perhaps even on a grander scale, codifying without any doubt the tribe's jurisdiction over its own land. That is yet to be taken up in the Senate.

So, again, Members may have additional questions for the record, and I would encourage all of you to answer those if they provide them in writing.

And then one final order of business. I ask unanimous consent to enter into the record a letter from the Southern Ute Indian Tribe in support of H.R. 4293; also some written testimony provided by Continental Resources; and also this report, the NDPC Flaring Task Force, North Dakota Industrial Commission, which has, I think, some of the same information that Ranking Member Holt offered up earlier.

[No response.]

Mr. CRAMER. Without objection, so ordered.

[The information submitted by Mr. Cramer for the record follows:]

PREPARED STATEMENT OF BLU HULSEY, VICE PRESIDENT OF GOVERNMENT AND REGULATORY AFFAIRS, CONTINENTAL RESOURCES, INC. ON H.R. 4293

Good morning Chairman Lamborn, Ranking Member Holt and members of the subcommittee. My name is Blu Hulsey and I am Vice President of Government and Regulatory Affairs for Continental Resources, Inc. Continental is an oil and gas company that explores and produces primarily in the Bakken play in North Dakota and Montana and the SCOOP play in Oklahoma. Continental is a top 10 independent oil and gas producer in America and currently produces approximately 155,000 barrels of oil per day. I appreciate the opportunity to testify in front of this committee today and specifically to comment on H.R. 4293, "The Natural Gas Gathering Enhancement Act" authored by Congressman Cramer.

Continental Resources is currently the largest acreage holder in the Bakken formation with more than 1.2 million acres under lease. As a State relatively new to oil and gas production, North Dakota is rapidly expanding infrastructure and has recently adopted a program requiring that operators develop and adopt Gas Capture Plans (GCPs) to encourage the planning of gas gathering infrastructure and to encourage the use of current technology to capture produced gas, thereby curtailing flaring. The North Dakota Industrial Commission (NDIC), in cooperation with the North Dakota Petroleum Council (NDPC), has explored many technologies and actions that could be included in these GCPs to facilitate the capture and usage of natural gas thereby setting a process to curtail flaring in North Dakota. While Continental continues to search for additional methods to effectively capture gas and thereby reduce flaring, we still face some challenges and one of those major challenges is securing right-of-ways for connection activities. Challenges with infrastructure development also include delays in zoning by counties and townships for midstream facilities, a short construction season due to weather, and a limited number of available construction crews in the State. All of these issues make timing reliability of right-of-way permits that much more critical.

Continental understands and is committed to reducing flared natural gas volumes and has been successful in reducing the percentage of gas flared from Continental operated wells in the North Dakota Bakken to less than 11 percent of the total volume of gas produced from those wells. One of the impediments to capturing this gas and reducing flaring is the development of infrastructure in the form of natural gas gathering lines and pipelines required to deliver this gas to market. The ability to secure right-of-way for these gathering systems is at the root of this infrastructure issue. On private lands, in most cases, this right-of-way can be obtained through negotiation with the property owner. The process for obtaining access across Federal lands can take much longer and for National Park Service (NPS) lands, it requires an act of Congress.

The current process of obtaining right-of-way through National Parks for gas gathering lines requires the National Parks Service to obtain approval from Congress, making this much more complicated than any other Federal right-of-way process. This antiquated approval system dates back to 1901 and should be brought up to modern standards. This bill would allow the Secretary of the Interior to grant that authority for natural gas pipelines provided the action is consistent with the primary purposes of the proposed area and the applicant fulfills all other legal requirements of the Department. For example all NEPA requirements would still have to be fulfilled. We support this effort to streamline the decisionmaking process and feel this is a common sense approach to what should be a simple process.

H.R. 4293 also partially consolidates the National Environmental Policy Act (NEPA) process by categorically excluding the issuance of right-of-way for natural gas gathering lines and compressor stations from NEPA in a field or unit where an environmental document has already been prepared under NEPA or which are adjacent to an existing disturbed area for the construction of a road or well pad. This change in statute will remove yet another impediment to the overall permitting process by consolidating regulatory requirements. The benefits of applying an existing NEPA review to a project in an area already subject to a NEPA document simply makes sense and eliminates costly duplicative studies on the same piece of land. By consolidating these regulatory steps, the NEPA requirement is maintained but the process is much less onerous on the developers of the infrastructure.

The issuance of Federal permits may be held up for many different reasons. The proposed legislation establishes enforceable deadlines for the issuance of permits for natural gas gathering lines. Continental would even suggest this portion of the act be modified to establish a "date certain" after which a decision of some sort would be granted by default. It has been our experience that delays tend to be the rule rather than the exception and a "date certain" would allow for improved planning

to occur and a decision would be certain on the established deadline, 30 or 60 days from the date of receipt of a completed application.

Finally, H.R. 4293 provides an assessment whereby this enhanced permitting process can be monitored for effectiveness and whereby mid-course corrections can be made. It is our feeling that any positive movement toward streamlining the permit to drill or right-of-way approval process is a move in the right direction. The Federal Government should always be reviewing its regulatory and permitting processes in such a way that it is constantly moving toward a more effective and efficient permitting process.

Mr. Chairman, I appreciate the opportunity to comment on this very important legislation. Continental understands the need to conserve our valuable natural resources and is making every effort to deliver every molecule of the fossil fuels its wells produce to the markets where they needed most. We therefore support any action on behalf of this body and Congressman Cramer to streamline regulatory processes to assist our industry in more effectively building the infrastructure that delivers these valuable assets to market.

LETTER SUBMITTED FOR THE RECORD IN SUPPORT OF H.R. 4293

SOUTHERN UTE INDIAN TRIBE,
IGNACIO, CO,
JUNE 17, 2014.

Hon. DOUG LAMBORN, *Chairman*,
Hon. RUSH HOLT, *Ranking Member*,
House Subcommittee on Energy & Minerals,
Washington, DC 20515.

Re: Tribe 's Support for the Natural Gas Gathering Enhancement Act (H.R. 4293)

DEAR CHAIRMAN LAMBORN AND RANKING MEMBER HOLT:

I am writing in support of H.R. 4293, the "Natural Gas Gathering Enhancement Act," introduced by Rep. Cramer in March 2014, and referred to this subcommittee thereafter.

On behalf of the Southern Ute Indian Tribal Council (the Tribe), I appreciate the opportunity to express the Tribe's support for this important natural gas-related legislation. Before commenting on the bill, some background is in order.

For more than a decade, the Tribe has worked with its congressional delegation and the committees of jurisdiction to achieve positive changes to statutes, regulations and policies so that it can develop its energy resources in an effective way for the benefit of the Tribe's members. In so doing, the Tribe has become a major producer of natural gas and the economic engine of southwest Colorado.

Profile of the Southern Ute Indian Tribe

Despite the challenging land ownership pattern on the Reservation, the Tribe has worked hard to establish solid working relationships with the State of Colorado and local governmental entities, which have minimized conflict and emphasized cooperation.

Our Reservation is a part of the San Juan Basin, which has been a prolific source of oil and natural gas production since the 1940s. Commencing in 1949, the Tribe began issuing leases under the supervision of the Secretary of the Interior. For several decades, we remained the recipients of modest royalty revenue, but were not engaged in any active, comprehensive resource management planning. That changed in the 1970s as we and other energy resource tribes in the West recognized the potential importance of monitoring oil and gas companies for lease compliance and maintaining a watchful eye on the Federal agencies charged with managing our resources.

A series of events in the 1980s laid the groundwork for our subsequent success in energy development. In 1980, the Tribal Council established an in-house Energy Department, which spent several years gathering historical information about our energy resources and lease records. In 1982, following a key U.S. Supreme Court decision, the Tribe enacted a severance tax, which has produced more than $500 million in revenue over the last three decades. After Congress passed the *Indian Mineral Development Act of 1982*, we carefully negotiated mineral development agreements with oil and gas companies involving unleased lands and insisted upon flexible provisions that vested our tribe with business options and greater involvement in resource development.

In 1992, the Tribe launched its own gas operating company, Red Willow Production Company, which was initially capitalized through a secretarially-approved plan for use of $8 million of tribal trust funds received by our tribe in settlement of reserved water right claims. Through conservative acquisition of on-Reservation leasehold interests, we began operating our own wells and received working interest income as well as royalty and severance tax revenue. In 1994, we participated with a partner to purchase one of the main pipeline gathering companies on the Reservation.

Energy Development and Development of the Tribe's Economy

Today, the Tribe is the majority owner of Red Cedar Gathering Company, which provides gathering and treating services throughout the Reservation. Ownership of Red Cedar Gathering Company allowed us to put the infrastructure in place to develop and market coal bed methane gas from Reservation lands and gave us an additional source of revenue. Our Tribe's leaders recognized that the peak level of on-Reservation gas development would be reached in approximately 2005, and, in order to continue our economic growth, we expanded operations off the Reservation.

As a result of these decisions and developments, today, the Tribe, through its subsidiary energy companies, conducts sizable oil and gas activities in approximately 10 States and in the Gulf of Mexico. We are the largest employer in the Four Corners Region, and there is no question that energy resource development has put the Tribe, our members, and the surrounding community on stable economic footing.

The Southern Ute Indian Reservation consists of approximately 700,000 acres of land located in southwestern Colorado in the Four Corners Region of the United States. The land ownership pattern within our Reservation is complex and includes tribal trust lands, allotted lands, non-Indian patented lands, Federal lands, and State lands. Based in part upon the timing of issuance of homestead patents, sizable portions of the Reservation lands involve split estates in which non-Indians own the surface but the tribe is beneficial owner of oil and gas or coal estates. Despite the challenging land ownership pattern on the Reservation, the Tribe has worked hard to establish solid working relationships with the State of Colorado and local governmental entities, which have minimized conflict and emphasized cooperation.

These energy-related economic successes have resulted in a higher standard of living for our tribal members. Our members have jobs and health care, and our educational programs provide meaningful opportunities at all levels. Our elders have stable retirement benefits.

We have exceeded many of our financial goals, and we are well on the way to providing our children and their children the potential to maintain our tribe and its lands in perpetuity.

The road to energy-related prosperity has not been easy and along the way, the Tribe has encountered and overcome numerous obstacles, many of which are institutional in nature. Nonetheless, our close collaboration with Congress over the decades has provided relief on a number of fronts to make easier our development goals, and those of other tribes as well.

The Natural Gas Gathering Enhancement Act of 2014

The legislation before this subcommittee recognizes the natural gas boom and the enormous economic benefits that boom is bringing to communities across the country. It also recognizes that the physical infrastructure necessary to fully take advantage of the natural gas bounty is not being developed quickly enough, often resulting in venting and flaring. Last, the bill acknowledges that the Federal permitting process can—and often does—hinder natural gas infrastructure development such as pipelines and gathering lines on Federal and Indian land.

The centerpiece of H.R. 4293 is section 4(b), which provides that sundry notices or rights-of-way for gas gathering lines and related field compression units located on Federal or Indian land shall be considered an action that is categorically excluded under the *National Environmental Policy Act* (NEPA), if the lines or units are:

(a) within a field or unit for which an approved land use plan or an environmental document prepared pursuant to NEPA analyzed transportation of gas produced from one or more oil wells in that field or unit as a reasonably foreseeable activity; or

(b) located adjacent to an existing disturbed area for the construction of a road or pad.

Importantly, section 4 also includes a provision which provides that any Indian tribe interested in having the above provision apply to its lands must submit a written request that it so apply. The Tribe very much welcomes this demonstration of

respect for tribal decisionmaking and tribal sovereignty over its own lands and resources.

Sections 5 ("Deadlines for Permitting Natural Gas Gathering Lines Under the Mineral Leasing Act") and 6 ("Deadlines for Permitting Natural Gas Gathering Lines under the Federal Land Policy and Management Act of 1976") provide discrete deadlines for the Department of the Interior to issue sundry notices or rights-of-way for gas gathering lines and related field compression units.

Indian tribes are thoroughly familiar with lengthy and costly delays involved with the Federal approval and permitting process and, accordingly, suggest this legislation be amended to bring real discipline to the issuance of such notices and rights-of-way when it comes to natural gas infrastructure located on or near Indian lands.

The Tribe is also very supportive of the study and report mandated by section 4(c) that would be carried out in consultation with Federal agencies, States and Indian tribes to both:

(a) **identify actions that can be taken immediately under current law to expedite permitting** for gas gathering lines and related field compression units located on Federal and Indian land for purposes of transporting to a processing plant or a common carrier for distribution to the markets; and

(b) **identify changes to Federal law to expedite permitting** for gas gathering lines and related field compression units located on Federal and Indian land for purposes of transporting to a processing plant or a common carrier for distribution to the markets.

I appreciate the opportunity to provide the Tribe's views on H.R. 4293 and respectfully urge the subcommittee and full committee to expedite consideration of the bill with an eye toward having it enacted in this calendar year.

Sincerely,

CLEMENT J. FROST, CHAIRMAN,
Southern Ute Indian Tribal Council.

Mr. CRAMER. If there is no further business, without objection, the committee is adjourned.

[Whereupon, at 10:56 p.m., the subcommittee was adjourned.]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

—North Dakota Petroleum Council, North Dakota Industrial Commission: NPDC Flaring Task Force