

EXPLORING FOR GEOTHERMAL ENERGY ON FEDERAL
LANDS ACT

DECEMBER 22, 2014.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1363]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1363) to promote timely exploration for geothermal resources under existing geothermal leases, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1363 is to promote timely exploration for geothermal resources under existing geothermal leases.

BACKGROUND AND NEED FOR LEGISLATION

Geothermal energy can be used for electricity production, for commercial, industrial, and residential direct heating purposes, and for heating and cooling through geothermal heat pumps. To develop geothermal electricity, wells bring the geothermal water to the surface, where its heat energy is converted into electricity at a geothermal power plant. Geothermal heat can also be used without involving a power plant or heat pump for applications such as space heating and cooling, food preparation, greenhouses, and agriculture.

Currently, the process of drilling of a well simply to test for geothermal resources requires both a permit and a National Environmental Policy Act (NEPA) review and frequently takes 10 months, but can be tied up in the review process for more than a year. When a company has to drill multiple holes for exploration, and during the process drill additional subsequent holes which require repeating this process, this prevents geothermal resources from being expeditiously discovered and utilized.

Recently obtained documents from the Department of Energy show that the geothermal NEPA process takes five to seven years—longer than both oil and gas projects and solar and wind projects, which take three to five years and one and a half years, respectively. The geothermal NEPA review process requires over 175 document sets for each project, which equates to hundreds or even thousands of pages of documents for one project. These requirements are significant setbacks and lead to extremely long delays in geothermal production.

H.R. 1363 will streamline the NEPA process for a geothermal test project which will allow a geothermal project to quickly move forward if resources are found. Streamlining this permitting process will allow geothermal resources to be expeditiously discovered and utilized.

COMMITTEE ACTION

H.R. 1363 was introduced on March 21, 2013, by Congressman Raúl Labrador (R-ID). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On July 29, 2014, the Subcommittee held a hearing on the bill. On September 18, 2014, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. No amendments were offered and the bill was adopted and ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1363—Exploring for Geothermal Energy on Federal Lands Act

H.R. 1363 would exempt certain geothermal exploration projects from complying with provisions of the National Environmental Policy Act (NEPA). Based on information from the Bureau of Land Management (BLM), CBO estimates that implementing the legislation would have no significant effect on the federal budget. Enacting H.R. 1363 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under the bill, geothermal exploration projects that meet certain requirements related to the duration of the activities, the amount of land disturbed, and the restoration of the project site would not be required to obtain an environmental impact review under NEPA. The Secretary of the Interior would have 10 days to review proposed projects to determine whether they meet the requirements necessary to obtain a NEPA exemption. Based on information provided by BLM, CBO estimates that implementing the legislation would have a negligible effect on the agency's workload.

H.R. 1363 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information from the Bureau of Land Management, CBO estimates that implementing the legislation would have no significant effect on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to promote timely exploration for geothermal resources under existing geothermal leases.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the

most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 1363: THE EXPLORING FOR GEOTHERMAL ENERGY ON FEDERAL LANDS ACT

While the goal of this legislation—increasing the development of geothermal energy on Federal lands—is laudable, the way this bill tries to accomplish that goal would be inappropriate and ineffective. Unfortunately, this bill uses the same shopworn approach that the Majority uses time and time again when they want something to move faster: short-circuit environmental reviews. Not only will this not fix the problem the bill is purportedly trying to solve, but it will result in potentially harmful unintended consequences.

To start, the basic need for this legislation has not been demonstrated by the sponsor or advocates. No data was provided to show that geothermal test wells have been unduly delayed due to environmental reviews under the National Environmental Policy Act (NEPA). In fact, at the Subcommittee's hearing on the bill, the Bureau of Land Management (BLM) testified that they use categorical exclusions to exempt geothermal test wells from further NEPA review two-thirds of the time, and when additional review is warranted, the environmental assessments typically take less than 90 days.

Routine geothermal test wells are clearly already exempt from significant environmental review. But in those cases where the well would be in a particularly sensitive area, or might have some other extenuating circumstance, a closer look is warranted. However, this bill would eliminate the ability for the BLM to take that closer look, regardless of the circumstance. The precedent for this was established by the categorical exclusions established in Section 390 of the Energy Policy Act of 2005. In rulings that we believe are strongly contrary to Congressional intent, courts have held that these statutory categorical exclusions are not subject to the extraordinary circumstances review that all other categorically excluded actions receive. That means that BLM would not be able to even check and see if a well posed a significant threat to human health or safety or impacted the use of Native American sacred sites.

Taking shortcuts around fundamental environmental reviews and opportunities for public input is not the right way to encourage the development of renewable resources in this country. We encourage the Majority to support policies that would be far more effective, such as extending tax incentives for renewable development, increasing funding for renewable energy research, and enacting a policy to address the significant threat posed by climate change. H.R. 1363 creates an unnecessary environmental loophole that will have no positive impact on geothermal development, and as such we oppose it.

PETER DEFAZIO,
*Ranking Member, Committee
on Natural Resources.*

RUSH HOLT,
*Ranking Member, Sub-
committee on Energy &
Mineral Resources.*

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