

NATIONAL ENERGY SECURITY CORRIDORS ACT

OCTOBER 6, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2295]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2295) to amend the Mineral Leasing Act to require the Secretary of the Interior to identify and designate National Energy Security Corridors for the construction of natural gas pipelines on Federal land, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Energy Security Corridors Act”.

SEC. 2. DESIGNATION OF NATIONAL ENERGY SECURITY CORRIDORS ON FEDERAL LANDS.

(a) IN GENERAL.—Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended as follows:

(1) In subsection (b)—

(A) by striking “(b)(1) For the purposes of this section ‘Federal lands’ means” and inserting the following:

“(b)(1) For the purposes of this section ‘Federal lands’—

“(A) except as provided in subparagraph (B), means”; and

(B) by striking the period at the end of paragraph (1) and inserting “; and” and by adding at the end of paragraph (1) the following:

“(B) for purposes of granting an application for a natural gas pipeline right-of-way, means all lands owned by the United States except—

“(i) such lands held in trust for an Indian or Indian tribe; and

“(ii) lands on the Outer Continental Shelf.”.

(2) By redesignating subsection (b), as so amended, as subsection (z), and transferring such subsection to appear after subsection (y) of that section.

(3) By inserting after subsection (a) the following:

“(b) NATIONAL ENERGY SECURITY CORRIDORS.—

“(1) DESIGNATION.—In addition to other authorities under this section, the Secretary shall—

“(A) identify and designate suitable Federal lands as National Energy Security Corridors (in this subsection referred to as a ‘Corridor’), which shall be used for construction, operation, and maintenance of natural gas transmission facilities; and

“(B) incorporate such Corridors upon designation into the relevant agency land use and resource management plans or equivalent plans.

“(2) CONSIDERATIONS.—In evaluating Federal lands for designation as a National Energy Security Corridor, the Secretary shall—

“(A) employ the principle of multiple use to ensure route decisions balance national energy security needs with existing land use principles;

“(B) seek input from other Federal counterparts, State, local, and tribal governments, and affected utility and pipeline industries to determine the best suitable, most cost-effective, and commercially viable acreage for natural gas transmission facilities;

“(C) focus on transmission routes that improve domestic energy security through increasing reliability, relieving congestion, reducing natural gas prices, and meeting growing demand for natural gas; and

“(D) take into account technological innovations that reduce the need for surface disturbance.

“(3) PROCEDURES.—The Secretary shall establish procedures to expedite and approve applications for rights-of-way for natural gas pipelines across National Energy Security Corridors, that—

“(A) ensure a transparent process for review of applications for rights-of-way on such corridors;

“(B) require an approval time of not more than 1 year after the date of receipt of an application for a right-of-way; and

“(C) require, upon receipt of such an application, notice to the applicant of a predictable timeline for consideration of the application, that clearly delineates important milestones in the process of such consideration.

“(4) STATE INPUT.—

“(A) REQUESTS AUTHORIZED.—The Governor of a State may submit requests to the Secretary of the Interior to designate Corridors on Federal land in that State.

“(B) CONSIDERATION OF REQUESTS.—After receiving such a request, the Secretary shall respond in writing, within 30 days—

“(i) acknowledging receipt of the request; and

“(ii) setting forth a timeline in which the Secretary shall grant, deny, or modify such request and state the reasons for doing so.

“(5) SPATIAL DISTRIBUTION OF CORRIDORS.—In implementing this subsection, the Secretary shall coordinate with other Federal Departments to—

“(A) minimize the proliferation of duplicative natural gas pipeline rights-of-way on Federal lands where feasible;

“(B) ensure Corridors can connect effectively across Federal lands; and

“(C) utilize input from utility and pipeline industries submitting applications for rights-of-way to site corridors in economically feasible areas that reduce impacts, to the extent practicable, on local communities.

“(6) NOT A MAJOR FEDERAL ACTION.—Designation of a Corridor under this subsection, and incorporation of Corridors into agency plans under paragraph (1)(B), shall not be treated as a major Federal action for purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(7) NO LIMIT ON NUMBER OR LENGTH OF CORRIDORS.—Nothing in this subsection limits the number or physical dimensions of Corridors that the Secretary may designate under this subsection.

“(8) OTHER AUTHORITY NOT AFFECTED.—Nothing in this subsection affects the authority of the Secretary to issue rights-of-way on Federal land that is not located in a Corridor designated under this subsection.

“(9) NEPA CLARIFICATION.—All applications for rights-of-way for natural gas transmission facilities across Corridors designated under this subsection shall be subject to the environmental protections outlined in subsection (h).”.

(b) APPLICATIONS RECEIVED BEFORE DESIGNATION OF CORRIDORS.—Any application for a right-of-way under section 28 of the Mineral Leasing Act (30 U.S.C. 185) that is received by the Secretary of the Interior before designation of National Energy Security Corridors under the amendment made by subsection (a) of this section

shall be reviewed and acted upon independently by the Secretary without regard to the process for such designation.

(c) DEADLINE.—Within 2 years after the date of the enactment of this Act, the Secretary of the Interior shall designate at least 10 National Energy Security Corridors under the amendment made by subsection (a) in contiguous States referred to in section 368(b) of the Energy Policy Act of 2005 (42 U.S.C. 15926(b)).

SEC. 3. NOTIFICATION REQUIREMENT.

The Secretary of the Interior shall promptly notify the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of each instance in which any agency or official of the Department of the Interior fails to comply with any schedule established under section 15(c) of the Natural Gas Act (15 U.S.C. 717n(c)).

PURPOSE OF THE BILL

The purpose of H.R. 2295 is to amend the Mineral Leasing Act to require the Secretary of the Interior to identify and designate National Energy Security Corridors for the construction of natural gas pipelines on Federal land.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2295 will facilitate the issuance of rights-of-way for natural gas pipelines to traverse federal lands, both by issuing rights-of-way and designating National Energy Security Corridors. The bill specifically focuses on lands managed by the National Park Service (NPS) as this federal agency currently interprets that it does not have authority to grant rights-of-way for such use under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

The shale gas revolution in the United States has fundamentally changed the energy dynamic in our country. Increased natural gas production on state and private lands has not only helped our nation to surpass Saudi Arabia and Russia to become the global leader in energy production, but it has also highlighted a significant need for midstream infrastructure investments to ensure that natural gas production is capable of reaching areas within our nation that are currently underserved.

Unfortunately, natural gas pipelines construction projects have been severely constricted in areas where pipeline rights-of-way must cross federal lands. Currently, the Mineral Leasing Act provides authority for the Secretary of the Interior to issue rights-of-way for pipelines on federal lands; however, NPS lands are explicitly exempt. For this reason, an applicant for a right-of-way is forced to seek Congressional authorization to obtain legal approval for a natural gas pipeline on NPS lands. To date, only five natural gas pipelines have received Congressional approval. These five separate bills have taken between eight and 16 months to be enacted—significantly prolonging the process.

In the coming decades, the construction of significant pipeline infrastructure will be required to meet new natural gas capacity in the United States. Undoubtedly, federal lands—including National Park System lands—will need to be accessed for upstream production to reach downstream consumers.

Increased natural gas demand, decreased access to Federal lands

The U.S. shale gas revolution, driven by hydraulic fracturing and horizontal drilling in shale formations primarily on state and private lands, has helped to lead our nation to a renewed status as

a global energy leader. According to a recent Congressional Research Service report, natural gas production on state and private lands surged between 2010 and 2014—from 16.85 trillion cubic feet (Tcf) in 2010 to 23.2 Tcf in 2014—a 38 percent increase in just four years.¹

Meanwhile, over the same period, natural gas production on federal lands fell by 30 percent from 5.1 Tcf in 2010 to 3.5 Tcf in 2014.² Total natural gas production on federal and non-federal lands in 2014 was over 25 Tcf, solidifying the United States as the largest producer of natural gas—ahead of Russia and Saudi Arabia. The Energy Information Administration (EIA) Annual Outlook for 2015 estimates that by 2017, the United States will transition to a net exporter of natural gas—with net exports ranging from 3.0 Tcf to 13.1 Tcf by 2040. This vast energy abundance has lowered natural gas prices and transformed energy consumption in the United States.

Coal currently leads as the predominant electricity energy source (39%). However, the current Administration's most recent regulations aimed at cutting carbon emissions from existing power plants in the United States will require energy companies to look to natural gas in the coming decades for electricity generation. While today natural gas generates 27% of electricity in the United States, EIA projects natural gas to generate 42% of total generation by 2040. Additionally, EIA projects industrial energy use to rise alongside the growth of our nation's shale gas supply.

This projected increased use of natural gas necessitates significant infrastructure investments in the coming years to ensure that this prodigious resource is reaching areas that are currently underserved. The Interstate Natural Gas Association of America (INGAA) estimates significant capacity growth of 43 billion cubic feet per day between 2014 and 2035—predominately in northeastern and southwestern states which will likely result in significant coal plant retirements and therefore will have increased gas-fired capacity. INGAA estimates that over \$200 billion in capital expenditures will be dedicated to infrastructure expansion between 2014 and 2035.

Under the Mineral Leasing Act (MLA), the U.S. Department of the Interior has the authority to issue permits and right-of-ways for the construction of natural gas pipelines across federal land. However, the MLA definition of “federal lands” explicitly exempts lands managed by the NPS. Separate statutes have been enacted to authorize the Secretary of the Interior to issue approval of rights-of-way for electrical and telephone lines, water pipes and pipelines, mining and timber facilities, and canals and ditches.

Because natural gas pipelines are not explicitly listed in the corresponding statutes, the Department of the Interior's conservative interpretation is that these statutes do not authorize the Department to issue permits and rights-of-way for natural gas pipelines across lands managed by the NPS. This is extremely troubling, given the NPS manages the National Trails System, including the Appalachian Trail, which is over 2,000 miles long (1,090 of which is on federal lands) and spans 17 states.

¹ Marc Humphries, U.S. Crude Oil and Natural Gas Production in Federal and Non-Federal Areas (R42432)(April 3, 2015).

² Id.

A report issued by the Department of Energy in March 2014 noted that, “In the eastern U.S., more than twenty federally protected national trails (some of which are thousands of miles long, and cross many states) pose a potential obstacle to the development of new or expanded electricity transmission capacity.”³ While the report focuses on electricity transmission, it also notes that pipelines face the same obstacles.

As a result, each time a company seeks to expand, modify, or construct a natural gas pipeline across NPS lands, they are required to turn to Congress to pass a separate piece of legislation authorizing the Department of the Interior to issue a permit to that particular project. Since 1990, five natural gas pipelines have received such authorizations—which took eight to 16 months to authorize. These are:

- Colonial National Historical Park in Virginia (H.R. 4107; Public Law 101–573, enacted Nov. 15 1990) (9 months).
- Great Smoky Mountains National Park in Tennessee (H.R. 3380; Public Law 107–223, enacted Aug. 21, 2002) (9 months).
- Gateway National Recreation Area in New York (H.R. 2606; Public Law 112–197, enacted Nov. 27, 2012) (16 months).
- Glacier National Park in Montana (H.R. 4606; Public Law 112–268, enacted Jan. 14, 2013) (9 months).
- Denali National Park in Alaska (S. 157; Public Law 113–33, enacted Sept. 18, 2013) (8 months).

To avoid this extra bureaucracy, some projects have been constructed around NPS lands rather than taking the most expeditious route through the federal park land (an option which, in some instances, was less intrusive on the environment). This has resulted in private land being taken through eminent domain rather than using federal land.

National Park System land poses a significant obstacle to energy growth in the United States and the failure to issue rights-of-way that transverse lands managed by the NPS is holding states back from enjoying the economic benefits of our nation’s natural gas abundance. H.R. 2295 remedies this by granting NPS express authority to issue rights-of-way to traverse these public lands. Additionally, the legislation goes one step further to more properly plan for future growth, by authorizing the Secretary of the Interior with additional authority to establish National Energy Security Corridors, upon which rights-of-way for natural gas pipelines can be authorized. An amendment was adopted during the markup of this legislation to clarify that no right-of-way applications will be exempt from the National Environmental Policy Act, ensuring consideration of environmental impacts. This multi-pronged approach for facilitating the issuance of rights-of-way across federal lands will enhance our nation’s energy security by allowing American families and businesses to make greater use of our domestic energy resources.

³James Kuiper *et al.*, *Electricity Transmission, Pipelines, and National Trails: An Analysis of Current and Potential Intersections on Federal Lands in the Eastern United States, Alaska and Hawaii* (March 25, 2014), p. vii.

COMMITTEE ACTION

H.R. 2295 was introduced on May 13, 2015, by Congressman Thomas MacArthur (R–NJ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources and the Subcommittee on Water, Power and Oceans. On June 10, 2015, the Natural Resources Committee met to consider the bill. The Subcommittees were discharged by unanimous consent. Congressman MacArthur offered an amendment designated 001; it was adopted by voice vote. Congressman Donald S. Beyer, Jr. (D–VA) offered an amendment designated 021; it was not adopted by a bipartisan roll call vote of 15–23, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 06-11-15

Recorded Vote # 1

Meeting on / Amendment on: **Beyer_021 Amendment to H.R. 2295 (Rep. Thomas MacArthur), "National Energy Security Corridors Act".**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>	X		
Mr. Young, AK		X		Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>	X			<i>Mrs. Capps, CA</i>	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA		X	
<i>Mr. Sablan, CNMI</i>				Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
<i>Mrs. Tsongas, MA</i>	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS			
<i>Mr. Peirluisi, Puerto Rico</i>	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA				Mr. Mooney, WV		X	
<i>Mr. Huffman, CA</i>	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>	X			TOTALS	15	23	

Congressman Ruben Gallego (D-AZ) offered an amendment designated 010; it was not adopted by a bipartisan roll call vote of 15 to 22, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 06-11-15

Recorded Vote # 2

Meeting on / Amendment on: Gallego_010 Amendment to H.R. 2295 (Rep. Thomas MacArthur), "National Energy Security Corridors Act".

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>	X		
Mr. Young, AK		X		Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX				Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>				<i>Mrs. Capps, CA</i>	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA		X	
<i>Mr. Sablan, CNMI</i>	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
<i>Mrs. Tsongas, MA</i>	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS			
<i>Mr. Peirluisi, Puerto Rico</i>	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA				Mr. Mooney, WV		X	
<i>Mr. Huffman, CA</i>	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>	X			TOTALS	15	22	

Congressman Beyer offered an amendment in the nature of a substitute; the amendment was not adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives on June 11, 2015, by a bipartisan roll call vote of 21 to 15, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 06-11-15

Recorded Vote # 3

Meeting on / Amendment on: **On favorably reporting H.R. 2295 (Rep. Thomas MacArthur), "National Energy Security Corridors Act".**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>		X	
Mr. Young, AK	X			Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX				Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>		X		<i>Mrs. Capps, CA</i>		X	
Mr. Lamborn, CO	X			Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>		X	
Mr. Wittman, VA	X			Mr. Graves, LA	X		
<i>Mr. Sablan, CNMI</i>		X		Mr. Newhouse, WA	X		
Mr. Fleming, LA	X			Mr. Zinke, MT	X		
<i>Mrs. Tsongas, MA</i>		X		Mr. Hice, GA	X		
Mr. McClintock, CA	X			Ms. Radewagen, AS			
<i>Mr. Peirluisi, Puerto Rico</i>		X		Mr. MacArthur, NJ	X		
Mr. Thompson, PA				Mr. Mooney, WV	X		
<i>Mr. Huffman, CA</i>		X		Mr. Hardy, NV	X		
Mrs. Lummis, WY	X						
<i>Mr. Ruiz, CA</i>		X					
Mr. Benishek, MI	X						
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC	X						
<i>Mr. Cartwright, PA</i>							
Mr. Gosar, AZ							
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X		TOTALS	21	15	

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 Rules 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. 2295—National Energy Security Corridors Act

Based on information provided by the Department of the Interior (DOI), CBO estimates that implementing H.R. 2295 would have no significant effect on the federal budget. Because enacting the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

The bill would require the Secretary of the Interior to identify parcels of federal land that could be used to build natural gas pipelines and designate those parcels as national energy security corridors. The bill also would authorize the National Park Service (NPS) to allow natural gas pipelines to be constructed on lands administered by the agency.

Under current law, DOI has the authority to designate corridors on federal lands for constructing oil and gas pipelines and for electricity transmission and distribution facilities. In 2009, DOI and the Forest Service designated approximately 6,000 miles of such corridors crossing federal lands in 11 western states. H.R. 2295 would require the Secretary to designate at least 10 similar corridors across any of the other 39 states within two years of enactment of the bill. Because current law already requires DOI to designate energy corridors on federal lands, CBO estimates that a requirement to establish additional corridors would have a minimal effect on DOI's workload and the agency's budget.

In addition, CBO expects that the provision in the bill authorizing NPS to allow natural gas pipelines to be constructed on lands administered by the agency would not significantly affect the agency's workload. Thus, we estimate that implementing the bill would have a negligible effect on the agency's budget.

H.R. 2295 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, 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. According to the Congressional Budget Office, enactment of this bill “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 amend the Mineral Leasing Act to require the Secretary of the Interior to identify and designate National Energy Security Corridors for the construction of natural gas pipelines on Federal land.

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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

* * * * *

GRANT OF AUTHORITY

SEC. 28. (a) Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 1 of this Act, as amended, in accordance with the provisions of this section.

(b) *NATIONAL ENERGY SECURITY CORRIDORS.*—

(1) *DESIGNATION.*—*In addition to other authorities under this section, the Secretary shall—*

(A) *identify and designate suitable Federal lands as National Energy Security Corridors (in this subsection referred to as a “Corridor”), which shall be used for construction, operation, and maintenance of natural gas transmission facilities; and*

(B) *for purposes of granting an application for a natural gas pipeline right-of-way, means all lands owned by the United States except—*

(i) *such lands held in trust for an Indian or Indian tribe; and*

(ii) *lands on the Outer Continental Shelf.*

(B) *incorporate such Corridors upon designation into the relevant agency land use and resource management plans or equivalent plans.*

(2) *CONSIDERATIONS.*—*In evaluating Federal lands for designation as a National Energy Security Corridor, the Secretary shall—*

(A) *employ the principle of multiple use to ensure route decisions balance national energy security needs with existing land use principles;*

(B) *seek input from other Federal counterparts, State, local, and tribal governments, and affected utility and pipeline industries to determine the best suitable, most cost-effective, and commercially viable acreage for natural gas transmission facilities;*

(C) *focus on transmission routes that improve domestic energy security through increasing reliability, relieving congestion, reducing natural gas prices, and meeting growing demand for natural gas; and*

(D) *take into account technological innovations that reduce the need for surface disturbance.*

(3) *PROCEDURES.*—*The Secretary shall establish procedures to expedite and approve applications for rights-of-way for natural gas pipelines across National Energy Security Corridors, that—*

(A) *ensure a transparent process for review of applications for rights-of-way on such corridors;*

(B) *require an approval time of not more than 1 year after the date of receipt of an application for a right-of-way; and*

(C) *require, upon receipt of such an application, notice to the applicant of a predictable timeline for consideration of the application, that clearly delineates important milestones in the process of such consideration.*

(4) *STATE INPUT.*—

(A) *REQUESTS AUTHORIZED.*—The Governor of a State may submit requests to the Secretary of the Interior to designate Corridors on Federal land in that State.

(B) *CONSIDERATION OF REQUESTS.*—After receiving such a request, the Secretary shall respond in writing, within 30 days—

(i) acknowledging receipt of the request; and

(ii) setting forth a timeline in which the Secretary shall grant, deny, or modify such request and state the reasons for doing so.

(5) *SPATIAL DISTRIBUTION OF CORRIDORS.*—In implementing this subsection, the Secretary shall coordinate with other Federal Departments to—

(A) minimize the proliferation of duplicative natural gas pipeline rights-of-way on Federal lands where feasible;

(B) ensure Corridors can connect effectively across Federal lands; and

(C) utilize input from utility and pipeline industries submitting applications for rights-of-way to site corridors in economically feasible areas that reduce impacts, to the extent practicable, on local communities.

(6) *NOT A MAJOR FEDERAL ACTION.*—Designation of a Corridor under this subsection, and incorporation of Corridors into agency plans under paragraph (1)(B), shall not be treated as a major Federal action for purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(7) *NO LIMIT ON NUMBER OR LENGTH OF CORRIDORS.*—Nothing in this subsection limits the number or physical dimensions of Corridors that the Secretary may designate under this subsection.

(8) *OTHER AUTHORITY NOT AFFECTED.*—Nothing in this subsection affects the authority of the Secretary to issue rights-of-way on Federal land that is not located in a Corridor designated under this subsection.

(9) *NEPA CLARIFICATION.*—All applications for rights-of-way for natural gas transmission facilities across Corridors designated under this subsection shall be subject to the environmental protections outlined in subsection (h).

INTER-AGENCY COORDINATION

(c)(1) Where the surface of all of the Federal lands involved in a proposed right-of-way or permit is under the jurisdiction of one Federal agency, the agency head, rather than the Secretary, is authorized to grant or renew the right-of-way or permit for the purposes set forth in this section.

(2) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies involved, to grant or renew rights-of-way or permits through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way

or permit application. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head's jurisdiction.

WIDTH LIMITATIONS

(d) The width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary or agency head finds, and records the reasons for his finding, that in his judgment a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, roads, airstrips and campsites, and they need not necessarily be connected or contiguous to the pipe and may be the subjects of separate rights-of-way.

TEMPORARY PERMITS

(e) A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

REGULATORY AUTHORITY

(f) Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination.

PIPELINE SAFETY

(g) The Secretary or agency head shall impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

ENVIRONMENTAL PROTECTION

(h)(1) Nothing in this section shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) or any other provision of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852).

(2) The Secretary or agency head, prior to granting a right-of-way or permit pursuant to this section for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way or permit which shall comply with this section. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (A) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (B) requirements to insure that activities in connection with the right-of-way or permit will not vio-

late applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (C) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; and (D) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be applicable to every right-of-way or permit granted pursuant to this section, and may be made applicable by the Secretary or agency head to existing rights-of-way permits, or rights-of-way or permits to be renewed pursuant to this section.

DISCLOSURE

(i) If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, but that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

TECHNICAL AND FINANCIAL CAPABILITY

(j) The Secretary or agency head shall grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way or permit is requested in accordance with the requirements of this section.

PUBLIC HEARINGS

(k) The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the date of enactment of this subsection.

REIMBURSEMENT OF COSTS

(l) The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance for the fair market rental

value of the right-of-way or permit, as determined by the Secretary or agency head.

BONDING

(m) Where he deems it appropriate the Secretary or agency head may require a holder of a right-of-way or permit to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation of the Secretary or agency head.

DURATION OF GRANT

(n) Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project, but in no event more than thirty years. In determining the duration of a right-of-way the Secretary or agency head shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The Secretary or agency head shall renew any right-of-way, in accordance with the provisions of this section, so long as the project is in commercial operation and is operated and maintained in accordance with all of the provisions of this section.

SUSPENSION OR TERMINATION OF RIGHT-OF-WAY

(o)(1) Abandonment of a right-of-way or noncompliance with any provision of this section may be grounds for suspension or termination of the right-of-way if (A) after due notice to the holder of the right-of-way, (B) a reasonable opportunity to comply with this section, and (C) an appropriate administrative proceeding pursuant to title 5, United States Code, section 554, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding.

(3) Deliberate failure of the holder to use the right-of-way for the purpose for which it was granted or renewed for any continuous two-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided*, That where the failure to use the right-of-way is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

JOINT USE OF RIGHT-OF-WAY

(p) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across Federal lands, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary or agency head the right to grant additional rights-of-way or

permits for compatible uses on or adjacent to rights-of-way or permit area granted pursuant to this section.

STATUTES

(q) No rights-of-way for the progress provided for in this section shall be granted or renewed across Federal lands except under and subject to the provisions, limitations, and conditions of this section. Any application for a right-of-way filed under any other law prior to the effective date of this provision may, at the applicant's option, be considered as an application under this section. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this section.

COMMON CARRIERS

(r)(1) Pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers.

(2)(A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(B) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(A) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(B) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Government shall in express terms reserve and shall provide in every lease of oil lands under this Act that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this Act.

(5) Whenever the Secretary has reason to believe that any owner or operator subject to this section is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Interstate Commerce Commission or Federal Power Commission or any appropriate State agency of the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obliga-

tion or to impose any penalty provided therefor, or the Secretary may, by proceeding as provided in this section, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(6) The Secretary or agency head shall require prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (A) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughout capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (C) minimum shipment or purchase tenders.

EXPORTS OF ALASKAN NORTH SLOPE OIL

(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States

and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

EXISTING RIGHTS-OF-WAY

(t) The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection, if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy of 1970 (Public Law 90–190; 42 U.S.C. 4321).

LIMITATIONS ON EXPORT

(u) Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 28 of the Mineral Leasing Act of 1920, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following) and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1979 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of

petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1979: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

STATE STANDARDS

(v) The Secretary or agency head shall take into consideration and to the extent practical comply with State standards for right-of-way construction, operation, and maintenance.

REPORTS

(w)(1) The Secretary and other appropriate agency heads shall report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate annually on the administration of this section and on the safety and environmental requirements imposed pursuant thereto.

(2) The Secretary or agency head shall promptly notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.

(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems.

LIABILITY

(x)(1) The Secretary or agency head shall promulgate regulations and may impose stipulations specifying the extent to which holders of rights-of-way and permits under this Act shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agen-

cy head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

ANTITRUST LAWS

(y) The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal anti-trust laws.

DEFINITIONS

~~[(b)] (z)(1) For the purposes of this section "Federal lands" means]~~—

(A) except as provided in subparagraph (B), means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation[.]; and

(B) for purposes of granting an application for a natural gas pipeline right-of-way, means all lands owned by the United States except—

(i) such lands held in trust for an Indian or Indian tribe;
and

(ii) lands on the Outer Continental Shelf.

(2) "Secretary" means the Secretary of the Interior.

(3) "Agency head" means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.

* * * * *

DISSENTING VIEWS

We oppose H.R. 2295 because it would significantly weaken protections for America's National Parks and completely eliminate public input from decisions on locating natural gas corridors across public lands.

The first part of the bill provides authority to the Department of the Interior to site natural gas pipelines through National Park Service lands, authority that the Department currently does not have and testified that it does not want. The Majority has previously described this state of affairs as being either an oversight or a consequence of the Mineral Leasing Act being drafted prior to the widespread construction of natural gas pipelines. However, the relevant provision of the Mineral Leasing Act was passed in 1973, when natural gas pipelines were extremely common, and Congress specifically withheld siting authority from National Park Service lands in order to ensure that Congressional review and approval would be required before running pipelines through Parks.

Congressional review has not proven to be an undue impediment to pipeline developers. While the requirement to obtain Congressional approval encourages developers to avoid National Parks—a worthy outcome by itself—when a pipeline must cross a National Park, Congress has repeatedly shown the ability to pass the necessary legislation. Just in the past 10 years, Congress has approved pipelines through Denali National Park, Glacier National Park, Gateway National Recreation Area, and Delaware Water Gap National Recreation Area.

Also, existing National Park units do not pose the barrier to pipeline development described by the Majority. For example, contrary to claims at the markup that the Appalachian Trail acts as a “Great Wall” that blocks pipeline development, there are 63 current pipeline crossings of the Appalachian Trail. According to data from the Congressional Research Service, in only three locations was specific Congressional authorization required, as much of the Appalachian Trail is on land not owned by the National Park Service and therefore does not need that authorization.

Our National Parks are some of our greatest national treasures, and we should not be making it any easier to run pipelines through them.

The second part of the bill would require the Secretary of the Interior to designate a series of corridors for natural gas pipelines on federal land, with a minimum of 10 corridors designated in the eastern half of the country. While the idea of using corridors to minimize duplicative rights-of-way and focus development in more appropriate areas has merit, the process taken by the bill is highly flawed and counterproductive.

First, there is very little federal land in the eastern half of the United States, particularly when compared to the western half, and

the Department of Energy issued a report in 2011 that found that, “[f]ragmented patterns of federal land jurisdiction in the East, coupled with limited opportunities for utility-scale development on many classes of federal land, make the designation of federal energy transport corridors an inefficient solution to resolving energy transmission siting challenges.” The requirement in the bill that at least 10 corridors be designated in this region is arbitrary and unsupported by any evidence or testimony.

Second, the process for determining these corridors would not be subject to any public input at all. There is an express waiver of the National Environmental Policy Act (NEPA) for corridor designation, which shuts out the most valuable method of public input, and then the Secretary is directed to only seek input from other Federal agencies, states, local and tribal governments, utilities, and pipeline industries. Even the option for local and tribal governments to weigh in is limited to their views on cost-effectiveness and commercial viability.

The Majority claims that a Manager’s amendment adopted during markup, referencing Section 28(h) of the Mineral Leasing Act, will ensure that full NEPA reviews are conducted on individual pipeline proposals. However, the Majority overlooks language in the bill requiring the Secretary of the Interior to approve pipeline applications within one year of application. As was testified to during the hearing on this legislation, NEPA is designed to inform decision-making and when a decision is preordained, the NEPA process is effectively meaningless. The Supreme Court has ruled that an agency cannot be required “to prepare a fidl [environmental impact statement] due to the environmental impact of an action it could not refuse to perform.” [*Dept. of Transportation v. Public Citizen*, 541 U.S. 752 (2004).]

In addition, the bill would apply multiple-use management principles to the identification of corridors through National Parks, which undermines the National Park Service Organic Act, and has no limit on the number, length, or width of corridors.

The Majority rejected several Democratic amendments at markup, including one by Mr. Gallego designed to ensure that the public has a say in the determination of the corridors, and two by Mr. Beyer: one that would have protected National Parks by removing the pipeline siting authority provision of the bill, and one that would have replaced the entire bill with a more constructive corridor development process that included full public input.

People that live along the potential routes of natural gas pipelines deserve to have their voices heard. H.R. 2295 would turn a deaf ear to their concerns, and for that reason we strongly oppose the legislation.

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MATT CARTWRIGHT.
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