

February 5, 2019

The Honorable Paul Tonko
Chair, Subcommittee on Environment
and Climate Change
U.S. House of Representatives
2123 Rayburn House Office Building
Washington, DC 20515

The Honorable John Shimkus
Ranking Member, Subcommittee on
Environment and Climate Change
U.S. House of Representatives
2123 Rayburn House Office Building
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Chair Tonko and Ranking Member Shimkus

On behalf of Clean Water Action, our members, and supporters, I write to provide a written statement for the subcommittee's hearing on February 6, 2020 on H.R. 1166, the Utilizing Significant Emissions with Innovative Technologies Act, ("USE IT"). The stated purpose of the bill is to support direct air capture and storage of greenhouse gases, and facilitate the permitting and development of carbon capture utilization and storage (CCUS) projects and CO₂ pipelines. However, the language as drafted is problematic in that the bill would encourage oil development and put our water at risk. Clean Water Action recommends amending the bill to exclude oil production activities from the scope of the USE IT Act.

USE IT supports more oil production:

- **As written, the legislation will result in increased federal funding and preferential treatment for oil companies**, who are already the primary beneficiaries of federal incentives for carbon capture activities. Oil companies have received at least hundreds of millions in tax credits under Section 45Q of the tax code, with inadequate oversight, raising concerns as to whether the CO₂ has indeed been placed in secure geological storage, as required by law.¹
- Currently, the only robust market for captured or mined CO₂ is enhanced oil recovery, meaning that infrastructure built under USE IT provisions would likely be used to connect CO₂ sources to oil fields. The oil industry forecasts significant growth as a result of readily available carbon. Non-oil production uses of CO₂ should be prioritized to avoid undercutting and potentially eliminating the climate benefits of carbon capture.
- Although permanent sequestration is the stated end goal of pipelines and other infrastructure developed under USE IT, storage/utilization options not associated with oil production are not targeted with the policies in the bill. Without guardrails to ensure that

¹ Noël, John. "Carbon Capture and Release: Oversight Failures in the Section 45Q Tax Credit for Enhanced Oil Recovery" Clean Water Action/Clean Water Fund. Spring 2018. Available at: <https://www.cleanwateraction.org/publications/carbon-capture-and-release>

oil companies are not the beneficiaries of USE IT, the bill would lead to more oil production.

- **CO₂-EOR is a mature industry that does not need federal support** in the form of R&D funding paid by taxpayers and/or weakening environmental review for its infrastructure. As currently written, USE IT does not steer these resources and processes toward new and developing industries that would put captured carbon to uses that benefit the climate.

CO₂-EOR puts our air and water at risk. CO₂-EOR promises to extend the lifespan of oil fields by decades and lead to continued pollution of the air and water for those living nearby. By encouraging more oil production that utilizes CO₂-EOR, USE IT will lead to:

- **More oil and gas wastewater.** More oil production means more wastewater, which will be piped, trucked, spilled, injected, and dumped - all of which threaten water quality. The most common form of CO₂-EOR (water alternating gas injection) is especially water intensive, requiring the injection of an average of roughly 13 barrels of water for every barrel of oil produced.² This process creates huge volumes of wastewater and many related problems. From our years of work on oil and gas wastewater issues in states such as Pennsylvania, California, Texas, Oklahoma, and Colorado, we know that wastewater challenges follow oil and gas production, everywhere. State agencies aren't up to the task of effective oversight, and the industry will seek the cheapest disposal options, regardless of threats to water and health. In states where oil production is expanding, operators are seeking the ability to discharge into rivers and streams despite the fact that oil and gas wastewater is chock full of harmful chemicals, including some that we can't even detect or treat. With the finalization of the Dirty Water Rule (revised definition of a *Water of the US*), this means more of that wastewater will end up in our rivers, streams and wetlands.
- **More harmful chemicals in the environment.** More injection and oil production means more chemicals - both the additives, and the naturally occurring chemicals that come to the surface with oil and gas. From routine well drilling and maintenance activities, to well stimulation and injection products, the use of environmentally harmful chemicals in oil operations is common. The dangerous chemicals used for hydraulic fracturing are also used in conventional and EOR wells.³ And CO₂-EOR techniques may utilize PFAS chemicals. Research is ongoing for chemicals in this class to be used to improve CO₂-EOR productivity by acting as a CO₂ thickener, among other uses.⁴ At a moment when

² Wu, May, and Yiwen Chiu. "Consumptive Water Use in the Production of Ethanol and Petroleum Gasoline – 2011 Update." Argonne National Laboratory, 2011. <https://greet.es.anl.gov/publication-consumptive-water>

³ Stringfellow, William T., Mary Kay Camarillo, Jeremy K. Domen, Seth B. C. Shonkoff. "Comparison of chemical-use between hydraulic fracturing, acidizing, and routine oil and gas development" PLOS ONE. April 19, 2017. <https://doi.org/10.1371/journal.pone.0175344>

⁴ Xu, Xianhang. "Carbon Dioxide Thickening Agents for Reduced CO₂ Mobility" University of Pittsburgh. Feb 20, 2003. http://d-scholarship.pitt.edu/6471/1/dissertation_jianhang.pdf

we are trying to get a handle on PFAS/PFOA in the environment and drinking water, encouraging the oil industry to launch an expansion of their use would be reckless.

- **Threats to groundwater.** CO₂-EOR, along with other forms of enhanced recovery, like waterflooding and steamflooding, are the only forms of oil production regulated federally by the Safe Drinking Water Act's Underground Injection Control (UIC) program. That's because they put groundwater at risk, through the injection of fluids into the subsurface, potential for well failures and blowouts, and the large volumes of contaminated fluids that must be managed. But despite federal regulation, implementation has been lackluster in several states and by EPA. Congress has not raised EPA's budget to oversee injection wells in years, and state programs have struggled to effectively regulate the industry. Rapidly scaling up EOR activities without first fixing the UIC program could be a recipe for disaster for groundwater.

Finally, we are concerned with provisions in USE IT which could weaken environmental review of CO₂ pipelines and other infrastructure. It amends Title 41 of the FAST Act to include carbon capture infrastructure projects among the list of "covered projects" that receive limited public input and consideration of alternatives under NEPA. Giving oil infrastructure and pipelines preferred status for any kind of environmental review is inappropriate and puts water, air and climate at risk.

We urge you to amend and improve USE IT in order to ensure it does not lead to more oil production, more water pollution and weakened environmental reviews.

Thank you for your consideration of our views.

Sincerely,



Andrew Grinberg
National Campaigns Special Projects Manager
Clean Water Action