

DISSENTING VIEWS

Dissenting Views on H.R. 2337 the “Energy Policy Reform and Revitalization Act”

We strongly oppose this legislation. The “Energy Policy Reform and Revitalization Act” is the antithesis of what its title implies, as all that will be revitalized will be the economies of China, Iran, and Venezuela. H.R. 2337 will result in increased dependence on foreign energy, higher prices for American consumers, and a loss of American jobs. Those most affected will be retirees on fixed incomes, single parents and low income households. Those rewarded will be foreign energy exporters hostile to US interests, our rapidly growing economic competitors in the world and those who are opposed to all forms of energy except those not yet in use.

Congress is often accused of being reactive rather than proactive; however, H.R. 2337 is not responsive to any signal except the ones from trial lawyers wanting more cases and extreme environmentalists. Indeed, H.R. 2337 is being reported out of this Committee on the heels of:

- an announcement by Dow Chemical Company that it is going to build a 22 billion dollar chemical facility in Saudi Arabia because natural gas supplies in this country are so tight and energy prices are too high;
- a report by the Federal Energy Regulatory Commission (FERC) projecting electricity prices 25-30% higher throughout most of the country this summer;
- emerging economies in China and India that have increased the world wide demand for fossil fuels with many oil exporting countries like Venezuela and Iran, that are hostile to the United States, partnering with China to develop their oil and gas resources and guaranteeing China access to those resources; and
- the loss of 3.2 million manufacturing jobs since 2000 due to higher energy prices.

At a time when we should be opening additional areas for oil and gas exploration and development, this legislation will restrict access to 82.5 billion barrels of domestic oil and 420 TCF (trillion cubic feet) of natural gas and delay the development of 2 trillion barrels of oil shale.

The United States has led the world in industrial production since immediately after the Civil War. No one is alive in the United States who has not saluted its flag flying over the lands of the predominant world power. Our Members believe that our Nation has used its enormous power in ways that has made the world better, and do not believe that other nations would use such powers in such benign and beneficial ways. Now, for the first time since the Civil War, that position is being tested by other nations, most notably China. The source of its tremendous economic growth has been the use and transformation of energy into amplifying its already enormous populations' strength. Their growth in energy use is triple that of the United States. Their economic growth is triple the rate of the United States. At a time when our Nation owes it to our future

generations to brace for a fight, this bill throws in the towel. It is a San Francisco energy policy. America is not San Francisco.

H.R. 2337 has raised tremendous concerns by domestic energy producers and consumer groups. Many groups refer to H.R. 2337 as the greatest legislative threat to the energy industry and consumer prices in many years. Indeed, H.R. 2337 would be a step backward for U.S. energy security.

Repeal of the Energy Policy Act of 2005

Among its more draconian elements, this legislation repeals several provisions of the Energy Policy Act of 2005 ("EPAct 2005"). EPAct 2005 was enacted on August 8, 2005. It enjoyed bipartisan support in both the House and Senate, with votes in favor of 275 - 156 and 74 - 26, respectively. All three Committee conferees, Chairman Richard Pombo, Ranking Member Nick Rahall (now, Chairman Nick Rahall), and Congresswoman Barbara Cubin were signatories to the conference report for the provisions within the Committee's jurisdiction. The changes in law were modest as regards to energy production on federal lands, and did not include any expansion of access to federal lands such as the Arctic National Wildlife Refuge or the Federal Outer Continental Shelf. Most of the EPAct's reforms were common-sense attempts to reduce unnecessary administrative delays without directly affecting environmental protections. Prior to its passage, many considered the government's program to be sorely underperforming and subject to uncertainty, delay and increased cost to all stakeholders.

Letters in Opposition

It is important to note that we are unaware of *any* consumer or energy production organization that wrote in support of this legislation. In other words, no one who makes energy for a living thinks this bill helps and no one who uses energy to make a living thinks this bill helps --- all of which begs the question, what is being revitalized? The litany of letters in opposition is extensive and includes the following organizations and groups:

- U.S. Chamber of Commerce;
- United Steelworkers;
- International Brotherhood of Electrical Workers;
- American Public Power Association;
- AES Corporation;
- Alliance for Energy and Economic Growth;
- American Public Gas Association;
- American Wind Energy Association;
- Agriculture Energy Alliance;
- Independent Petroleum Association of America;
- Clipper Windpower, Inc.;
- Airtricity;
- D.H. Blattner and Sons, Inc.;
- Invenergy;
- Mortenson Construction;

- DMI Industries;
- Natural Gas Supply Association;
- Interstate Natural Gas Association of America;
- American Exploration & Production Council;
- Industrial Energy Consumers of America;
- Edison Electric Institute;
- The Fertilizer Institute;
- Southern California Edison;
- PNM Resources;
- Lyondell Chemical Company;
- American Chemistry Council;
- National Association of Manufacturers;
- American Petroleum Institute;
- Environmentally Conscious Consumers of Oil Shale; and
- Western Business Roundtable

A copy of these letters are attached and incorporated with these dissenting views.

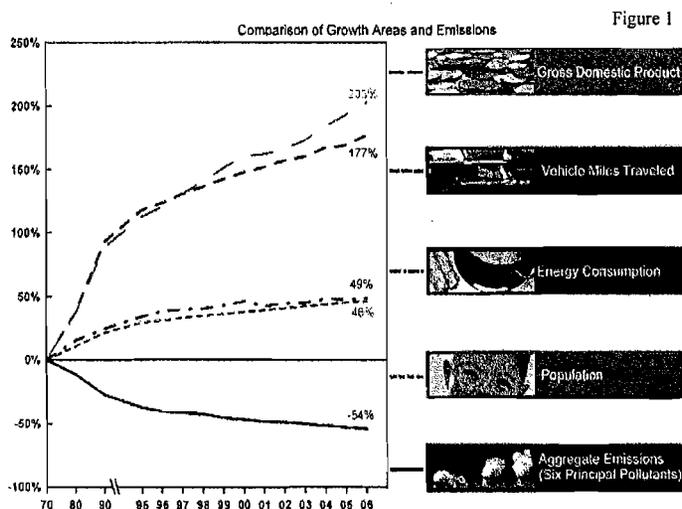
H.R. 2337 Myths

H.R. 2337 rests on several faulty premises, many proven untrue in committee hearings. The first myth is that federal lands are dominated by oil and gas production. In reality, of the 700 million acres of Federal mineral estate, 6% (42 million acres) are currently under lease for oil and gas development and 1.8% (12.4 million acres) have active oil and gas production. The actual surface area disturbed is less than 1%. For comparison, it is important to note that more than 40% of our federal lands have been set aside for conservation purposes such as Wilderness (more than 107 million acres), National Parks (more than 84 million acres), National Monuments and other special designations.

The second myth is that the current administration has a "rush to lease" policy. While a "rush to lease" policy would be good for consumer prices, this is far from the current state of play. In consecutive four year periods, the Clinton administration leased 75% more acreage than this administration and 61% more leases than this administration.

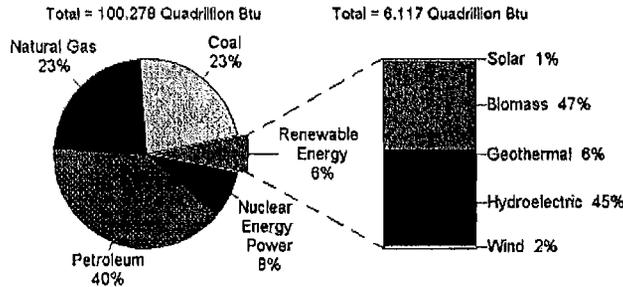
The myths regarding our Nation's energy needs continue. Proponents of this legislation state that we need to conserve our way out of the current energy crisis and that we should not focus on the Republican principle of increasing energy supply and economic growth. This is yet another myth. The Energy Information Agency (EIA) has projected that by 2030, our energy consumption will grow from 100 quadrillion Btu (British thermal units) to 127 quadrillion Btu and coal will play a pivotal role in meeting this demand for energy. This projected growth in demand is primarily the result of our projected growth in population, something that has not been discussed in the committee's oversight hearings.

The Environmental Protection Agency's annual report on air quality includes a graph comparing growth areas, including population, and the composite decline in emissions of six criteria air quality pollutants. The graph shows that our increase in energy consumption has paralleled our population growth since 1970. Between 1970 and 2006, our population growth had increased by 46 percent while our energy consumption had increased by 49 percent; our GDP had increased by 203 percent; vehicle miles traveled had increased by 177 percent and the aggregate emissions for six principle pollutants (CO, Pb, NO₂, SO₂, NO_x, & VOCs) had DECREASED by 54 percent (figure 1). These are staggering statistics – and the Nation could not have accomplished this without strong environmental standards and energy efficiencies.



Another myth relates to the viability of wind and solar to power our Nation's needs in the near future. Proponents of this legislation state that we must transition away from fossil fuels and produce our energy from renewable resources like wind and solar. While the Nation needs to rely on diverse sources of energy, wind and solar are more expensive than coal and hydropower, do not provide base load power and need a ready back up source of fuel, and do not address our transportation fuel needs. The following graph from the EIA illustrates the role that renewable energy currently plays in meeting the Nation's energy needs. We cannot support cutting off the energy source we know satisfies our Nation's energy needs for ones that are still in development.

The Role of Renewable Energy Consumption in the Nation's Energy Supply, 2004



This being said, if renewable energies such as wind and solar are to play a bigger role in energy portfolio, H.R. 2337 makes it even more difficult and expensive to site renewable energy projects on federal lands and will severely undermine the approval of energy rights-of-way corridors on federal lands which are needed to transmit renewable energy to the market place.

Republican Amendments Offered

Several Republican amendments were offered during the Mark-Up. Most amendments fell victim to party line votes. The following are some of the more salient amendments.

MR. PEARCE # 5: This amendment would have prohibited implementation of the legislation unless and until the Secretary of Interior certifies that H.R. 2337 will not:

- 1) Reduce the amount of domestic energy available from the public lands of the United States;
- 2) Result in the increased imports of any energy otherwise available from the public lands of the United States; and
- 3) Result in higher costs of gasoline, natural gas or home heating oil to consumers.

This was an opportunity for the proponents of the legislation to reaffirm their confidence in the legislation's ability to lower the price of energy for all Americans. The purpose is simple enough: let us not implement the bill until the Secretary of Interior can certify that it won't raise prices. Unfortunately, the amendment failed with 16 Aye votes and 23 No votes.

MR. PEARCE #4: H.R. 2337 was deafeningly silent on coal, one of the Nation's most abundant energy resources.

Coal plays an important role in the Nation's economy. Fifty two percent (52%) of our electrical power generation comes from coal-fired power plants. In 2005 the Secretary of Energy asked the National Coal Council to study the potential of coal conversion

technologies to meet the Nation's energy needs in the future through technologies like coal-to-liquids, coal gasification as a fuel source to produce ethanol, and as feed stock for hydrogen. The 2006 report lays out a framework for industry in partnership with government to improve the coal-to-liquids, coal gasification and clean coal technologies so that our Nation's abundant coal resources can be utilized to meet our energy needs now and in the future.

The EIA has projected that by 2030 our energy consumption will grow from 100 quadrillion Btu to 127 quadrillion Btu. Coal will play a pivotal role in meeting this demand for energy. Domestic coal resources contain 5,971 billion barrels of oil equivalent. If the Majority were serious about "revitalizing" our energy policy, coal must be included.

The Pearce #4 Amendment was divided into five parts, each of which was voted on separately; however, only three parts passed.

MR. BISHOP #14: This amendment would have required the Secretary to include the cost of processing "protests" filed with the BLM contesting approved Applications for Permit to Drill (APD) when developing the cost recovery regulations for oil and gas development on federal lands. The amendment set the temporary fee at the same rate as that established for an APD. The Amendment failed with 17 Aye votes and 27 No votes.

There were 4,251 protests filed with the BLM contesting approved APDs during the first four years of the Bush Administration compared with 666 protests filed during the second term of the Clinton Administration – a 638% increase (Table 1).

The number of acres deferred as a result of protests contesting approved APDs, during the first 4 years of the Bush Administration totaled 2,964,098 acres and 412,594 acres in the last 4 years of the Clinton Administration – a 718% increase (Table 2).

The oil and gas industry contributes over \$10 Billion annually to the Federal treasury in the form of bonus bids, royalties and rents. This does not include what they pay in corporate income tax or the tax revenues received from their employees.

Protests are complicated legal documents, often over 100 pages in length, which require extensive review by attorneys and other professional staff. People and organizations filing 'protests' do not pay any fees to the Federal government; however their actions increase cost to the agencies and delay revenues to the Federal and State treasuries.

Protests delay lease sales and permits for drilling. These delays reduce revenues to the Federal and State treasuries and suspend access to domestic energy sources, increasing our dependence on foreign energy supplies.

Table 1

Clinton Administration	1997	1998	1999	2000	Total
Number of New Leases	4,182	4,105	3,075	2,900	14,262
Number of Protests	166	167	166	167	666
Number of Acres Deferred	16,812	181,536	60,099	154,237	412,594
Number of Acres Leased	3,468,020	3,602,131	3,602,550	2,650,493	13,323,194

Table 2

Bush Administration	2001	2002	2003	2004	Total
Number of New Leases	3,289	2,384	2,699	3,514	11,886
Number of Protests	778	856	544	2,073	4,251
Number of Acres Deferred	309,832	175,299	1,940,701	583,266	2,964,098
Number of Acres Leased	3,997,271	2,812,606	2,064,289	4,157,121	13,031,287

MR. PEARCE #6: This amendment would have authorized the Secretary of the Interior to reimburse the States for any lost revenue from bonus bids, rents, royalties and taxes (including corporate and personal income taxes) from reduced oil and gas production on Federal lands as a result of H.R. 2337. The money for the reimbursements would have come from the Federal share of receipts from onshore and offshore oil and gas activities prior to the Secretary forwarding the balance of the receipts to the Treasury. The amendment failed with 18 Ayes votes and 21 No votes.

States receive 50% of the revenue collected from oil and gas development on federal lands that occur within the State's boundaries. H.R. 2337 will reduce domestic production on federal lands and limit new areas for leasing adversely impacting the economies of the affected States. This amendment would have served to protect the financial wellbeing of the affected States.

MR. SALI #16: This amendment would have prohibited the implementation of Titles I and II of H.R. 2337 until a determination is made that the Titles will not increase costs of energy for the consumers. The amendment failed with 17 Aye votes and 25 No votes.

MR. SALI #15: This amendment would have deleted the "inventoried roadless areas" from Section 210, the Biomass Utilization Pilot Program. The amendment failed with 17 Aye votes and 28 No votes.

Section 210 excludes 'inventoried roadless areas' from being included in a biomass pilot project site. Under the current regulations each Governor can participate in developing a management plan for lands within the State that are included in an 'inventoried roadless area.'

'Inventoried roadless areas' are lands that did not meet wilderness criteria when the National Forest lands were inventoried for their wilderness characteristics. Many of these lands do have roads, cell phone towers and transition rights-of-way crossing them. The Roadless Rule was promulgated during the waning days of the Clinton Administration (January 12, 2001). The rule increased restrictions on activities that could

take place on these lands essentially locking up an additional 50 to 60 million acres of federal lands.

MR. FLAKE #65: This amendment would have struck Title IV, Subtitle D of the legislation. This section creates an unlimited federally funded global warming wildlife survival program and requires implementation by federal land managers. The Secretary of the Interior is required to promulgate a new national strategy for mitigating the impacts of global warming and a National Global Warming and Wildlife Center is established within the US Geological Survey. This section would require the Secretary to assist species in adapting to impacts of global warming, protect, acquire, and restore habitat, and restore and protect ecological processes that sustain wildlife populations vulnerable to global warming. The amendment failed with 20 Aye votes and 28 No votes.

We strongly oppose the enactment of Title IV, Subtitle D - Natural Resources and Wildlife Programs. This language was developed at the direction of a few radical environmental groups who continue to believe that all knowledge flows from the Federal government. The overwhelmingly majority of wildlife conservation organizations were denied any input into the process. In fact, instead of adopting meaningful improvements, the language in the Chairman's Amendment in the Nature of a Substitute is now even worse because it creates a new Interagency Council on Climate Change. An interagency Cabinet-level committee already exists and this requirement is, therefore, duplicative and will further divert valuable wildlife resources.

While the Subcommittee on Fisheries, Wildlife and Oceans conducted a single oversight hearing entitled "Wildlife and Oceans in a Changing Climate", there was no discussion on the need for spending millions of dollars to develop a national strategy or to create additional governmental agencies. Yet, Subtitle D proposes to spend the vast overwhelmingly majority of its unspecified authorized funds on the development of a "national strategy" and the establishment of a new National Global Warming and Wildlife Science Center.

While there is no scientific consensus on the long-term impacts of climate change on wildlife species, it does not take a climatologist to conclude that any impacts, either positive or negative, will not be solved by hiring hundreds of new federal employees or developing a strategy that may be obsolete the moment it is released to the public. If the proponents of this bill insist on redirecting income from energy consumers, then they would be better served by simply increasing the amount of money allocated to the States for the highly successful Pittman-Robertson Wildlife Restoration Program and the Dingell-Johnson/Wallop-Breaux Sportfishing Restoration Program. These programs have, for more than 50 years, provided money to effectively respond to both cooling and warming climate changes.

Since the founding of this Republic, States have retained primacy over all wildlife species. They have clearly demonstrated for more than 230 years that they have the experience, expertise and encyclopedic knowledge to manage and conserve wildlife populations. It is not simply a coincidence that it is the States, and not the Federal

government, who have effectively responded to the effects of natural disasters, like hurricanes, on wildlife.

It is regrettable that the proponents of this bill were not willing to obtain the input of mainstream wildlife conservation organizations. On May 22, 2007, some 25 organizations wrote to Chairman Rahall offering an alternative to Title IV, Subtitle D. Despite representing millions of hunters, anglers and other conservationists, their input was ignored. Instead of building on the decades of successful State wildlife management programs, H.R. 2337 proposes a new, untested solution that in the final analysis does little, if anything, to assist fish and wildlife species. Regardless of the impact of climate change, new strategies, new reports, new Federal agencies and legions of new Federal works will not help species survive in the future.

MR. JINDAL #50: This amendment would have allowed the Gulf States to share in the revenues from any Clinton administration leases issued in 1998 and 1999 that did not include a price threshold for royalties if the lease terms were extended. The amendment failed with 22 Aye votes and 26 No votes.

MR. PEARCE #1: This amendment would have struck Titles I and II. As discussed throughout these dissenting views, these titles will decrease domestic energy supplies, increase consumer costs and increase energy imports. The amendment failed with 21 Aye votes and 27 No votes.

As an isolated example, Title II's Section 203 is legislation of the worst kind, and if enacted into law, will compel companies to forego leasing federal lands to protect themselves. The provision, taken in its entirety, creates the following real life example. If an oil and gas company discovers in April 2007 that it underpaid its royalties in April 2000 by 1 penny, then their obligation for that 1 penny underpayment is \$63,150,000 under section 203. Who will be able to afford to produce oil and gas in this country under this regime? What other industry regulatory system has penalties of this nature?

While the Majority may think they have the support of the American people to punish multinational companies like ExxonMobil, Shell and BP, by imposing such penalties, what they are really doing is bankrupting smaller domestic independent companies that are responsible for most of our onshore production.

MR. CANNON #15: This amendment would have struck H.R. 2337 Section 104 regarding oil shale and tar sands leasing. The amendment failed with 22 Aye votes and 26 No votes.

The United States has an estimated 2 trillion barrels of oil resource in the form of oil shale. This is double all of the world's known oil reserves. Repealing significant elements of EPA's 2005's oil shale section would unnecessarily delay development of an enormous emerging source of energy that could greatly change our country's energy security. Like coal, oil shale may prove to be our "ace in the hole" for energy supplies.

MR. GOHMERT #40: This amendment would have struck H.R. 2337 Section 307 regarding the Biomass Utilization Pilot Program. The amendment failed with 21 Aye votes and 27 No votes.

Section 307 repeals certain biomass provisions from EAct 2005, disregarding nearly a decade worth of research and utilization of biomass. The Forest Service is already involved in a number of partnerships that are heating schools and governmental facilities with biomass. Rather than encourage the progression of biomass energy projects pursuant to EAct 2005, Section 307 moves the issue back to square one.

Donny

Steve Price

Carl

Sam

Wang

Bill Sali

Jim

Robert

Chris

Ken McCaff

Henry

Jim

Ed

John

Bill

Mary

Tom

My

W. L. ... *Plus fortis*
