

LAKE BISTINEAU LAND TITLE STABILITY ACT

—————
JUNE 20, 2018.—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

ADDITIONAL VIEWS

[To accompany H.R. 3392]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3392) to provide for stability of title to certain land in the State of Louisiana, 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 “Lake Bistineau Land Title Stability Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a recordable disclaimer of interest of the United States in and to—

- (1) any land described in paragraphs (1) and (2) of subsection (a) of section 4 that is located outside the record meander lines of the Original Survey described in that subsection; and
- (2) any omitted land.

SEC. 3. DEFINITIONS.

In this Act:

- (1) **OMITTED LAND.**—The term “omitted land” means any land in S30–T16N–R10W, including adjacent islands and the meander lines of the water body, that was in place during the Original Survey, but that was not included in the Original Survey, regardless of whether the exclusion of the land was due to gross error in the Original Survey or fraud by any individual conducting the Original Survey.

(2) ORIGINAL SURVEY.—The term “Original Survey” means the survey of land in northern Louisiana approved by the Surveyor General on December 8, 1842.

(3) RESURVEY.—The term “Resurvey” means the document entitled “Dependent Re-Survey, Extension Survey and Survey of Two Islands, Sections 17, 29, and 30”, which was completed on November 24, 1967, approved on January 15, 1969, and published in the Federal Register on February 27, 1969 (34 Fed. Reg. 2677).

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. MEANDER LINES; RECORDABLE DISCLAIMER OF INTEREST.

(a) MEANDER LINES.—The meander lines in the Original Survey are definitive for purposes of determining title to—

(1) the land in S30–T16N–R10W; and

(2) the 2 islands adjacent to the land described in paragraph (1).

(b) RECORDABLE DISCLAIMER OF INTEREST.—

(1) IN GENERAL.—The Secretary shall prepare a recordable disclaimer of interest in which the United States conveys and disclaims any right, title, or interest of the United States in and to—

(A) any land described in paragraphs (1) and (2) of subsection (a) that is located outside the recorded meander lines described in that subsection; and

(B) any omitted land.

(2) FILING.—The Secretary shall record the disclaimer of interest prepared under paragraph (1) in the appropriate local office in the State of Louisiana in which real property documents are recorded.

(3) INCLUSIONS.—The disclaimer of interest filed under paragraph (2) shall include legal descriptions of the land subject to the disclaimer of interest using the lot or tract numbers included in the Resurvey.

PURPOSE OF THE BILL

The purpose of H.R. 3392 is to provide for stability of title to certain land in the State of Louisiana.

BACKGROUND AND NEED FOR LEGISLATION

The U.S. government ordered a survey of lands in Louisiana that included the area surrounding Lake Bistineau in 1842. In 1901, following the results of the survey, Louisiana delineated its ownership of lands under the Equal Footing Doctrine and transferred 7,000 acres of land around Lake Bistineau to the Commissioners of the Bossier Levee District. Three years later, the Commissioners conveyed this land to private ownership.

In 1967, the Bureau of Land Management (BLM) re-surveyed this land and two additional islands in the Lake. The 1967 survey presented a new boundary line which differed from what the federal government determined was the boundary of Lake Bistineau over 155 years earlier when Louisiana was admitted to the Union. Although BLM published a notice of the 1967 survey in the Federal Register in 1969, the agency did not notify all affected landowners of the survey’s impact on land ownership or otherwise act to claim title to lands identified as belonging to the federal government.

Almost 50 years later, in 2013, BLM notified landowners that their property appeared “to be still vested in the United States” based on the results of the 1967 survey.¹ Since then, the federal government and over 50 landowners have been in a dispute over the ownership of roughly 200 acres of land.

H.R. 3392 would require the Secretary of the Interior to convey and disclaim any right, title or interest in the disputed lands. As a result, the bill would resolve current uncertainty regarding the

¹ U.S. Department of the Interior, Letter to Mr. Davis Powell, Attorney for local landowners involved in the dispute, September 27, 2013.

land titles and ensure that the federal government has no ownership claims to any of the disputed land in the future.

Similar legislation, H.R. 3342 (114th Congress) sponsored by Congressman John Fleming (R-LA) was favorably reported by the House Committee on Natural Resources on September 6, 2016. In this Congress, a Senate companion bill, S. 1219, was introduced by Senator Bill Cassidy (R-LA). The Senate Committee on Energy and Natural Resources held a hearing on the bill on February 7, 2018. S. 1219 is supported by Louisiana's Attorney General and the Louisiana Landowners Association.

COMMITTEE ACTION

H.R. 3392 was introduced on July 25, 2017, by Congressman Mike Johnson (R-LA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On April 11, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Mike Johnson offered an amendment designated #1; it was adopted by voice vote. No further amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 13, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3392, the Lake Bistineau Land Title Stability Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3392—Lake Bistineau Land Title Stability Act

H.R. 3392 would require the Secretary of the Interior to disclaim interest in roughly 230 acres of land and associated minerals near Lake Bistineau in northwest Louisiana. Based on an analysis of information provided by the Bureau of Land Management (BLM), the Energy Information Administration (EIA), the oil and gas industry, the State of Louisiana, and other interested parties, CBO estimates that enacting the bill would reduce offsetting receipts, which are treated as reductions in direct spending, by about \$1 million over the 2019–2028 period.

Because enacting H.R. 3392 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3392 would not increase net direct spending by more than \$2.5 billion or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3392 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Background

The affected lands were omitted from a federal land survey in 1842. The State of Louisiana subsequently deeded those lands to the Bossier Levee District, which transferred them to private individuals. Following a resurvey of the area published in 1969, BLM determined that the lands, which were then held privately, fell under federal jurisdiction. In recent years, BLM and private titleholders have each claimed ownership of the affected lands and the subsurface mineral estate; however, the private titleholders are not currently pursuing any remedy other than legislation similar to H.R. 3392.

Royalties from ongoing gas production

The affected lands contain one active natural gas well. The well's operator has suspended royalty payments because of the perceived uncertainty about ownership of the royalty interest. Based on information from Louisiana, CBO estimates that the royalties due to the federal government for gas produced from that land total less than \$500,000. In addition, CBO estimates that any royalties generated from future production of gas from the existing well would total less than \$10,000 over the next 10 years. Under the Mineral Leasing Act, 49 percent of those amounts would be paid to Louisiana. Because of the uncertainty regarding when the lease operator will deem the ownership of the affected minerals resolved and make royalty payments to the federal government, CBO estimates that there is a 50 percent probability that those payments will be made over the next 10 years. Thus, enacting H.R. 3392, which would result in BLM's disclaiming ownership of the royalty interest, would reduce expected offsetting receipts by less than \$125,000 over the 2019–2028 period.

Royalties from new gas production

The affected lands make up about one-third of a production unit, which consists of one square mile of land and the associated minerals. Based on information regarding the average number of wells

drilled on production units in northwest Louisiana, CBO expects that between three and five additional wells could be drilled on the unit and that each would produce about 4 billion cubic feet of gas, nearly all within the first 10 years. That additional production would only occur if gas prices are high enough to make new production economical.

Using information provided by EIA and individuals working in the oil and gas industry, CBO expects that new drilling will not occur on the affected lands unless gas prices at the wellhead exceed \$3.50 per thousand cubic feet (mcf). Under CBO's April 2018 baseline, gas prices are not expected to exceed that amount at any point over the next 10 years. However, CBO's baseline projections of gas prices in each year represent the midpoint of a range of possible prices. CBO estimates that the probability that prices will be high enough to spur new production on the affected lands over the next 10 years ranges from 18 percent to 27 percent in each year and that the average wellhead price under those scenarios would range from \$5/mcf to \$6/mcf.

Because of the perceived uncertainty concerning the ownership of associated resources, CBO estimates that there is a 50 percent probability that the federal government will receive no royalty payments from new wells over the next 10 years, either because operators would choose not to drill new wells or because they would suspend royalty payments on new production. After accounting for a range of scenarios with different prices and production volumes, CBO estimates that the expected gross federal royalties from new wells on the affected lands would range from \$1 million to \$2 million over the next 10 years. Of those amounts, 49 percent would be paid to Louisiana. On that basis, CBO estimates that, on net, enacting H.R. 3392 would reduce offsetting receipts from royalties paid on production from new wells by between \$500,000 and \$1 million over the 2019–2028 period.

Uncertainty

CBO aims to produce estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. In estimating the effects of H.R. 3392, CBO had to account for two major sources of uncertainty. CBO cannot predict if or when the leaseholder on the affected lands will deem the dispute over ownership of those lands settled, which will determine whether any payments are made to the federal government. CBO also cannot foresee future gas prices with certainty. The price of gas will determine whether additional gas is produced from the affected lands and when that production may occur, which will affect the amount and timing of any royalty payments the leaseholder would make to the federal government. Because of those uncertainties, the budgetary effects of enacting H.R. 3392 could differ from those provided in CBO's analysis.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. 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 provide for stability of title to certain land in the State of Louisiana.

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. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

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

ADDITIONAL VIEWS

H.R. 3392 would void the results of a 1967 Bureau of Land Management (BLM) resurvey of lands in the Bossier Levee District of Northern Louisiana and restrict future federal surveys. In effect, this bill transfers public land that belongs to the American taxpayers to private interests.

The land at issue was originally surveyed in 1842, transferred to the Bossier Levee District in 1892, and conveyed to private owners in 1904. However, BLM conducted a resurvey in 1967 after realizing that certain lands were omitted from previous federal surveys. The re-survey put more than 200 acres of land previously thought to belong to Louisiana and private interests, back into federal ownership.

Until recently, and despite BLM's outreach efforts to notify landowners, the results of this re-survey were largely ignored or forgotten. Today, approximately 50 homes may be impacted, and BLM is currently working to evaluate ownership and authorize conveyance, where appropriate, under the Color of Title Act. The Color of Title Act authorizes the BLM to convey public lands that have been acquired by peaceful adverse possession, often caused by historical surveying anomalies, such as in this case.

However, conveyances authorized under the Color of Title Act do not necessarily include the subsurface mineral estate. Pursuant to section 209 of the Federal Land and Policy Management Act of the 19676 (FLPMA), the United States generally retains mineral interests when dispensing of land managed by the BLM.

The FLMPA also states that the federal government reserves the right to "prospect for, mine and remove the minerals under applicable law."¹ The Secretary of the Interior is authorized to forfeit the mineral interests of the subsurface estate as part of a conveyance if the value of the subsurface estate is deemed to be negligible or the withholding of the rights to mineral interests hinder non-mineral development of the land—neither condition has been met by the purposed conveyance in H.R. 3392.

H.R. 3392 ignores the results of the resurvey, potentially authorizing the conveyance of the federally owned subsurface mineral estate with an estimated value of \$10 million.

There has not been a hearing H.R. 3392 in the 115th Congress, through a similar bill—S. 1219—was the subject of a Senate Committee on energy and Natural Resources hearing on February 7, 2018 during which Brian Steed, Deputy Directory of Policy and Programs for the Bureau of Land Management, expressed his concern that the bill "transfer Federal lands and mineral estate out of

¹Bureau of Land Management. Washington, D.C. "Federal Land Policy Management Act of 1976, as amended." Web:<<https://www.blm.gov/or/regulations/files/FLPMA.pdf>>

Federal ownership without equitable compensation to U.S. taxpayers.”

BLM has the tools to resolve this situation and is committed to working with the affected landowners; Congress should not revoke its survey or convey a substantial mineral estate without fair compensation to the American taxpayers.

RAÚL M. GRIJALVA,
Ranking Member,
House Committee on Natural Resources.

