Center for American Progress

1333 H Street, NW, 10th Floor
Washington, DC 20005
Tel: 202 682.1611 • Fax: 202 682.1867

www.americanprogress.org

Testimony of Alison L. Cassady
Director of Domestic Energy Policy
Center for American Progress

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Chairman Whitfield, Ranking Member Rush, and members of the subcommittee, thank you for the opportunity to testify today. My name is Alison Cassady, and I am Director of Domestic Energy Policy at the Center for American Progress, or CAP, a nonprofit think tank dedicated to improving the lives of Americans through progressive ideas and actions.

I am going to focus my testimony on three sections of the discussion draft: section 3104, related to cross-border infrastructure projects; section 3105, related to the Strategic Petroleum Reserve, or SPR; and section 3106, related to liquefied natural gas, or LNG, exports.

Section 3104: Cross-Border Infrastructure Projects

Background

The United States has a close energy relationship with both Canada and Mexico. The United States and Canada share more than 80 transboundary pipelines and more than 30 electricity

transmission lines.[1] The United States and Mexico trade in oil, natural gas, and refined products. Although Mexico and the United States engage in little electricity trade at this time, the potential exists to expand cross-border electricity exchange, particularly from renewable energy sources.[2]

In this context, it is important for the United States to identify ways to better integrate our energy system with our neighbors' systems to the north and south. Numerous efforts are already underway. The United States and Canada have launched a Clean Energy Dialogue with the goals of "expanding clean energy research and development; developing and deploying clean energy technologies; and building a more efficient electric grid based on clean and renewable generation."[3] The United States, Canada, and Mexico also participate in the Energy and Climate Partnership of the Americas, a forum in which governments in the Western Hemisphere work on initiatives related to energy infrastructure, energy efficiency, renewable energy, and other energy issues.[4] In March, the United States and Mexico launched a separate high-level task force to "further deepen policy and regulatory coordination in specific areas including clean electricity, grid modernization, appliance standards, and energy efficiency, as well as promoting more fuel efficient automobile fleets in both countries, global and regional climate modeling," and other areas.[5]

On top of these existing initiatives, the Department of Energy's *Quadrennial Energy Review*, or QER, identified additional ways in which the United States could improve coordination among

all three countries to meet our common energy goals.[6]

Concerns with Section 3104

Unfortunately, the approach outlined in section 3104 of the discussion draft would do little to enhance North American energy cooperation. Instead, it would upend the existing process for federal approval of transboundary pipelines and transmission lines and replace it with a process that essentially guarantees approval with inadequate environmental and public interest review.

Under current law, entities wanting to construct and operate a cross-border pipeline or electric transmission line are required to obtain a presidential permit. Section 3104 of the discussion draft eliminates that requirement. Instead, the discussion draft requires the relevant federal agency to issue a "certificate of crossing" to the applicant within 120 days of final action under the National Environmental Policy Act, or NEPA, "unless the relevant official finds that the construction, connection, operation, or maintenance of the cross-border segment is not in the public interest of the United States."[7]

I have a few concerns about this approach. First, this language sets a rebuttable presumption of approval for applications. Under current law, for cross-border oil pipelines, the State Department requires an affirmative finding that a project is in the national interest. For cross-border transmission lines, the Department of Energy, or DOE, can issue a presidential permit only after it affirmatively finds the proposed project is consistent with the public interest. In contrast, the

discussion draft presumes the project is in the public interest of the United States, placing the burden of proof on opponents of the project to demonstrate that it is not.

Other language in section 3104 makes it unlikely that opponents of a project would ever be able to meet this burden of proof. The new permitting process applies only to the "cross-border" segment of the project, defined as the "portion of a liquid or natural gas pipeline or electric transmission facility that is located at the national boundary of the United States with either Canada or Mexico."[8] In effect, this language means that an applicant only needs to obtain federal approval for the portion of the project that physically crosses the U.S. border, even if the project itself spans hundreds or thousands of miles. By limiting the scope of the project requiring federal approval, the discussion draft stacks the deck against a concerned stakeholder who believes the project in its entirety is contrary to the public interest.

Similarly, by limiting federal approval to just the cross-border segment of the proposed project, the discussion draft also limits environmental review under NEPA to just the small portion of the project that traverses the national boundary, the width of which is not defined in the bill. In effect, this language exempts cross-border energy projects from meaningful environmental review. Pipelines and transmission lines can span hundreds of miles, crossing city, county, and state lines, passing through sensitive ecosystems or drinking water sources, and cutting across private property and public lands. Even the best-constructed pipelines can rupture, causing

serious environmental damage that is difficult to repair. Yet this discussion draft precludes the relevant federal agency from requiring a thorough environmental assessment of the potential impacts of the whole project and opportunities to mitigate those impacts.

One need only look at the debate over the Keystone XL tar sands pipeline to understand the implications of this section. As members of the Committee are aware, the controversy over the pipeline has nothing to do with the cross-border segment of the pipeline; rather, opponents have raised concerns about the pipeline's impact on the pace of tar sands development, climate change, and aquifers along the pipeline's route in the United States.

For a truly transcontinental project, such as a pipeline that runs from Canada through the United States to the Gulf Coast, the current presidential permitting process is the only venue for the public and stakeholders to examine and understand the potential impacts of the project in its entirety. Under the process established by this bill, the project would be permitted state-by-state with a federal permit just for the small part that crosses the border.

Taken together, the key elements of section 3104—the rebuttable presumption of approval and the narrow focus on just the cross-border segment of the proposed project—all but guarantee that the relevant federal agency will have to approve the certificate of crossing. But it will not guarantee that decision-makers have the most relevant information in front of them to understand

and address any points of stakeholder concern. Therefore, the process established by this bill would be less likely than the existing process to engender public acceptance of any final decision.

Section 3104(c)(3), related to modifications to existing projects, also raises concerns. The discussion draft exempts from the new permitting process certain modifications to existing pipelines and transmission lines, such as a change in ownership, volume expansions, downstream or upstream interconnections, or adjustments to maintain flow. Versions of this language introduced in the previous Congress included "reversal of flow direction" in the list of exempted modifications, so I am pleased to see that is no longer here. But volume expansions are often controversial and could have environmental impacts as significant as an entirely new project. They should be not be let off the hook for permitting requirements.

Section 3105: Strategic Petroleum Reserve

Section 3105 requires the DOE to conduct a strategic review of the Strategic Petroleum Reserve, or SPR. This strategic review does not raise any particular flags, but it seems a bit duplicative with the review the DOE already completed as part of the QER.

In the QER, the DOE noted that the SPR needs congressional attention, since the "design of the

SPR and the infrastructure for utilizing it were determined in 1975, when domestic oil production was in decline, oil price and allocation controls separated the U.S. oil market from the rest of the world, there was no global commodity market for oil at all, and there were no hedging mechanisms to manage risk."[9] The DOE makes several recommendations to Congress for how to update the SPR release authorities in the Energy Policy and Conservation Act to ensure the President has the tools to trigger a release from the SPR in the event of a severe supply disruption.[10] The DOE also cites the need for funding to conduct critical maintenance on SPR facilities and increase the SPR's incremental distribution capacity.[11] CAP urges Congress to consider and act on the recommendations outlined in the QER.

Section 3106: Authorization to Export Natural Gas

Background

The Natural Gas Act of 1938 requires any company that wishes to export natural gas to obtain an authorization from the DOE.[12] Under current law, when a company wants to export LNG to countries with which the United States lacks a free trade agreement, or FTA, the DOE reviews its application and must approve it unless the agency finds the exports inconsistent with the public interest.[13] When a company wants to export LNG to countries with which the United States has a free trade agreement, the DOE must deem its application as consistent with the public interest and approve it without modification or delay.[14]

To date, companies have filed more than 50 applications with the DOE to export LNG to FTA- and non-FTA countries.[15] Gas companies are most interested in obtaining access to the non-free-trade markets in Europe and Asia, where demand and prices are high.[16] The DOE has issued final authorizations to six facilities to export up to 8.61 billion cubic feet per day, or Bcf/d, of LNG to both free-trade and non-free-trade countries.[17] The DOE has issued conditional authorizations for additional applications, including a recently-issued conditional authorization to allow a consortium of Alaska North Slope producers to export up to 2.55 Bcf/d to Asia.[18] If all remaining applications are approved, then gas companies would be authorized to export up to 35 Bcf/d to non-FTA countries.[19] For context, the Energy Information Administration, or EIA, estimates that the United States consumed an average of 73.5 Bcf/d of natural gas in 2014.[20]

Concerns about Section 3106 and High-Volume LNG Exports

The DOE permitting system appears to be working, and the United States is well on-track to becoming a net exporter of natural gas. It is puzzling, therefore, that this bill seeks to fast-track DOE permit approvals. Section 3106 sets a 30-day deadline—upon the completion of the environmental review under NEPA—for the DOE to issue a final decision on any application for the authorization to export natural gas to a non-FTA country.[21]

CAP does not oppose LNG exports in principle, but we have concerns about placing artificial deadlines on agency review of LNG export permit applications. While the 30-day timeline could be sufficient in some cases or even most cases, it may not be enough in all cases. Overall, CAP

cannot support efforts to expedite permit approvals for LNG exports if doing so could prevent the DOE from making a considered and well-informed decision.

The stakes are simply too high for natural gas consumers in the United States. In 2014, the DOE asked the EIA to examine what effects higher levels of LNG exports could have on domestic natural gas prices. The EIA's conclusion is clear: "Increased LNG exports lead to increased natural gas prices."[22] The EIA estimated that natural gas supply prices would rise an average of 4.3 percent to 10.6 percent over current projections for the 2015 to 2040 period, depending on the volumes of LNG exported.[23]

This increase in the supply price translates into higher consumer prices. Using EIA data, CAP examined the potential price impact of exporting 16 Bcf/d and 20 Bcf/d on residential, commercial, and industrial natural gas consumers. CAP found that they could spend at least $7 billion more on their natural gas bills per year by 2020 and up to $14 billion more per year by 2040.[24]

Industrial consumers—those who use natural gas for heat, power, or chemical feedstock—are particularly vulnerable to natural gas price increases. Under a scenario in which the United States exports 16 Bcf/d of LNG, industrial consumers would pay 8.2 percent more for natural gas per year by 2020 than what is currently projected. Increases in industrial natural gas bills that year

would be largest in the West South Central states of Arkansas, Louisiana, Oklahoma, and Texas, as well as in the Mountain states of Arizona, Colorado, Idaho, New Mexico, Montana, Nevada, Utah, and Wyoming. Under the scenario in which the United States exports 20 Bcf/d, industrial natural gas consumers in the Middle Atlantic states would pay 18.3 percent more per year than currently projected by 2040. In the New England states, they would pay 13.2 percent more per year.[25]

Proponents of high-volume LNG exports often point to a study by NERA Economic Consulting, which concludes that LNG exports produce net economic benefits despite higher natural gas prices. But within this net economic benefit are economic winners and losers. The NERA study states that higher natural gas prices could "have negative effects on output and employment, particularly in sectors that make intensive use of natural gas."[26] NERA explained that expansion of LNG exports "raises energy costs and, in the process, depresses both real wages and the return on capital" in industries other than the natural gas industry, which benefits substantially.[27]

As a result, some manufacturers have raised concerns about the potential economic impact of policies that would raise natural gas prices. The Industrial Energy Consumers of America, or IECA—which represents "manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets"[28]—has stated its strong opposition to LNG exports. In a recent letter to President

Obama, IECA highlighted the impact that rising natural gas prices could have on the competitiveness and profitability of certain U.S. manufacturers, such as those in the chemical and fertilizer industries that use natural gas as a raw material.[29] IECA urged the DOE to exercise "great caution" when approving future LNG export applications.[30]

In short, the decision to export significant volumes of natural gas, even to our allies, is a complex one that should not be made lightly given the potential consumer impacts in the United States. This decision is made even more complicated given the growing demand for natural gas in the electricity and transportation sectors here at home. If the United States over-commits to natural gas exports, consumers could pay the price.

Conclusion

The "energy diplomacy" discussion draft under consideration today is notable for what it is does not include: provisions to facilitate and enhance U.S. cooperation with its neighbors and the rest of the world on climate change, the most urgent and challenging energy diplomacy issue of our time. President George H.W. Bush negotiated a treaty to address climate change. That treaty was ratified unanimously by the U.S. Senate in 1992. Since that time, the world has worked together to make progress on climate change and identify a path toward significant carbon pollution reductions. If we were to canvass the embassies on Massachusetts Avenue, embassy staff likely

would highlight the need to build ambition for a decisive outcome at the upcoming climate talks in Paris. Climate change has become a priority in international relations because the climate science is clear: a failure to act on climate change risks severe, irreversible impacts on a global scale.

As the Committee continues to consider the nation's energy policy and its interaction with the rest of the world, the Center for American Progress urges you to put climate change front and center in any policy you develop. We can no longer afford to separate energy policy from climate policy.

End Notes

[1] U.S. Department of Energy, *Quadrennial Energy Review: Energy Transmission, Storage, and Distribution Infrastructure* (2015), p. 6-5.
[2] Ibid., p. 6-9.
[3] U.S. Department of Energy, "U.S.-Canada Clean Energy Dialogue," available at http://energy.gov/ia/initiatives/us-canada-clean-energy-dialogue-ced (accessed May 28, 2015).
[4] Energy and Climate Partnership of the Americas, "About ECPA," available at http://ecpamericas.org/About-ECPA.aspx (accessed May 28, 2015).
[5] The White House, "Joint Statement on U.S.-Mexico Climate Policy Cooperation," press release, March 27, 2015, available at https://www.whitehouse.gov/the-press-office/2015/03/27/joint-statement-us-mexico-climate-policy-cooperation.
[6] U.S. Department of Energy, *Quadrennial Energy Review*, p. 6-13.
[7] Section 3104(c)(2)(A)(i) of Title III of untitled discussion draft, May 14, 2015, available at http://docs.house.gov/meetings/IF/IF03/20150602/103508/BILLS-114pih-TitleIII-EnergyDiplomacy.pdf.
[8] Section 3104(g)(1) of Title III of untitled discussion draft, May 14, 2015, available at http://docs.house.gov/meetings/IF/IF03/20150602/103508/BILLS-114pih-TitleIII-EnergyDiplomacy.pdf.
[9] U.S. Department of Energy, *Quadrennial Energy Review*, p. S-6.
[10] U.S. Department of Energy, *Quadrennial Energy Review*, pp. 4-7 and 4-8.
[11] U.S. Department of Energy, *Quadrennial Energy Review*, pp. 4-9.
[12] 15 U.S.C. § 717b.
[13] 15 U.S.C. § 717b(a).
[14] 15 U.S.C. § 717b(c).
[15] U.S. Department of Energy, "Long Term Applications Received by DOE/FE to Export Domestically Produced LNG from the Lower-48 States (as of May 13, 2015)" (2015), available at http://energy.gov/sites/prod/files/2015/05/f22/Summary%20of%20LNG%20Export%20Applications.pdf.
[16] For example, see Cameron LNG, "Expansion Update," available at http://cameronlng.com/expansion-update.html, and "Construction begins on Cove Point LNG export project," *Oil & Gas Journal*, October 30, 2014, available at http://www.ogj.com/articles/2014/10/construction-begins-on-cove-point-lng-export-project.html.
[17] U.S. Department of Energy, "Long Term Applications Received by DOE/FE to Export Domestically Produced LNG from the Lower-48 States." The DOE also has approved numerous applications to export LNG to free-trade countries, as required by the Natural Gas Act. But, as a practical matter, most applicants will not move forward with plans to export LNG without approval to export to non-free-trade markets in Europe and Asia.

[18] U.S. Department of Energy, "Energy Department Authorizes Alaska LNG Project, LLC to Export Liquefied Natural Gas," press release, May 28, 2015, available at http://energy.gov/articles/energy-department-authorizes-alaska-lng-project-llc-export-liquefied-natural-gas.
[19] U.S. Department of Energy, "Long Term Applications Received by DOE/FE to Export Domestically Produced LNG from the Lower-48 States."
[20] Energy Information Administration, "Short Term Energy Outlook" (U.S. Department of Energy, May 2015), p. 8, available at http://www.eia.gov/forecasts/steo/archives/May15.pdf.
[21] Section 3106(a) of Title III of untitled discussion draft, May 14, 2015, available at http://docs.house.gov/meetings/IF/IF03/20150602/103508/BILLS-114pih-TitleIII-EnergyDiplomacy.pdf.
[22] Energy Information Administration, *Effect of Increased Levels of Natural Gas Exports on U.S. Energy Markets* (October 2014), p. 12, available at http://www.eia.gov/analysis/requests/fe/pdf/lng.pdf.
[23] Ibid., p. 34.
[24] Center for American Progress, *Potential Consumer Price Impacts of Efforts to Rapidly Expand Exports of Liquefied Natural Gas*, available at (January 2015), available at https://www.americanprogress.org/issues/green/report/2015/01/27/105441/potential-consumer-price-impacts-of-efforts-to-rapidly-expand-exports-of-liquefied-natural-gas/.
[25] Ibid.
[26] NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (2012), p. 8, available at http://energy.gov/sites/prod/files/2013/04/f0/nera_lng_report.pdf.
[27] Ibid., p. 7.
[28] Industrial Energy Consumers of America, "About IECA," available at http://www.ieca-us.com/about-ieca/ (last accessed May 2015).
[29] Letter from Paul N. Cicio to President Barack Obama, January 6, 2015, available at http://www.ieca-us.com/wp-content/uploads/01.06.15_Obama-LNG-Cover-Letter.pdf.
[30] Ibid.