

National Parks and More, Threatened by Fracked Gas

Part 1, by Mina Hamilton

Yellowstone National Park, Yosemite National Park, Grand Canyon National Park, Great Smoky Mountains National Park. These along with other treasured park icons are in the crosshairs of S.2012, the national Energy Policy Modernization Act.

Different versions of the bill have passed the US Senate and House of Representatives.¹ Both versions would lock the country into a climate-destroying, fossil-fuel economy for decades. The bills include huge hand-outs to the oil and gas industry and strike a blow at what's left of our so-called (and hoped-for) democracy.

Let's look at just one section of the bill. National parks, along with National Wildlife Refuges and Scenic and Wild Rivers, were established to be enjoyed by all Americans - in perpetuity. Until now these areas have been off-limits to oil and gas development. Then, earlier this year amidst Presidential primary frenzy there was a little noticed reference to this threat. *The New York Times* opined that the bill would "make it easy to have natural gas pipelines cut across national parks."²

Make it easy? Should despoiling our national parks be easy?

This is how it works. The Energy Policy Modernization Act establishes something called National Energy Security Corridors on federal lands. It's all in Section 1115.

The mechanism is an amendment to the Mineral Leasing Act. The new legislation targets lands previously considered off-limits for gas pipeline infrastructure. Now they are opened up not just to pipelines, but also to "natural gas transmission facilities."^{3, 4}

¹ The House version of the bill is called the North American Energy Security and Infrastructure Act of 2016. Since the bill has now passed both the Senate and the House it is sometimes called the Bi-Partisan Energy Bill or the Omnibus Energy bill. Since most environmental groups reference The Energy Modernization Policy Act we are using that title.

² *NY Times* Editorial, "Energy Bill in Need of Fixes," April 20, 2016.

³ With the exception of the quote (see above) from *the New York Times*, all quotes in this article are actual quotes from the wording in S.2012, Section 1115.

⁴ Formerly, Section 28 of the Mineral Leasing Act (30 U.S.C. 185) specifically exempted National Parks and other Federal lands from siting of pipeline infrastructure projects. PREVIOUS LANGUAGE in Section 28: For the purposes of this section "Federal lands" 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. NEW PROPOSED LANGUAGE: deletes "except lands in the National Park System." To see original provisions of Section 28 <https://www.law.cornell.edu/uscode/text/30/185>

"Transmission facilities" is a code phrase designed to sound utterly harmless. Don't be fooled. It means compressor stations, gas-gathering plants and other industrial sites - all of which produce large amounts of the climate-destroying methane, as well as toxins like benzene, toluene, sulfuric oxide and formaldehyde.

Who would give a permit for these corridors? One person: the Secretary of the Department of Interior.

What kind of public hearing process is required? None. Repeat, NONE. However, the Secretary will "seek input" from state, local and tribal governments and affected utility and pipeline industries regarding the "most suitable, most cost-effective, and commercially viable acreage for national gas transmission facilities." There is not a word about seeking "input" from the public in an evidentiary hearing.

Furthermore, these pipelines and related industrial complexes will *not* be considered a "major Federal action." This means that judicial challenges based on the National Environmental Policy Act would be severely limited.

Even more alarmingly, there will be "no limit on the number or length of the Corridors." Thus, for example, Yosemite could be cut by what? Two? Three? Five corridors? That magnificent view from El Capitan could get pretty grungy.

Furthermore, "nothing in this subsection limits the number or physical dimensions of the Corridors."

No limits on the physical dimensions? So whether we are talking about something the size of a football field or one-mile wide⁵ it is just one person, the Secretary of the Interior, who gets to decide.

It gets worse. Section 1115 requires that: "Within 2 years of the date of enactment of this legislation the Secretary must designate, at least, 10 National Energy Security Corridors."

Ten? That's a heck of a lot of trees felled, vistas ruined, air fogged with smog and campsites and hiking trails degraded.

Here's the real sleeper: "Any application for a right-of-way...that is received by the Secretary *before* designation of National Energy Security Corridors shall be

⁵ Energy corridors authorized back in 2005 for Bureau of Land Management Land were designed to be 3,500 feet to five-miles in width. At least those corridors required public hearings.

reviewed and acted upon independently by the Secretary without regard to the process for such designation."⁶

Without regard to the process...one person...somehow that doesn't sound like a functioning democracy. Now the US Senators and Congresswomen⁷ and men who voted for this legislation probably haven't read every word in the bill. Or maybe they have...

Given the bill's negative features, many national organizations have said "No," including Friends of the Earth and Greenpeace. The latter suggested that S.2012 be named the Energy Policy "Medievalization" Act - instead of Modernization Act.⁸ Reasons for their ire include more than the outrageous invasion of National Parks. The bill promotes timbering and wood chipping of US forests.⁹ It also invests \$1 billion in supposedly "new" coal technologies, fast tracks the Federal Energy Regulatory Commission and LNG export permitting process for fracked gas, streamlines approval of siting of electric transmission lines and sets back energy efficiency regulations for Federal Buildings.

The Center for Biological Diversity, the Sierra Club, Food and Water Watch and more than three hundred grassroots groups also oppose S2012.

Matters are complicated by the fact that besides the giveaways to the oil and gas industry, the bill also has sweeteners for the environmental community. The most popular of these is the permanent reauthorization of the Land and Water Conservation Fund - a fund that recycles a portion of oil and gas lease revenues for the buying of park land. (A major irony is that this saved land could then be gutted by pipeline infrastructure barreling through.) Other pluses include improvements to electric grid security and some limited pro-renewable energy provisions.

In short, there is a definite divide and conquer strategy going on in the halls of Congress.

⁶ Italics and underlining the author's.

⁷ The bill has been vigorously championed by Senators Lisa Murkowski (R-Alaska) and Maria Cantwell (D-Washington), chairperson and ranking member of the powerful Senate Committee on Energy and Natural Resources. Every Democrat in the US Senate has voted yay on this bill - except for Bernie Sanders.

⁸ For analysis by national energy groups see:

<http://www.foe.org/news/archives/2016-07-senator-cantwell-moves-forward-with-dirty-energy-bill>

http://action.biologicaldiversity.org/o/2167/p/dia/action3/common/public/?action_KEY=17460

<http://content.sierraclub.org/press-releases/2016/04/sierra-club-statement-senate-energy-bill-s2012>

<http://www.lcv.org/issues/lcv-legislative-letters/oppose-2-2012-mtp-conference.pdf>

<http://www.lcv.org/media/24-groups-urge-you-to-oppose.pdf>

<http://agri-pulse.com/What-is-preventing-House-Senate-energy-bill-conference-07052016.asp>

⁹ The wood chips are then shipped across the ocean to Europe where they are spuriously touted as "carbon-free" and as source of clean energy. Friends of the Earth and others such as the Dogwood Alliance point out that said shipping is fossil-fuel heavy. Thus, this form of "bio-mass" is the exact opposite of carbon free.

In early July 2016, public interest group concerns were ignored when 'legislative arms' were twisted by Alaska's Senator Murkowski, a strong supporter of the bill. Some Senators had promised constituents that they would oppose a conference committee where differences between the Senate and House versions of the bill would be worked out. Then, at the last minute, the Senators changed their tune. Senator Chuck Schumer (NY) was an example of this flip.

As the gas and oil industries line up for one of the biggest plums in recent history, one question is key: Will Senate/House conferees load the bill up with "poison pills" that might just trigger an Obama veto? Or is the fix already too deeply in, and the Obama administration's position so profoundly pro-fracked gas, that it is foolhardy for anyone to look towards the White House for rescue?

No one knows the answer to that question.

But it is clear, that at this point to rely on the slim reed of President Obama's possible veto seems unwise at best.

So, what now?

Many of the Big Green groups have done excellent work on S.2012. Yet they cannot be expected to protect the public against all of the many assaults at this trying time. We need the grassroots fighting with fresh, zany, smart and unusual tactics, including civil disobedience, to highlight the bill's problems. We need to bring a wider-public campaign that shows that biodiversity is vital to our planet's survival.

Perhaps most importantly we need to show that S.2012 is nothing short of a corporate occupation of the public commons, an occupation guaranteed to deepen social and economic inequity.

We invite readers to send in suggestions for How to Stop S.2012 Please make your suggestions by August 10. Shortly thereafter we will publish Part 2 of this article.

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