



# Analysis of H.R. 3534, Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act

Western Energy Alliance (Formerly Independent Petroleum Association of Mountain States)  
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Western Energy Alliance (formerly IPAMS) shares Congress's goals of ensuring that energy development occurs in a safe and environmentally sound manner, while still allowing companies to produce the natural gas and oil our country needs. We are pleased that the current version of the CLEAR ACT does not include many of the original punitive provisions targeting the small, onshore producers from the West who supply 27% of our nation's natural gas and support over 488,000 jobs while disturbing only 0.07% of public lands.

## **Reorganization of MMS**

We have grave concerns, however, over provisions reorganizing the Minerals Management Service (MMS), which would diminish the efficiency of the professional land managers at the Bureau of Land Management (BLM) and National Park Service, while adding additional superfluous layers of bureaucracy that will exacerbate the already long and costly process of developing energy on public lands.

Separating the leasing, permitting and environmental analysis from the overall land stewardship of BLM will result in severed functionality and lack of a holistic approach to land management. It is unclear to us how moving environmental analysis into a separate bureau from that which conducts land use planning will work, since Environmental Impact Statements (EIS) are such a large part of the land use planning process.

The bill's authors claim that nothing in this legislation affects the land use planning authorities of BLM under the Federal Land Policy and Management Act (FLPMA) or the Forest Service under the National Forest Management Act (p. 15), yet removing the natural gas and oil program from BLM would completely take away one of the main functions BLM analyzes in land use plans. Rather than retaining its authority under FLPMA, Title 1 appears to relegate BLM to a consulting role, which we believe it will be unable to effectively perform.

## **Imposition of an "annual production incentive fee"**

The imposition of \$2 per barrel of oil, or 20 cents per million Btu of natural gas, for production from existing leases would make the already costly process of energy development on public even more expensive and less attractive to investors. Industry already more than pays for the administration of the federal onshore natural gas and oil program and provides extra funds for conservation by returning \$46 for every dollar the government spends administering the program. From that high rate of return, Congress should appropriate funds for conservation, rather than imposing yet another tax on natural gas and oil companies that will discourage American energy production and cost jobs. The bill specifies that the fee would apply to all leases in effect on the date of enactment of the Act, rather than just on new leases. Such a retroactive measure would violate the terms of

valid existing leases and government contracts that were entered into in good faith by lessees under the terms in effect at the time.

### **Elimination of the Royalty-in-Kind program**

Western Energy Alliance also opposes the elimination of the Royalty-In-Kind (RIK) Program. RIK allows companies to pay royalties directly with quantities of natural gas or oil, providing a straightforward method for handling royalty payments. Prices of natural gas and oil vary by date, by marketer, by grade of product sold (gravity of oil, BTU content of gas, quality of natural gas liquids, etc.) and other factors. The payment of royalties through the RIK program simplifies this complexity, and eliminates the need for hundreds of auditors. Under the RIK program, the only determination is the quantity of natural gas or oil delivered to the government. According to government reports, the RIK program raises millions of dollars in additional revenues to the government than would normally be received if the royalty were taken in cash value.

### **Conclusion**

Western energy producers must already overcome daunting obstacles that producers elsewhere do not face. Due to the unique challenges and burdensome regulatory requirements associated with developing energy on public lands, western producers are already leaving our region and diverting investment to other parts of the country where development occurs primarily on private land.

A recent survey of our membership revealed that 74% of respondents are downsizing capital investment in the West and diverting \$3.7 billion to other regions due to an overly burdensome regulatory environment.

The provisions outlined above would make it even more costly and difficult for our members to continue producing 27% of our nation's natural gas while disturbing 0.07% of public lands and supporting 488,000 western jobs. Therefore, Western Energy Alliance continues to oppose passage of the CLEAR Act until these provisions are removed.