

**SUBCOMMITTEE FIELD HEARING ON
THE IMPACT OF ENERGY POLICY ON
SMALL BUSINESSES**

HEARING

BEFORE THE

**COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES**

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

**HEARING HELD
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**SUBCOMMITTEE ON INVESTIGATIONS AND
OVERSIGHT HEARING ON THE IMPACT
OF ENERGY POLICY ON SMALL BUSINESSES
HELD IN TULSA, OKLAHOMA**

Tuesday, August 25, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10 a.m., in the B.S. Roberts Room, North Building, OSU-Tulsa Campus, 700 N. Greenwood, Tulsa, Oklahoma, Hon. Jason Altmire [chairman of the Subcommittee] Presiding.

Present: Representatives Altmire and Fallin.

Also present: Representative Sullivan.

Chairman ALTMIRE. Now call this hearing to order.

Energy plays a critical role in every sector of our economy. From manufacturing products to growing the food we eat to transporting and delivering goods, every aspect of American commerce depends on abundant and affordable sources of energy. This isn't about to change anytime soon. Our use of oil increases two percent annually and is expected to reach 21 million barrels per day by the year 2030.

America's 26 million small businesses consume approximately half of all energy use for commercial and industrial purposes.

It's also important to remember that small businesses are key players, not just in energy consumption, but also energy production. Nationally, independent oil and natural gas producers represent more than 5,000 of Americans—America's small businesses. The average number of full-time employees at these companies is 12. That is a small business by anyone's standard. While these companies are small, together they produce the majority of our oil and natural gas. Small producers drill 90 percent of the oil and natural gas wells in the United States. More than 80 percent of American natural gas comes from these businesses.

Entrepreneurs are also leaders in developing new sources of energy. For example, small firms comprise 90 percent of the renewable and efficiency industries. So as our nation looks to our energy future, we must be sure that we factor in small business needs from both angles as consumers, but also as producers. A number of energy matters are being debated in Washington right now.

My hope is that today's hearing will provide important outside-the-beltway perspectives on these critical issues.

I thank Ranking Member Fallin for hosting this hearing so that we can gather this valuable insight and I thank Congressman Sullivan for being here as well and inviting me to the district.

As I see it, the issues before us break into three broad categories. First, lessening our dependence on foreign energy sources is not just an economic challenge, but a question of national security. Our national energy dialogue must examine how to expand energy production in this country so that less of our oil comes from unstable and dangerous parts of the world. Second, our discussion today should touch on expanding new forms of energy. And finally, reducing consumption will have to be part of the equation.

We are making strides in this area by encouraging the adoption of more fuel-efficient cars and trucks and we are also giving consumers greater incentives to maximize energy efficiencies in their own homes. Entrepreneurs are pioneering the technologies that will help us meet our energy goals. The policies we develop in Congress should harness and support the good work entrepreneurs are already doing.

And on that note, let me thank each of our witnesses for being here today. I thank them for their testimony and I think it will provide us valuable insight.

[The information is included in the appendix.]

Chairman ALTMIRE. With that, I will turn to the Ranking Member of the Subcommittee for her opening statement. Congresswoman Fallin.

Ms. FALLIN. Thank you, Mr. Chairman, and let me just say welcome to Oklahoma. It is Congressman Altmire's first time to ever visit our state, and as we were visiting in Committee over the last couple of years, I asked him to come to Oklahoma and he made a commitment to do that, so we appreciate you taking time to come to our great state and to have this important field hearing on a topic that is very near and dear to our heart, and that of course is small business and the energy sector and how federal policy could affect Oklahoma and of course our nation. And I appreciate your great comments about our national security and our economic security and as it relates to small business and energy, so thank you so much for being here today. We welcome you.

And before I begin, I want to thank Oklahoma State and the Tulsa campus for hosting this hearing today. It takes a lot of time and effort to put these events together. I appreciate President Gary Trennepohl for hosting us here. Thank you so much and your staff has been wonderful. I want to recognize Dr. Mary Bea Drummond who has helped us, and Travis McBride who have been helping to coordinate this event and your vice president Ron Bussert—I see him here, who I went to college with at Oklahoma State. Good to see you here, Ron.

And also want to recognize our secretary of energy, J.D. Strong. I think I heard that he walked in the room—there you are. Welcome. Good to have you here—from Oklahoma and also Corporation Commissioner Dana Murphy. We appreciate your attendance today, along with all of our guests that have joined us. Thank you so much for coming, and we're very appreciative of Congressman John Sullivan for opening up his district to have this hearing. I

know that as a colleague, John is very interested in energy policy so we appreciate you hosting us.

Well, let me just begin by first of all saying thank you all for taking time to join us here, and especially our witnesses, as we examine the impact of our nation's changing energy policy and how that affects our small businesses. So once again, we know that our chairman has many demands upon his time and places that he could be, but he recognizes the importance of energy in small business, especially as it relates to Oklahoma, so thank you once again for being here and taking the time to be with us. Jason has been a great friend to me and I appreciate that. Jason and I were actually both elected to Congress in 2006 and served on the Small Business Committee now for three years and he has been very conscientious, hardworking, and easy to get along with and works with both sides of the aisle.

And Congressman Sullivan, I want to mention a couple of things about him. We are in his hometown. John and I have served together for many years, both when he was in the legislature at the Oklahoma Capitol, and I have sought after his advice and considered him to be a good friend. He, of course, has been elected to Congress. He serves on the Energy and Commerce Committee and is now serving a second term as a member on this Select Committee on Energy Independence and Global Climate Change, and he is one of only six Republicans on that Committee, and he is the only Oklahoman who is appointed to that Committee and he has been a great leader in the area of energy and climate change issues and knows very well how those issues affect our small businesses in our state. So John, thank you once again for coming today to testify in front of this important Committee and this conference.

Well, energy is the lifeblood of our economy along with small businesses, and many in this room have worked together to help build our small businesses in our state and of course to build our energy sector. America's economic prosperity is closely tied to the availability of reliable and affordable supplies of energy. This is not a new issue.

However, with technology improving, the energy independence discussion has changed greatly over the past couple of years. The stark reality is that our nation imports about 60 percent of the petroleum that we currently need, and to make our petroleum supply even worse, we have not built a new refinery in the United States in over 25 years. And this is stretching our refining capacity to the limit, and in fact, the volatility of energy prices.

Over the past couple of years, we have debated traditional renewable alternative energy policies and I do not believe that the search for energy should be limited to any one particular form of energy, but we should look for all forms of energy and encourage especially our small businesses to pursue those forms of energy. It is important for our nation, for our national security, and our economic security to pursue all the above forms of energy to help provide for further energy independence in our nation, to create good-paying jobs, especially as it relates to small business, to promote a cleaner environment, and I also believe without imposing any new national energy taxes or some type of urban emission trade

systems, which I believe would affect our production of energy and even affect our economy.

Another way to explore expanding our energy is through other forms of energy such as nuclear energy, and the Department of Energy has recently stated that the best way to reduce our emissions is to look for cleaner forms of energy production and nuclear energy is one of those areas. Our economy is driven by energy, but we must also have a balanced approach to exploring ways to meet our energy needs. And that means looking for new ways to increase production of energy, including all forms of energy, whether it's oil, coal, nuclear, wind, solar, biofuels, all the different forms of alternative energy that are available to our nation.

And while we're looking at the future of energy independence, we also have to make sure the federal government is doing all that it can to provide the fuel that our economy needs to operate at a reasonable price. Leading the way in domestic energy production, reducing the United States' dependence on foreign oil, Oklahoma stands at the forefront as we struggle for the energy independence.

Oklahoma has long had the tradition of producing much of our nation's traditional sources of energy. Our state ranks third in our nation in natural gas production, fifth in crude oil production, and eighth in crude oil distillation, and one in seven jobs in Oklahoma is directly or indirectly supported by the oil and natural gas industry in Oklahoma. And we are very fortunate to have over 80,000 active oil wells that produce 61 million barrels of oil in Oklahoma. Eight percent of America's natural gas reserves are located in Oklahoma and many of our greatest energy fields in America are located in our state, and yet we still have fields that could be produced or need to encourage better production of.

As the United States seeks out alternative forms of energy sources, Oklahoma has enormous potential as a source of wind power, solar power, and even ethanol production.

The development of wind power is an exciting source of energy in our nation. The state of Oklahoma should look at ways to produce and promote wind energy in our state. In fact, I think Oklahoma is sixth in the nation in development of wind energy. The panhandle alone has the capacity to produce more than 8400 megawatts of wind generation and western Oklahoma has been very good in developing more wind energy, and so far, we have an investment of over \$10 billion in wind production in our state. So we're very excited about the potential that Oklahoma has to be one of the leaders in alternative forms of energy and especially wind energy.

It's also very important that we take a measured and calculated approach towards addressing our energy and climate needs, and dramatic new requirements for energy can have devastating effects upon our economy as we look at some of the rules and regulations that we're discussing in Washington, D.C.

We are very fortunate today to have on our panel representatives from many different industries who will testify. We even have someone who's going to visit with us about some of the proposed changes in Congress in our homebuilding industry and how some of the new mandates can affect energy and our homes in creating energy efficiency in our homes. We're excited to have the national

president of the American Home Builder Association to testify, along with some of our other producers, some of our other alternative forms of energy sources here, some of our suppliers, who I think can very easily, Mr. Chairman, address how small business will be affected by some of the policies that we're discussing in Washington, D.C. And how our policy discussions will either hopefully reduce our dependence on foreign energy, create other forms of energy that will be more efficient, cleaner, and cost-effective versus how some of our policies could cost us jobs and also further increase our dependence on foreign energy.

So we are very fortunate to have an expert panel today to testify and may I just conclude by saying welcome to all of you. We appreciate your time to be here.

[The information is included in the appendix.]

Ms. FALLIN. Now, I'd like to introduce Congressman John Sullivan, who has joined us here today and he's going to make some opening comments.

Mr. SULLIVAN OF OKLAHOMA. Thank you, Congresswoman Fallin and Congressman Altmire. Thank you for being here. You guys are doing a great job in addressing a really—something that's very concerning is how energy policy in Washington, D.C., affects people and small businesses, which are the backbone of our economy as we all know.

You know, I think to address our energy policy in this country, we could do it in a better fashion by, you know, making sure it doesn't affect small businesses, but not taxing people and having a carbon trading system scheme, we need to do it differently. Like Congresswoman Fallin said, we need to look at all of the above energy strategy.

We need to look at wind, solar, nuclear, gas, oil—all those things are very important. But, you know, a lot of those things aren't going to happen immediately. They're just not. You know, we need to—you know, we want to get on a different horse, but until we can get on a different horse, let's not shoot the one we're on. And one of the things we need to look at is how do we—what do we do, how do we get through this?

One of the ways we lessen our dependence on foreign oil is focusing on natural gas. That is the way to do it. It burns clean and we have an abundance of natural gas here in the United States of America. Because of drilling techniques and hydraulic fracking, every field that's found supersedes—you know, they're always better. They're bigger. You know, we don't—we can lessen our dependence on foreign oil. It burns cleaner. We use about 21 million barrels of oil a day in the United States of America. And about 69 percent of that is refined into transportation fuel and used.

One of the things we can do, as I presented a bill in Congress that focuses on natural gas vehicles, getting them on the road, looking at research and development so the tanks can run—have longer range. Can we get diesel engines in trucks to run on natural gas. That's how we're going to do it, not jeopardizing jobs and sending them overseas like this cap and trade scheme does.

If someone—every emitter is going to be, you know, taxed by their trading—or trading these schemes and what is small business going to do, a small manufacturer? They're going to send their jobs

to Mexico. We're going to lose those jobs. There's no environmental regulations there. It's going to hurt our economy. And we can do it in a different way. I think we need to look at this and look at long-term natural gas strategy as a way to bridge the gap until we get these technologies.

We were talking about wind power in the back. I think wind power is great, but you know, let's be realistic about wind power. We got to get transmission, we got to get the right-of-way acquisition, the easements bought. It's going to take years before that's viable. I'd like to see it, you know, a large percent of our electric generation, but it's not going to be for a long, long time. So in the meantime, I think it's very important that we focus on natural gas strategy and interenergy policy. Thank you.

Chairman ALTMIRE. Thank you, Congressman Sullivan.

[The information is included in the appendix.]

Chairman ALTMIRE. And just a word on process to the witnesses: We're going to hear from each of you, starting with Mr. Bergey, one at a time. Each of you will have five minutes for your remarks and at the conclusion of all the testimony we will then move on to questions.

So I will turn it over to Ranking Member Fallin to introduce the first witness.

Ms. FALLIN. Thank you, Mr. Chairman.

We are very pleased to have our first witness Mr. Mike Bergey, president of Bergey Windpower of Norman, Oklahoma. He's the co-founder of BWC and president since 1987. Mr. Bergey is a mechanical engineer and internationally recognized expert in the field of small wind turbines, distributed generation, and rural electrification.

He has authored more than 70 technical papers and articles in the field and serves as a consultant to numerous government and international agencies. He holds one patent in the wind energy field. He has twice served as president of the American Wind Energy Association and served on the board of directors from 1981 to 2007. He's the past chairman of the U.S. Expert Council of—for Renewable Energy, a member of the U.S. Department of Commerce Environmental Technology Trade Advisory Committee, and president of the Oklahoma Renewable Energy Council.

He is currently the president of the Norman Chamber of Commerce and board of the Oklahoma Sustainability Network.

Do you have anything else you could do in your spare time? Mr. Bergey, we welcome you. Thank you for coming today.

STATEMENT OF MIKE BERGEY

Mr. BERGEY. My home is full of deferred maintenance.

Mr. Chairman, Representative Fallin, and Representative Sullivan, thank you for the opportunity to be here today.

Mr. Chairman, you—by odd coincidence, I was actually a constituent of the fourth district in 1967, a little before your time, when my parents moved there before taking—my father took a job out here. So we actually lived in Sewickley, Pennsylvania for a while.

Chairman ALTMIRE. That's in the district I represent right now.

Mr. BERGEY. Bergey Windpower is the third-leading manufacturer of small wind turbines in the world. Our products are not these large wind turbines used in wind farms, but they're small turbines used by homes, farms, small businesses, and for rural electrification and set—remote cell sites, things like that. We have projects in all 50 states and more than a hundred countries. We have 65 employees and we have a subsidiary in China.

Over the last 30 years, it has often been difficult because of low energy prices and shall we say a minimal federal energy policy. We have gained significantly and with little bits of federal assistance with trade missions, foreign assistance programs, R&D support. It's helped us to improve our competitiveness and get a foothold in foreign markets. We've also used the SBA—an SBA-backed loan back in the 1980s to develop some of our products, so we have used—piggybacked on government programs. We have just gained a federal tax credit for small wind turbines after 23 years out in the wilderness, and we expect significant job growth in the coming five years.

Mr. Chairman, we support the increased administration and Congressional support for clean energy technologies. We believe that green-collar jobs is a real economic development opportunity for the U.S. and as an internationally competitive company, we face competitors in Asia and Europe. We know that we're somewhat behind the ball in our government support for these clean technologies. Our competitors have received more support, so we think it's a good move.

We do support also the emerging national renewable energy standard and the actions that are being proposed to address climate change. We think these actions are past due and they follow what the public would like to see and they will help our international competitiveness we believe. We have no concerns over losing competitiveness domestically or internationally if energy prices rise a few percent as a result. We are a manufacturer. But energy costs are a very, very small part of our total cost of production.

For example, our energy costs last year were under one percent, while our health care costs were 4.4 percent, almost five times as much. We think we can handle any future increases in energy costs from cleaner energy sources by better product design, better manufacturing productivity, and other things.

There are a couple of things that we would like to see the federal government do to help end some barriers that we're facing in our technology. First one drives me a little nuts is as a—as an engineer, and that is the fact that because of the lack of reciprocity for professional engineering stamped approval of state by state, the towers for our turbines have to be engineered by us and then reviewed by people who often don't have much knowledge in the field to gain a professional engineering stamp in those states. It costs consumers thousands of dollars to get this stamp, it adds no value, and I really firmly believe that the laws of physics and rules of engineering do not vary state by state, so we'd really like to see some help getting rid of that extortion.

We'd also like to see the federal government tighten some loopholes that a few utilities—not most but just a few—are using to discourage customer-owned wind and solar systems. These arbi-

trary requirements for unnecessary insurance, new insurance, and unneeded special equipment raise the cost, limit competition for these utilities, and they thwart the intent—clear intent of federal law. So we think that closing these loopholes would be very helpful and it's a—looks like a relatively easy job.

In closing, we like where energy policy is headed. We believe it will benefit both our company as a clean energy technology company, but also the national economy. We think that it will create a lot of new jobs.

We have 350 vendors nationwide, over 200 here in Oklahoma, and we are a growing part of their sales, and so we know that we're helping the economy.

Thank you again for the opportunity to be here. Thank you, Representative Fallin, for putting this together.

Chairman ALTMIRE. Thank you, Mr. Bergey.

[The statement of Mr. Bergey is included in the appendix.]

Chairman ALTMIRE. Next we have Mr. Bob Sullivan, owner and president of Sullivan and Company, a 47-year-old family-owned independent oil and gas exploration and production company operating in several midcontinent states.

Mr. Sullivan has also founded two other successful natural gas gathering and service companies in the past 30 years. A graduate of the University of Notre Dame and the University of Michigan, Mr. Sullivan was appointed to Governor Keating's cabinet as secretary of energy in March of 2002 and continued his service under Governor Brad Henry through October 2003. Additionally, he served as chairman of the board for the Oklahoma Energy Resource Board from 2003 to 2005. He was instrumental in the original organization of the OERB in 1994 and its growth in public education and environmental cleanup, which is modeled around the country, by the way.

Thank you for being with us today, Mr. Sullivan.

STATEMENT OF ROBERT J. SULLIVAN, JR.

Mr. SULLIVAN. Thank you very much, Congressman Sullivan and Congresswoman Fallin and Mr. Chairman. I appreciate you being here in Oklahoma.

Just for perspective, I have a—it's very personal, the company that I have. I pay for the wells that I drill out of the same pocket-book that I pay for my groceries. I learned the business from my father and I have a son working for me, so it's very much a family operation.

Independent oil and gas operators get the money for exploration and production activities from two sources: Internally-generated cash from production and outside capital raised from non-operator investors. In our company we annually plow back 100 percent of the cash generated from production and employ several times that amount from outside investors.

Capital tends to flow into the business for new exploration when there is a reasonable expectation of a strong financial return in relation to risk, and flows to other industries when oil and gas is viewed as too risky for expected rewards. In my 35 years in this volatile business, approximately 22 of those years have been side-

ways or down economic experiences for our company and for our family.

The other 13 have been rewarding economic experiences. Obviously the good years have to pay for the bad.

Federal government actions directly impact my company. There are three topics important to my operation that are on your plate today in Washington, any one of which can severely cripple my business: Number one, elimination of intangible drilling cost as a tax deduction. IDCs are expenses we incur every time we drill a well. They are a normal business expense, just like any business incurs: Paying people, buying supplies, buying services. In the name of punishing oil and gas companies, Congress wants to repeal these items as tax deductions.

Number two: Repeal the percentage of depletion as a tax deduction. Percentage of depletion has been recognized for over 50 years by the accounting profession as a normal and logical recognition of a depleting asset, much like the depreciation of a piece of income-producing real estate.

Like drilling cost deductions, eliminating percentage depletion has become a politically popular vehicle for nailing oil companies. Perhaps the most misunderstood fact among elected officials is that if the objective is to bash big oil, major oil companies don't even take percentage depletion as a tax deduction. They use cost depletion. So a repeal of percentage depletion hurts only little guys like me.

In a look back on my operation for 2008, had these two business expense deductions been repealed, as is now proposed in Congress, my family and the investors we have attracted to our activities would have paid \$975,000 more in federal income taxes. The consequences of that burden would be as follows: First, my investors would direct their money to another industry or not invest at all; secondly, our family would very likely not continue in this business—too much risk for the perceived reward; third, 26 employees of Sullivan and Company be out of work; fourth, dozens of vendors would no longer be selling supplies and services to us; and fifth, America would have less Heartland domestic oil and gas reserves production.

The third thing on your plate in Washington that I'd like to discuss is the classification of fracturing fluids as hazardous materials under the Safe Drinking Water Act. Fracturing rocks underground far below any drinking water sources has been taking place all over the world for decades with no known adverse consequences to drinking water supplies. The image of oil companies polluting our water supplies makes for a tantalizing negative picture for the uninformed and a tempting tool to bash alleged pollute—polluters. The problem is that it's a fictitious image. Hydraulic fracturing is not a high-risk practice. For decades, oil and gas industry worldwide has employed belts and suspenders to assure protection of drinking water sources and has an enviable track record in this regard.

In my case, over 90 percent of the drilling we are now undertaking and planning over the next few years requires hydraulic fracturing. While this subject is likely to be considered initially, in the regulatory world and the EPA, it is of such national importance

that legislative action is also likely. I urge you, as responsible representatives and fellow stewards of our national resources, to reject any federal action that would restrict hydraulic fracturing as a proven method of recovering much-needed domestic oil and gas reserves.

In closing, let me make a general request. The vigorous and innovative private sector in this country has been the engine that has propelled America to the highest standard of living in the history of mankind, and it can continue to be that catalyst going forward. While responsible oversight and regulation are necessary to prevent abuses, the general posture of the federal government should be to avoid being a hindrance to the ingenuity, creativity, determination, productivity, and honest pursuit of prosperity by small companies like mine.

The best thing you can do for us is to encourage, not discourage, the independent producers to find and produce domestic oil and gas and to similarly allow the private sector to create the prosperity we all seek.

Thank you for allowing me to submit this testimony.

Ms. FALLIN. Thank you, Mr. Sullivan.

[The statement of Mr. Sullivan is included in the appendix.]

Ms. FALLIN. Our next witness is David House, based right here in Tulsa, Oklahoma. Mr. House has been in the exploration and production business in various ventures and companies for over 30 years. His last company sold about a year ago and he is currently in the process of establishing a new company.

He is past chairman and current board and executive Committee member of the Oklahoma Independent Petroleum Association. He's the past president of the Natural Gas Association of Oklahoma, and has testified on behalf of the OIPA at both the House and the Senate Energy Committees.

And we welcome you here to this Committee hearing, too, Mr. House.

STATEMENT OF DAVID HOUSE

Mr. HOUSE. Thank you very much, Mr. Chairman, Congresswoman Fallin, and Congressman Sullivan. Thank you for the opportunity to be here.

Thank you for your insight that two of the most critical elements in our nation today are small business and energy. As a small exploration and production company, our mission is to deploy capital in an efficient and effective manner to provide energy for our nation, jobs for our employees, tax payments to our state and nation, and to care for the land and the environment as we do so. Our history says that we have had some degree of success in meeting this mission.

As has already been noted, it is important for us to realize that when we talk about the domestic energy business, we are talking about independents that drill over 80 percent of all the wells in America today. Independents are the domestic energy industry. Energy is a core value in our nation which does not get the recognition it deserves.

We must begin to total—to understand the total role that energy plays in our economy, our defense, and our quality of life. If we don't understand this, we will someday pay for our ignorance.

A viable energy policy is one that promotes domestically-sourced, reasonably-priced, and environmentally responsible energy over a long time horizon and can meet our total energy requirements. While the current administration goal of green energy is laudable, the reality is that the last 25 years of effort in the wind and solar business now produced about two to three percent of our total energy requirements. Green energy is good and we should encourage it, but don't be misled. It will not be a significant part of our total energy requirement for decades to come.

There is, however, a national energy strategy that we can employ that will significantly change our reliance on foreign crude oil. And very simply, as has already been noted, we must move a substantial portion of our transportation fuel to compressed natural gas. Starting this process is a difficulty, and may I suggest to you that the way to start this is for the federal government, as many states as we can get to sign on, to mandate that all new vehicles over the next 36 months be CNG vehicles. If there's any place that is appropriate for government to insert itself in the free market, it is this critical area of moving us to a sustainable, long-term fuel.

We will never replace oil, nor should that be our goal. We have substantial remaining oil reserves in this nation that we should produce and—develop and produce. What we must do, however, is reduce our reliance on foreign- owned oil by those who wish to harm us. The improvements in horizontal drilling and fracture treatments have opened vast new natural gas reserves that were not available to us even five to seven years ago. The current estimate is that we have over 2,000 tcf—2,000 tcf. That's the only number out there bigger than the federal deficit. We have to use this domestic resource. It is environmentally acceptable and it is abundant. The technology for using CNG is old school. I used CNG in a truck 20 years ago. It's used around the world, and it will only improve as the market for it grows.

At the same time, we cannot kill this goose that is about to lay the golden egg. We must not rip up 50 years of tax policy that's embedded in our industry. The retention of the expensing of intangible drilling costs, percentage depletion, and the exemption from passive loss rules are critical to our ability to attract capital. With outside capital—without outside capital, we cannot survive as an industry.

Let me just say that the main reason that we have this huge amount of natural gas available to us are the improvements in hydraulic fracturing. This, again, is old school technology. It is totally safe; it has been studied by the EPA for years. If you go back far enough you will find that no one other than Carol Browner herself has declared this to be safe completion technique. To take away this critical technology as is currently proposed by Congress is foolhardy beyond imagination.

My five minutes is up. Thank you for your time and I'm certainly available for questions at your convenience.

[The statement of Mr. House is included in the appendix.]*

Mr. SULLIVAN OF OKLAHOMA. Our next witness is Mr. Mike Terry, president of the Oklahoma Independent Petroleum Association.

A lifelong Oklahoman, Mr. Terry graduated from the University of Oklahoma and began his career in the commercial banking industry. He later returned to join his family's oil business in Ada. There, Mike co-owned and managed a successful oil field service company called CFI and began purchasing oil and gas properties in 1984. After selling the service business in 1992, Mike was appointed as executive director of the Oklahoma Commission on Marginal Wells at Sarkeys Energy Center in Norman.

In 1994, Mr. Terry was hired as the first executive director of the newly formed Oklahoma Energy Resource Board where he manages—where he managed the nation's first oil and gas check off program.

In March 2006, Mike accepted a position as executive vice president of Diamondback Energy Services in Oklahoma City with the responsibilities in operations, marketing, and sales. Mr. Terry was named president of the Oklahoma Independent Petroleum Association, one of the nation's largest oil and gas associations, in February of 2007. Representing the interest of more than 2,000 members, welcome, Mr. Terry.

STATEMENT OF MICHAEL E. TERRY

Mr. TERRY. Thank you, Congressman Sullivan. Chairman Altmire, welcome to Oklahoma. Congresswoman Fallin, thank you for having us today.

The Oklahoma Independent Petroleum Association is the largest state oil and gas association and one of the larger energy groups in this country. And although some of our more than 2,000 members are large companies like Devon and Chesapeake, more than—many of our—most of our members are small companies and they are the backbone of our association.

For the most part, independent producers spend more than a hundred percent of their profits on drilling oil and gas wells. They are not big oil. They don't operate refineries. They don't sell gasoline. Much like the farmers and ranchers in our state who sell cattle and wheat at the market price, independent producers have no say in what they get for their product, they just take what the market gives them.

Oklahoma's oil and gas fields remain strong relative to other states, and we rank third or fourth in natural gas production and fifth in crude oil production. Independents dominate the energy industry, drilling 90 percent of the new wells in our state, producing 96 percent of the crude oil, and 88 percent of the state's natural gas. Sadly, however, it is estimated that 70 percent of the natural gas we produce in this state leaves the state and goes to the rest of the country. We lose that value-added by doing that and of course, that's another subject.

Even more relevant to Oklahoma's energy industry and the connection to small business are the marginal oil and gas wells. These low-volume producers, also known as stripper wells, are defined as producing less than 10 barrels of oil per day or 60 mcf of gas. Oklahoma has more than 73,000 of these wells. Marginal wells produce

29 percent of our U.S. domestic production, but they present—they produce 85 percent of our oil wells in this state. With more than 400,000 of these marginal wells in the United States, that represents more than a million barrels per day.

It goes without saying that these independent producers are a major component of our state's economy. For the first time in our history, more than one billion dollars was paid in state gross production taxes in 2006. If you combine that with income taxes, ad valorem taxes, motor vehicle taxes, and other miscellaneous taxes, our industry accounts for more than 25 percent of all the taxes paid to our state. Add to that a 2000 workforce of 76,297 workers with a total labor income of 8.9 billion, which is larger than our state budget. The wages that are paid are much higher than most other industries in our state. In fact, in 2007 that average was \$97,420 annually, which is almost three time more than the other industries in our state.

But equally important to the jobs and the taxes paid are the philanthropic contributions made by these business owners and their employees. They are the same people who devote their time and resources to the local charities, to schools, to civic clubs, churches, hospitals, and museums. All you have to do is travel around this state and look on buildings and you see oil and gas names everywhere. It's the imprint of the oil and gas sector.

I've spent this time defining the Oklahoma energy sector to make a point. The independent producer is inextricably linked to small business and small business is critical to our state and our nation. A recent survey completed by the Oklahoma Marginal Well Commission reported that approximately 50 percent of the respondents operated less than ten wells.

With that in mind, I want to turn to the negative impact that U.S. Government could have on small business. I do that by concentrating on two areas of grave concern, and that is tax policy and regulatory burden. The tax policy of oil and gas drilling and production activities has been the foundation of the independent producers decision-making process for years and years. These age-old tax policies have recognized three essential elements of our business: Number one, the huge capital expenditures that are required to drill and equip these wells; number two, the high risk associated with the operation and production activities; and number three, the ultimate steep decline curve of the production.

In my opinion, the tax policies proposed by the White House combined with the cap and trade bill passed by the U.S. House would be the largest money grab on small business in the history of our country. The proposed tax treatment is specifically designed to dramatically curtail the drilling and production of the independent oil and gas industry, thus thrusting a dagger in the heart of small business. Repealing the expensing of intangible drilling costs, reducing or eliminating the deduction for depletion, and exempting passive losses for interest owners will have severe implication on the independent's capability for attracting capital as we've already heard. Fewer wells will be drilled, production, especially marginal production, will decrease at an alarming rate, consumer energy prices will escalate, and dependence on hostile foreign countries will grow dramatically.

Any government policy that would cause increases in energy costs during the severe recession like we are in now is simply bad policy and beyond comprehension. HR 2454, also known as the cap and trade bill, is one of the worst pieces of legislation to ever come out of the U.S. House in my opinion. It's the perfect example of economic pain without environmental gain. The estimated cost by the EPA to consumers and energy producers would be 1 to 2.9 trillion dollars by the year 2050.

The goal, to reduce greenhouse gases 80 percent by that time, simply impossible. Especially since most of the other top carbon-producing countries in the world will never participate in a meaningful reduction of emissions. Big government will just get bigger. And a no-free-market regime will be established as the government will dictate everything from the number of emission allowances auction to the amounts purchased by individuals and companies. There will be stacks and stacks of buratic red tape and the monitoring required to prevent fraud and cheating will go on and on.

The system is also designed in my opinion to give big business just another advantage over small business. As the large and the publicly-held international companies develop emission trading departments, they'll use this as just another profit center for their companies as they buy, sell, and trade emissions while the small company will just be left in the dark, unable to hire experts, establish trading activities, or even have a good understanding of how you compete in this new world of emissions trading.

Finally, environmental and regulatory rules and regulations have become the ball and chain for the independent producer. And as this environmental movement sweeps across the country, there's a constant barrage of new bureaucracy facing our members year after year after year. One of the most difficult challenges of our association is to educate our members on issues like storm water, drilling permits, water permits, air quality, tribal authority, SBCC rules, the Endangered Species Act, FEMA, BLM, OSHA, CO2 sequestration, flood plains—the list goes on and on and on. It's an exhausting and very expensive process.

And the latest warmongering by the environmentalists as has already been talked about is the regulation of hydraulic fracturing. Although this issue has already been investigated by the EPA and found to be nonharmful to our water supplies, once again, the oil and gas has the big target on their back for more regulation. Ladies and gentlemen here today, I'm a formal small business owner and now represent hundreds of small businessmen and women who explore and produce the energy that's provided our country with the greatest quality of life in the world.

But I sit here troubled and very frustrated. I believe the independent producer is under attack like never before. And that means small business is under attack. Excessive taxation and extreme regulation is the sure recipe for the demise of small business and in my opinion a path towards socialist society. We must educate the uneducated, we must encourage the oppressed, and we have to stand firm in our convictions. Time will tell if we're all up to the challenge.

Thank you for your courteous attention and the opportunity to share my thoughts on these important issues.

Ms. FALLIN. Thank you, Mr. Terry. We appreciate your great comments.

[The statement of Mr. Terry is included in the appendix.]

Ms. FALLIN. Next we have Mr. Larry Mocha, who is president and CEO of Air Power Systems here in Tulsa, Oklahoma. Air Power Systems manufactures pneumatic cylinders and valves for the truck equipment industry. His company has grown from 600,000 in sales in 1984 to over 10 million in 2006. He is a graduate of Oklahoma State University and currently serves on a number of academic and governmental advisory boards, and when I was lieutenant governor of Oklahoma he was chairman of Oklahoma's Small Business Commission for many years and worked very actively in small business issues.

He is currently the chairman of the Mayor's Initiative For Entrepreneurship and is the current chairman the Center for Legislative Excellence. Mr. Mocha, we appreciate you joining us. Oh, I see you also served on the board of directors of the U.S. Chamber of Commerce and the U.S. chairman of the Small Business Council. So don't want to forget all that.

Thank you and welcome, and good to have you here.

STATEMENT OF WILLIAM MOCHA

Mr. MOCHA. Thank you, Congresswoman Fallin, thank you, Mr. Chairman, and thank you, Congressman Sullivan. It's an honor to be here today and I really appreciate you bringing this service to Tulsa, and welcome to Tulsa.

My father started our business in 1964. I graduated from OSU in 1970 and was the first employee. Six months later I was the first employee to be laid off because the business couldn't handle us. During this—I rejoined him again in 1972 and we had a good time working together during the '70s. In the early '80s with the Oil Bust, my father modeled to me what you do during tough times and how you get through it, and then I lost him in 1984 and it was too early. He was almost 65 and he had a lot more to teach me. I wish he were still here.

In the late '80s I had my share of recessions, two product liability lawsuits, those of which propelled me to get active in small business issues. I was a delegate to the White House conference in 1995 and have been very active in federal and national small business associations.

In 2000 we set a goal. Our business had been hovering around 3 million in sales for too long. So we decided we have to do what's necessary to be a bigger company, to be a better company, and we set a goal. We wanted to do 10 million and 6 by 2006. We worked hard, we got very close.

In the last quarter of 2006 the EPA issued its new standards for emissions on Class 8 trucks. Our products that we manufacture in Tulsa go and work on Class 8 trucks, which we sell around the United States. The market that we serve, the ones that buy those trucks, said no, the emissions are too expensive, they cost an initial \$10,000 per truck, and the economy, the fuel economy is worse. So they said no to buying the trucks. We ended the year 2006 at about 9.7 in sales, 9.7 million, just short of our 10.6 million.

Since then, because of the EPA standards that were introduced, we've had a decline in our sales for these last two to three years. This recession that has most recently hit us kind of surprised us. We just about worked ourselves out of the problems with the EPA initiative when the recession hit. My problem or my concerns now is that—is the recession is impacting everyone. What happened to us in 2006 we've almost resolved. We've almost gotten out of it. We've almost figured out a way to be a better company, to do other things, and to offer new products.

But the recession that's hit us recently has hit everyone. And I look at Washington and it concerns me, like the EPA, who came with a new Class 8 restriction on emissions. Why is the government impacting and coming up with more rules and more regulation that strangle small business.

Let's assume for a minute that all the rules and all the regulations that come out of the agencies, all the legislation that comes from Congress that detrimentally impacts small business, let's assume that they're all good for small business, all good for the world, all good for our climate. Why aren't they imposed equally then throughout the global markets? Why do we allow companies to come into Tulsa, to Oklahoma, to the United States, to compete against American manufacturers that don't have the stringent EPA standards that we have to go by? Why do we allow that?

My concern is it is not fair. It's not fair for manufacturers. It's not fair for American businesses. I believe in American business. I believe in small business.

I think we can compete against everyone. I just want the field leveled. What I'd like to ask you to do specifically, Congresswoman Fallin, is to draw a line in the sand and say, no more. If you want to compete for American dollars, you need to have the same kind of American standards that we have to have. You need to pay your people well. You need to keep from dumping bad products into your drinking water. You need to take care of your people.

We need someone right now to stand up for American workers and for American business. The line in the sand.

I'd like to call for a new initiative and I took the creativity in calling it the Fallin Initiative. I worked on the Fallin Commission some years ago when we tackled the workers' compensation here in Oklahoma and, Mr. Chairman, I don't mean to insult you with it, but with the Fallin Initiative, maybe we could come up with a new moral code, a new moral code for importing companies and importing countries. If you want a piece of American currency, of the American market, you've got to take care—do your part of taking care of our world.

You know, in closing, I just want to tell you it's difficult today to be in business. It's difficult anytime. We have to compete, we have to be creative, we have to take care of our employees. They have health insurance problems. We got lots of problems in the world today. The American worker can handle it. My small business can handle it. We're going to get through this just fine.

But wouldn't it be nice if our government were by our side, standing with us, helping us navigate these troubled times? In closing, I'd only say that if you believe that small business is the engine that is going to get us out of these difficult times, can't we all

stand up for small business? Can't we all stand up for American businesses? Doesn't that make sense? Thank you.

[The statement of Mr. Mocha is included in the appendix.]

Mr. SULLIVAN OF OKLAHOMA. I want to thank all the panelists. I've unfortunately got to leave after this introduction, but I appreciate all the valuable input you've given and it means a lot. Thank you so much.

Our final witness is Joe Robson, a builder and developer from Tulsa, who, in 2009, became chairman of the board of over a 2,000-member National Association of Home Builders. He is founder and president of the Robson Companies, Incorporated, developers of residential communities and commercial properties. He has been a member of the board of directors since 1990, was the chairman of BUILD-PAC in 1998 and was the chairman of the Legislative and Regulatory Policy Task Force in 2002.

He also has served as the national vice president representing Oklahoma, Kansas, Missouri, and Nebraska and was the moderator of the national vice presidents in 2004. Additionally, Mr. Robson was chairman of the Federal Government Affairs Committee 2003, chairman of the Resolutions Committee in 2002, and vice chairman of the Budget Committee in 2005.

Thank you, Mr. Robson, for being here today.

STATEMENT OF JOE ROBSON

Mr. ROBSON. Great. Thank you, Congressman Sullivan, and thank you, Chairman Altmire and Ranking Member Fallin.

I appreciate the opportunity to testify today about energy policy as it relates to housing and the homebuilding industry. Despite the fact that we're in the midst of one of the worst housing downturns since the Great Depression, homebuilders continue to make energy efficiency and sustainability for new homes a priority. As well, consumers continue to demand energy efficiency in new homes. In our most recent survey of builders, 56 percent of those surveyed said that at least some of their customers were willing to pay extra for green amenities.

However, cost and maximizing value for the dollar are critical drivers of the potential buyer's decision making, especially in the current economic downturn. Most consumers are not willing to pay extra for a more efficient home, unless they are likely to see the benefit of their investment within a reasonable length of time. In our view, this calls for continued robust federal incentives for energy efficiency in the built environment. In fact, the homebuilding industry is setting the pace in green construction with the development of the consensus-based National Green Building Standard, the only green building standard approved by the American National Standards Institute.

Unfortunately, the American Clean Energy and Security Act, or ACES Act, passed by the House in June takes the opposite approach by imposing national building codes on states and localities. In particular the bill aggressively increases energy code targets for new homes, provides greater authority for the Department of Energy to modify codes, and gives little flexibility to the states and local governments with specific geographic and climatic conditions. Perhaps the most problematic aspect of the ACES Act is that in its

broadest terms, it seeks to wring significant savings from new homes, the smallest, most energy-efficient segment of the market.

According to the Energy Information Administration, newer homes—those built after 1991 account for only 2.5 percent of all energy consumed nationally. Further, the Census Bureau reports that there are roughly 128 million homes in the U.S. today, and 74 percent, or 94 million, were built before the existence of modern energy codes. Ensuring long-term energy efficiency in new homes is critical, but we must also focus where the greatest gains can be made and that's in the existing home segment of the market.

Codes by their very nature do not address all aspects of energy consumption in housing. Incentives for increased energy efficiency are also critical to achieving the nation's long-term energy goals. There are several important incentives that exist in the tax code now, and my written statement discusses several of those in detail.

What I'd like to highlight is the new home energy efficiency credit established as part of the Energy Policy Act of 2005. Use of this program has increased three-fold since its creation and it remains the only incentive in the law for increased energy efficiency in single-family construction. I would urge the Congress to make this program permanent and enhance it so that it may have a greater effect on the energy efficiency of new home construction.

Homebuilders are stakeholders in both building and energy efficiency industries, and we look forward to working with Congress to craft policies that effectively address the energy challenges facing housing and our nation.

Thank you again for the invitation here and I'd be happy to answer any questions.

[The statement of Mr. Robson is included in the appendix.]

Chairman ALTMIRE. Thanks to each and every one of you for taking the time out of your day to be here, and I have a lot of questions based on your testimony, both your written testimony, which I've read, and your testimony here today.

I wanted to start with Mr. House. You talked in both your written and statement today about compressed natural gas vehicles and incentives to move forward with that. I come from a region of the country, western Pennsylvania, natural gas was part of our economy as well, and I was intrigued by that.

Can you talk a little bit about the differences and the advantage or disadvantage of natural gas versus electric cars? If you're to find an alternative source and move away from gasoline, what's the comparison between those two technologies?

Mr. HOUSE. Well, I think that compressed natural gas vehicles require only a minor change to the fuel system itself. The internal combustion engine as we know it today is still very usable with CNG as a fuel. The good part about CNG as a fuel is that it produces less than half of the pollutants that a gasoline engine produces, and so that's the biggest advantage, that it is commercially available today at a reasonable cost.

And it's something that we can actually implement in a very short time frame. We're staring 2010 in the face today. By the year 2020, we could have a substantial portion of our transportation fleet on compressed natural gas. I think that the ramp-up to using electric—electricity for our cars would be much a much longer

ramp-up time and the technology is not quite as advanced. It's coming, but it's not quite as advanced.

Chairman ALTMIRE. How would the fill-up process work when you need to refill the car versus recharging an electric car?

Mr. HOUSE. Right. It would take place at the same fueling station you use today. The only thing would have to be added is a compressor that could compress natural gas up to a higher PSI to get it into your tank, so the infrastructure is there as far as the fueling stations.

They just need to make modifications to be able to accept natural gas vehicles. Oklahoma has over 40 CNG vehicle stations available to us today. The state of Utah has numerous. They're one of the leaders in this technology.

So it's a very accomplishable goal is the reason I'm a proponent of it. Something we can actually accomplish.

Chairman ALTMIRE. Thank you.

Mr. Terry.

Mr. TERRY. Mr. Chairman, could I add—

Chairman ALTMIRE. Certainly.

Mr. TERRY. —to that please, sir?

The other thing I think you have to look at when you compare the two is where does electricity come from? Fossil fuels. I mean, right—in our country today most of it is made from coal, and of course coal has the most drastic emissions of all the fossil fuels. So how efficient is that to generate electricity from coal and then pass that on to the automobile industry.

And the second thing is it's going to require a tremendous amount of batteries and, first of all, do we have the technology to really do that, and then what happens when those batteries get old and we need to discard them? That could be a serious environmental issue as well.

Chairman ALTMIRE. Great, thank you.

Western Pennsylvania, we know a little bit about coal as well. But I hear you. Your point is well taken.

Mr. TERRY. Thank you.

Chairman ALTMIRE. Mr.—oh, Mr. Sullivan, go ahead.

Mr. SULLIVAN. Just a quick comment. If you're looking for something to do to dramatically impact the CNG world, seems to me that we've got this kind of a do loop going on where people aren't buying or converting the CNG cars because of perception that there aren't enough natural gas filling stations. We have 40 gas stations—natural gas stations in the state; there ought to be 400.

The people that put in that infrastructure aren't doing it because there aren't enough people drying—driving gas cars, so it's a—you've got to break that loop and the way to break it—and this is something where I think it's an appropriate role for federal government—is just create a—either a massive incentive or a big stimulus charge or something to put in these natural gas outlets, and the best billboard you could ever have would be retailers that we all know around the state and have regular, premium, diesel, and natural gas, and everybody would see that and they'd see the difference. But if you want to spend a relatively small amount of money to encourage that, I think it would be a tipping point.

Chairman ALTMIRE. What would be the general price differential if you had natural gas versus gasoline?

Mr. SULLIVAN. I think natural gas, if you get apples to apples, is about—

Mr. TERRY. 96 cents.

Mr. SULLIVAN. How much?

Mr. TERRY. 96 cents.

Mr. SULLIVAN. 96 cents when the world is 2.70, 2.80.

Chairman ALTMIRE. Okay. I had a question for you, Mr. Sullivan, as well, on the hydraulic fracturing, and, Mr. Terry, you mentioned this also.

One of the largest finds recently for natural gas, of course, runs not only through western Pennsylvania but Kentucky and Ohio up through New York and West Virginia—Marcellus Shale. How does the environmental community's concerns with hydraulic fracturing impact the development prospects for that—for the Marcellus Shale?

Mr. SULLIVAN. Well, I'm familiar with that play and the fracturing needed to make it work. And I can tell you I've sat in a number of rooms where capital expenditures were being considered for infrastructure and drilling the Marcellus, and the prospect, just the prospect, of Congress, the EPA, either one, classifying hydraulic fracturing as hazardous activity has already—just that prospect has kept capital from going in there.

I just urge you—I mentioned in my testimony—just urge you to look at the record. It's been going on for 50 years and nobody's gotten injured by this, no water's been polluted, and for your area and western New York and all the states that are involved in Marcellus, this is a huge thing. It could be an economic engine to generate new reserves of gas close to the marketplace, close to the consumer—consumption in the Northeast. So I think your area should be mightily interested in being careful about the hazardous material classification.

Chairman ALTMIRE. Thank you.

One more on this round and then I'll turn it over to Ranking Member Fallin and then we'll come back for a second round.

Mr. Terry, I appreciated your comments and with regard especially to small business and the impact of different policies may have and would have.

With regard to the Recovery Act, the stimulus bill, that was passed earlier and there were \$30 million in small business tax cuts that were in that bill, things like expensing and capital depreciation, all of those things.

Have you seen in your industry any benefit from the stimulus plan upon small businesses? Did those tax cuts in any way impact your business or nationally do you feel that the stimulus has had a positive impact in any way?

Mr. TERRY. No, I have not, and of course, when you see natural gas prices go from 13 to 10 to 5 to many of the small business independents are now getting \$2 or less for natural gas. Those incentives just don't help because the economic nature of the business where price is important is just too overwhelming, so I have not seen the impact of that in a positive way.

Chairman ALTMIRE. Okay. Congresswoman Fallin.

Ms. FALLIN. Thank you, Mr. Chairman. As you can probably tell by some of the testimony, we're pretty passionate about energy in Oklahoma and I appreciate—

Chairman ALTMIRE. I noticed.

Ms. FALLIN. —I appreciate your state's interest in energy policy, too. I know that you had a strong interest.

You know, one of the things I was thinking about was one of the recent policies that we had in Congress with the Cash for Clunkers program, and I was curious, Mr. House, if you could talk to us about the conversion of a gas car to a natural gas, compressed natural gas, car. What would that cost be? Do you have an estimate on—

Mr. HOUSE. It varies a little by the vehicle type, but somewhere between 2500 and forty—\$4,000 is—

Ms. FALLIN. And we just gave away \$4,500 for Cash for Clunkers.

Mr. HOUSE. Right. In my written testimony I think I might have alluded to that.

Ms. FALLIN. Well, and that's just interesting because here we just spent, you know, I think almost \$3 billion or so for Cash for Clunkers and we could have been converting cars to compressed natural gas as—

Mr. HOUSE. Absolutely.

Ms. FALLIN. —an energy policy. We could have been moving towards cleaner fuel at that time and so that's good to know that figure and of course, that would have also addressed some of the infrastructure issues in—in having the fill stations for compressed natural gas once you would put more cars in the marketplace—

Mr. HOUSE. Absolutely.

Ms. FALLIN. —that could have been converted to that compressed natural gas.

And if I could just ask all of you, I know that the intangible drilling costs, the percentage depletion, and the hydraulic fracturing changes that could be coming from EPA and of course from some of the rules, regulations, possible restrictions through cap and trade, all of us are very concerned in Oklahoma how that will affect our production of especially the marginal wells that you talked about, but if we were to have some severe restrictions on hydraulic fracturing, how many wells do you think that would shut down in Oklahoma for production, and how would that affect the employees in our state?

And Mr. Chairman, as I think Mike Terry had mentioned, there's about 25 percent of our revenue from our state comes in from gross production taxes and right now, with the price of gas and oil the way it is, we've seen a huge shortfall in gross production taxes to our state budget, almost 80 percent drop, which has had a big effect on our revenue as far as state, but could you just talk about how any potential changes in the hydraulic fracturing and restrictions could affect revenue in our state, production, and even the jobs, especially as it relates to small business.

Mr. TERRY. First of all, let me say on hydraulic fracturing, I've been in that business twice in my lifetime and I've had hydraulic fracturing fluid all over me. I probably drank it. And the greatest component—the largest component of that fluid is a substance

called guar gum. It makes the fluid thicker so it will carry sand and other proppants that are used, and I don't want to get too technical here, but that is the same constituent that's used in ice cream, in salad dressing, and all kinds of stuff that we consume as consumers.

It is extremely overblown. I've never heard of one instance of anyone dying from having, you know, ingested anything that has to do with hydraulic fracturing. Like I said, I've been in the business twice and very familiar with it. As far as the impact, and Mr. Chairman, in your area of the country, those Marcellus wells will not be drilled unless they're hydraulically fractured. Just mark it down. It is absolutely impossible for those wells to be economically feasible unless you frac them. So in your area of the country, those—that—it'll stop. Absolutely it will stop.

In Oklahoma, it was proposed that there would be about 500 in our—in our shale play in the southeastern part of the state—it's called the Woodford Shale—and all of those wells have to be, have to be, hydraulically fractured. That's 500 wells that probably would not have been drilled, and that doesn't include the other parts of the state. So I mean, it would be devastating, absolutely devastating, to not only the industry but the state of Oklahoma because of the—the tax revenues, the jobs, everything that's related to our industry would come to a standstill if you take, you know, hydraulic fracturing out of the picture. It's just—it just can't happen.

Chairman ALTMIRE. May I, on that point?

The environmental community—and I'm asking you to maybe put forward an argument that you don't agree with—but what is the case that they make for having to regulate that or deny the approval of it?

Ms. FALLIN. Mr. Chairman, if I could ask, would you mind passing the microphone around, because some of the people in the back may not be able to hear your responses on this.

Mr. TERRY. In my opinion, it's more of an education situation than anything else. As we have seen the shale play go to other parts of the country and grow exponentially, there are people in those areas that don't understand what's going on. And they're not educated about the oil and gas drilling practices or the production practices, and it concerns them. They see this large equipment and they see all the activity and they get worried, and they know that there's drilling going on, you know, how does that affect my drinking water.

But you know, we've been drilling wells for over a hundred years, and particularly in Oklahoma, the safeguards are in place at the state level. We have Commissioner Murphy here, who could testify about all the different rules and regulations that we put in place in our state to protect ground water. And when you're hydraulically fracturing a well at 9,000 feet and your fresh water system is at 400 feet, and there's concrete and steel pipe in between, it—it's just literally impossible for it to impact the ground water.

And so it's an education process, Mr. Chairman, and I don't know how we solve it quickly. I know in Oklahoma we formed an organization that educates our people about our industry and it's been very successful. It's in the school system, it's in the public arena

and, you know, I would propose a national education program about the energy, and just to alleviate these kinds of things.

Chairman ALTMIRE. Thank you.

Ms. FALLIN. Mr. Bergey, you had mentioned that you felt like there was some things that you liked in the energy direction of our nation and, of course, Oklahoma has been one of the leaders in wind production, but could you further talk about the effects? I'm just kind of curious about proposed cap and trade legislation and how it would affect your industry and wind production.

Mr. BERGEY. Sure. The cap and trade will not directly cause new wind farms, but it will certainly provide—it'd be one of the only—one of the solutions that companies may use to gain credits and to offset some of their pollution.

The bigger impact would be the renewable energy standard, which would be mandate for utilities to use a certain amount of electricity from clean energy sources.

28 states have that. The federal government is considering one, and that would have a large impact on large wind development—not small wind; small wind is more expensive than large wind so utilities won't choose our products, unfortunately, for that.

But for large wind, it would have a very big impact and I think would have a very positive impact for the state of Oklahoma. We've been under the what is now called the Pickens Plan, but actually the Department of Energy goal of 20 percent wind power by 2030, Oklahoma would be in the top four states in development. We could see up to 30, maybe as much as \$50 billion of investment in western Oklahoma where the wind blows, and with the transmission to move that to the larger market, we could be a very substantial gainer from that.

And also point out that the major problem with wind power, it's intermittency is most attractively solved by using natural gas combustion turbines for backup. We're very strong both in the installed capacity of that, but more importantly as my fellow guests have alluded, we are very strong in natural gas supply here, so it makes—we spend—it seems a little crazy to be importing so much coal from Wyoming and maybe a little bit from Pennsylvania, I don't know, but certainly a lot from Wyoming when we have so much wind power and so much natural gas here.

I'll just take—stay on the microphone for this very quickly and say that I fully support all of the enthusiasm for natural gas vehicles for very solid economic development reasons.

Ms. FALLIN. Can I ask you to just comment real quickly on the transmission lines and the grid, and I hear that's a huge issue and very expensive as far as you produce the wind, but you've got to get it out to the community. So could you address the availability of the transmission lines and the power grids?

Mr. BERGEY. Certainly. The—well, basically you don't want to live where the wind blows strong enough to produce cheap electricity, where it takes six clothespins to hold your undies on a clothesline. You just don't want to be there. So most people live in the big cities.

Our transmission grid did not anticipate wind power or solar power, even merchant natural gas for that matter, and so it does—the lines just don't go from where we need it to go to and so we're

having to build that and that is expensive. There's a who pays, how does that cost get allocated kind of question.

The regional transmission organizations have taken a leadership position and have worked out the rules of the road in terms of the investments, and that—those projects are moving forward. They're very large construction projects, billions of dollars, they involve land rights and some cases even eminent domain, and so they will take some time, and that's why Boone Pickens has sort of throttled back on his centralization of his projects in Texas. It was the realization not that wind power was going to be less attractive, but when he starts getting those billions of dollars of General Electric wind turbines arriving at his doorstep, he really needs to put them in the ground somewhere. And he wouldn't have any place to plug them in around Pampa, Texas. So he's going to I think end up doing projects here in Oklahoma.

But transmission is something that states and the regional transmission organizations are aggressively pursuing and I think that it's—that bottleneck is going to be largely gotten rid of in the next five or six years.

Chairman ALTMIRE. Okay. We'll do one more round of questions. I had a few—couple.

For Mr. Robson, you talked about the consumers' incentive to seek energy efficiency and if it's a delayed payback that they're a lot less likely to do it. Have you seen, despite that increased consumer demand for solar and wind—more solar I guess in your industry—just from folks who were interested in the technology and have questions about it and want to incorporate it into the building process?

Mr. ROBSON. People are interested. They're curious about it. Some do it—just a small percentage do it just because it's the thing to do, but that's a very, very small percentage. It really comes down to dollars and cents.

Chairman ALTMIRE. Are there parts of the country where it's more popular than others?

Mr. ROBSON. There's parts of the country that it's more popular. It's primarily where the sun shines a lot more than others, so yeah, it's going to be dependent on the kind of climate.

Chairman ALTMIRE. Good.

Mr. Bergey, you talked about small businesses in your testimony and we thank you for that. I was wondering about the comparison from your industry's viewpoint between small businesses and larger businesses and has there been an increased demand for alternative energy more or less in small versus larger employers—is there an increased interest depending the size of your business?

Mr. BERGEY. There certainly has been an increased interest, Mr. Chairman. We receive calls every day from companies that want—large and small—who are looking to reduce their operating costs. For the vast majority of them, the wind resources where they're located versus the electric rates they give don't provide an economic rate of return, and so our advice is invest in efficiency, get thermal heat pumps, those sorts of things, to cut your electricity demand and then wait for solar and wind systems to get into higher production volumes so that they'll be more economic at their sites.

But yes, there is definitely an increase in interest in green technologies, not just for the environmental aspect but for the green of money—to save operating costs.

Chairman ALTMIRE. Thank you.

My final question is for Mr. Mocha, and you talked a lot about foreign competition and things that we could do to help our own businesses here in America, and I agree with the things that you outlined.

I wondered if you had specific recommendations for ways that the EPA in particular—because you talked a lot about them and things they were doing wrong—do you have specific recommendations on what the EPA could do in an affirmative way to improve the process for development—developing and implementing regulations that impact energy businesses like yours?

Mr. MOCHA. I'm sorry if I gave you that impression.

I'm under the impression that everything EPA is doing is right. It's government trying to do its job and really doing a pretty good job.

My concern is that the manufacturers in America have to use different processes and we have to play by different rules than manufacturers in other countries. In fact, we see some of the large manufacturers moving to other countries. You see people like me going to other countries for plating processes, for example.

Why don't we level the playing field? Why don't we only allow those countries who have similar processes that America does to be able to market for the American dollar? I'm assuming everything that EPA is doing is right and good for the country.

Chairman ALTMIRE. Well, thank you for that. I'm glad I asked that question. And again, being from western Pennsylvania, we obviously can see the impact of the businesses moving overseas and foreign competition as well, so.

Mr. MOCHA. We have a lot of customers in your part of the country.

Chairman ALTMIRE. Okay. Well, I appreciate your testimony and I'll again turn it over to Miss Fallin.

Mr. MOCHA. Thank you.

Ms. FALLIN. Thank you, Mr. Chairman. I might just follow up on that, Mr. Mocha, on some of the proposed changes that are coming down from cap and trade and how you affect—how you believe that would affect your competitiveness, not only here in the United States but especially overseas as you're trying to operate under some of the new regulations that could be in effect with that piece of law.

Do you see that increasing your business and your competitiveness with foreign countries or do you think it might diminish that?

Mr. MOCHA. I'm glad you asked that. I think the American manufacturers, including us, can compete with anyone and we can compete successfully with anyone, but they have to have the same standards.

My suggestion is if EPA or Congress, anyone who has new regulations, new processes, new things that are going to implement business, if that could be somehow accessed—somehow regulated where everybody is impacted by it, then that's fair. That's—let's do it.

But if you cannot enforce regulation to other countries, then don't do it to American manufacturers because you're hurting us, and I don't think that's the intent of the government or EPA, so somehow we need to—if we're going to do that—you know, in a sense, it's really good for us to stand up and be a role model for the rest of the world. But it's only good if the rest of the world follows suit and we cannot reward countries that do not have those same kind of processes that America does.

Ms. FALLIN. Well, unfortunately, we can't mandate those other countries to follow the same rules and regulations that we do in a—

Mr. MOCHA. But we can—

Ms. FALLIN. —global marketplace.

Mr. MOCHA. —keep them out of America—

Ms. FALLIN. That's right.

Mr. MOCHA. —and we can keep them out of our markets.

Ms. FALLIN. But we don't always do that.

Mr. MOCHA. That's right. I think we need to have a new moral code and that's why I mentioned before, I think it ought to be the Fallin Initiative. It may not be an easy thing to do, but we've got lots of bureaucrats in Washington who are ready and able to do the job.

Ms. FALLIN. Well, I might be able to do it on a state level, but nationally and globally I don't know yet.

Mr. MOCHA. You can do it.

Ms. FALLIN. I don't have that much influence yet. But thank you.

And I want to ask Mr. Robson, you talked about the ACES Act.

Mr. ROBSON. Yes.

Ms. FALLIN. Is that the right terminology?

Mr. ROBSON. Yes.

Ms. FALLIN. And how that affects cost on homes and competition and some of the regulations on that, and I'm particularly interested in how that could affect small businesses and homebuilders and those that are involved here in Oklahoma's economy about some of the mandates. Could you just elaborate a little bit more on that?

Mr. ROBSON. Yes. The—as it pertains to the national building code that is being proposed, the mandates are to have 30 percent increase in energy efficiency requirements over the 2006 international energy code. That would be upon enactment. If states don't enact a 30 percent code, they lose federal dollars and there are damages that the Department of Energy can go against the states. By 2014, I believe, it has to be 50 percent over the 2006 energy code, and then it increases five percent per year after that up to 75 percent by 2029, I believe.

Our concern is that it is putting all of the burden on new construction, which already has had a much higher standard than we already have and we kind of talked along, Chairman Altmire, your question on, you know, what are the economics of doing things or not? What you do is price new homes completely out of the market. And frankly, I don't know how you get there. We don't have the technologies to get to 75 percent, and granted, we've got a few years to do it, but I just don't know how you get there and squeeze that much more energy efficiency.

You know, the housing industry, homes supposedly use 30 percent of the energy of the country. New homes since 1991 use two and a half percent, so that leaves the 74, 75 percent using, what, 27 and a half percent. That is where the real efficiency comes from, and nobody is addressing it—in fact, it specifically exempts existing homes and buildings, and that is the problem, especially from the construction industry.

Ms. FALLIN. Well, I would assume if these mandates go into place it would increase construction costs.

Mr. ROBSON. Yes, absolutely.

Ms. FALLIN. Which would probably slow down homebuilding and last time I checked, home prices in the United States have been going down and majority of people have their investments in their homes.

Mr. ROBSON. Right. Well, and the other problem and one of the major issues with the current housing crisis is appraisals. You know, we can't get appraisals, whether it's existing homes or new home construction. There is no allowance right now and that's one of the big impediments to energy efficiency and construction is getting credit from an appraisal standpoint for the energy efficiencies you build into a new home. If you start adding 30 percent, 75 percent efficiencies, and you don't change the appraisal process, you completely up-end the market.

Ms. FALLIN. So it doesn't change the value of the home.

Mr. ROBSON. No. There's no credit that's being given for energy efficiency right now.

Ms. FALLIN. What suggestions do you have for the current homes that are built that are not the new homes that you said are not eligible for the credit and how—what ideas do you have to help encourage current older homes to be able to create more efficiencies within their homes and maybe use new technology without breaking the bank and without going over their loan value as far as appraisals go?

Mr. ROBSON. I think it's got to be on all fronts. And Commissioner Murphy is here. We've been working with the Corporation Commission and the electric utility companies and working on the demand side management issues in Oklahoma. I think that's something being addressed around the country.

But that is a critical issue as to how you pay for energy efficiency and a lot of those homes are for lower-income housing and maybe they can't afford efficiency improvements. There are a number of proposals, there's particular financing mechanism called PACE that was cut out of this bill actually that would have been a possibility—more of a local option, financing option. You've got to be able to finance them and get the appraisals and the value when you do those, even on existing homes. So there's a number of proposals out there. Unfortunately the ACES doesn't address any of them.

Ms. FALLIN. Okay. And Mr. Chairman, I just want to mention, I know that Congressman Sullivan had to leave a few minutes early, but he has actually authored some legislation in Congress that encourages compressed natural gas and infrastructure development in our nation and I'm—I just want to commend him since he is not here. I'm a cosponsor of that legislation and it's very im-

portant to us here in Oklahoma that hopefully we can get that bill out of Committee and get it on the floor sometime. But it's a good piece of legislation. I think it would serve our nation well and help us move towards cleaner energy and help us with producing more American-made energy, reducing our dependence on foreign energy.

Mr. Chairman, I just want to say thank you so much for coming to our state. As you can tell by our witnesses here, they are all experts in their field. They are very passionate in what they believe and we think we've gleaned some great ideas here today and heard both the good sides of what we're proposing and some of the negative sides of what some of our policies could do to small business and especially to our economy here in our state to our hopefully moving away from dependence on foreign energy and even some of the small business as far as rules and regulations and mandates coming from Congress and how that will affect our small businesses.

So I want to say thank you once again. Thank you to all of our witnesses.

Chairman ALTMIRE. And I would second what the Congresswoman said about Mr. Sullivan. He's a good friend. I know he represents you all very well here and I thank him for taking the time to be here in his absence now, and I certainly thank Miss Fallin. Enjoyed being here and thanks especially to Oklahoma State-Tulsa for your hospitality. Thanks for helping us set this up. These are not easy to do. We appreciate the fact that you allowed us to hold this hearing here. I had the opportunity to walk around a little bit before the hearing and you have a beautiful campus and top-notch facilities. Thanks for the work that you do every day for students from Oklahoma, but especially thanks for allowing us to be here today. Thanks to each one of you.

This was very instructive to me and to the Committee as a whole, and this testimony was sent to everyone on the Committee and I'm sure they will review it and may have follow-up questions for you of their own, so you may be hearing from others on this.

And with that, I would ask unanimous consent that all Committee members will have five days to submit statements and supporting materials to the record, and without objection, so ordered.

Chairman ALTMIRE. This hearing is now adjourned.

[Whereupon, the Subcommittee was adjourned.]

Statement of Michael Bergey
President, Bergey Windpower Co., Norman, OK

"The Impact of Energy Policy on Small Business"

Subcommittee on Investigations and Oversight
Committee on Small Business
United States House of Representatives

August 25, 2009

Dear Chairman Atmire, Representative Fallin, and Representative Boren

Thank you for the opportunity to present my views on the impacts of federal energy policy on small business.

Bergey Windpower Co. is a 30 year old family-owned small business in Norman, Oklahoma. We manufacture small wind turbines for homes, farms, small businesses. Our wind turbines are also used for remote power systems on cell phone antenna sites and for village electrification. We are the third largest manufacturer of small wind turbines in the world, we have installations in over all 50 States and over 100 countries, and we have a wholly-owned subsidiary in China that manufactures and sells Bergey wind turbines throughout Asia. We have 65 employees and we buy products and services from ~ 350 companies, including over 200 in Oklahoma.

The small wind turbine business has been difficult for most of our company's history because of low energy prices and the lack of incentives for us and our customers. We formed the company out of research work at the University of Oklahoma in 1977 during the energy crisis stemming from the Arab oil embargo. At the time there were federal and state tax credits that, while imperfectly crafted, did create an active market. When those tax credits were allowed to expire in the wake of the collapse in energy prices in 1986 we experienced over a 90% drop in revenues. We took draconian measures to keep our doors open and went overseas to find niche markets where conventional power generation solutions (e.g., diesel generators) were unattractive. We are the only U.S. small wind turbine company to survive this market crisis.

Our primary product, a 10 kW wind turbine for homes, was developed and brought to market in 1982 and 1983 with financing from our local bank guaranteed by the SBA. That \$400,000 loan was instrumental in positioning Bergey Windpower for our survival in the down market and the relative

success we enjoy today. Our local bank, on the other hand, did not survive the Oklahoma energy industry meltdown in the mid-1980's.

During the 15 years from 1986 to 2002, while the world was awash in cheap energy, federal programs were critically important to us. We took advantage of Commerce Department trade missions, Energy Department cooperative research programs, and US-AID (& US-DOE) foreign assistance programs. I think it is fair to say that we would not have survived without the leveraging these federal programs provided. None were very large, most required cost-sharing, and most no longer exist.

Small wind does not qualify for the Section 45 production tax credit that has propelled the commercial wind industry to 42% of new generation capacity last year and industry revenues of \$17 billion. If this hearing was held a year ago, I would be complaining about our technology's treatment in the federal tax code. A year ago an American homeowner could get a federal tax credit on a Japanese solar module, but not on an American small wind turbine. This strange discrepancy in the tax code was established in the 2005 energy bill and stands, to my mind, as a good example of the disadvantages small businesses face in Washington.

Fortunately for us, the Congress rectified this situation in the "Stimulus Bill" (ARRA) a few months ago and we now look forward to seven years with a Section 25 30% federal tax credit for our customers. Recession notwithstanding, we expect this policy to help us create hundreds of new "green collar" jobs in the next five years as we are finally be able to move our products into mass production. Higher manufacturing volumes will allow us to lower prices. Increased domestic sales will also improve our competitive position worldwide, which we expect will lead to a significant expansion of our exports.

Though we are in the energy business we do not enjoy any of the tax saving subsidies of the fossil fuel industry, such as the depletion allowance or intangible drilling costs. As a Sub-S corporation we pay the top marginal tax rate on the majority of our income. We have built up a large surplus of Research & Development Tax Credits over the years but basis limitations keep us from using all but a small percentage. The rules for these credits seem to be intended for large businesses.

As a 100% renewable energy company, it should not be surprising that we are supportive of the new administration's swerve away from favoring coal and towards favoring clean energy. We share President Obama's view that promoting clean technologies is good for the economy. For example, the fuel for a wind turbine is free, so the costs for wind energy production are dominated by manufacturing, installation, and maintenance costs, which creates lots of jobs. There really is economic opportunity in the growth of "green collar jobs". In Western Oklahoma, which is rich in wind resources, commercial wind energy development is pulling local economies back from the brink and offering young people the prospect of well paying, stable, long term jobs close to their family.

We support the emerging National Renewable Energy Standard (RES) and the US-DOE goal of obtaining 20% of our nation's electricity from wind power by 2030. The "20% wind plan" has been popularized by T. Boone Picken's. We fully support the other half of Mr. Picken's plan as well, which calls for a huge increase in the use of natural gas for transportation. We hope the Congress will increase incentives for

clean energy vehicles and help underwrite the development of the CNG delivery infrastructure that we need to mainstream this emerging and extremely important domestic transportation fuel.

We have heard the complaints of those that say the proposed RES plan will increase manufacturing costs significantly and cost thousands of American jobs, but we think that those potential detrimental impacts have been exaggerated. For the vast majority of manufacturers, the cost of energy is a very small component of total manufacturing costs. At Bergey Windpower, for example, our electricity and natural gas costs were 0.86% of our total manufacturing costs last year. By comparison, our costs for employee health care were 4.35% - five times as much as our energy costs. Just a few years ago we, like every other manufacturer, saw steel and copper prices nearly double, which increased our manufacturing costs by nearly 15%. There is no chance that even an aggressive RES or carbon control plan could make that sort of impact on our costs. We have no concerns that the RES, if passed, will erode our domestic or international competitiveness in manufacturing. We strongly believe that we can do more to affect our manufacturing competitiveness with our investments in new product design and manufacturing productivity than we could ever achieve with cheaper, or even free, energy.

Our support for the RES is not based on a business opportunity for Bergey Windpower. The RES is not a business opportunity for us because we do not make, or plan to make, the very large wind turbines that the RES will promote. Small wind systems are more expensive than large wind turbines, on a per kilowatt basis, so the utilities will never use small wind turbines to meet renewable energy mandates.

For the small wind turbine industry and the homeowners, farmers, and small businesses we serve, there are some needed federal policies that we think would clear barriers and help accelerate the growth of jobs in our industry. Let me mention two:

1. We need to end the private tax on interstate commerce in the form of local requirements for in-state Professional Engineer (PE) approval of wind turbine towers. When we supply a tower with one of our wind turbines we not only stand behind it through our warranty and products liability exposure, we also provide a 35-page detailed structural analysis to the latest version of the International Building Code (IBC). This analysis is customized, per the IBC, for the customer's location (wind class, soil strength, seismic, etc.) and it is stamped by our in-house PE-licensed structural engineer. But then that analysis must be reviewed and independently approved ("stamped") by a Professional Engineer licensed in the customer's state. It's as if the laws of physics and rules of engineering differed State-by-State. Although these local engineers often lack any experience in tower engineering, they can nonetheless charge fees of \$1,000 to \$8,000 for an hour's work and 1/100 of a cent in ink. The consumer gets nothing of value for this "check" on our engineering. I believe we need a federal exemption for small wind turbine towers that already have a PE-stamped structural analysis to the latest State building code (usually the International Building Code). This preemption was done in California with no adverse consequences and we believe it would be good national policy, ending waste and supporting "green collar" jobs development.

2. We believe that the federal laws granting consumers the right to install small renewable energy systems on their premises and connect them to the utility grid need to be strengthened to end abuses by some utilities. Consumers, including small businesses, were granted rights to install and operate small scale renewable energy systems in 1978 by Section 210 of PURPA. But some utilities, particularly rural cooperatives, have denied consumers these rights by exploiting loopholes in the law to raise the consumer's costs above economic viability. For example, some utilities have set requirements for new insurance coverage that costs more than the value to the electricity generated by the wind or solar system. These in spite of the fact that there are rigorous UL standards to ensure consumer safety and all utility contracts have "hold-harmless" liability clauses. In 30 years of wind and solar industry experience and billions of operational hours there has never been a reported injury to a utility employee. It is nothing more than a ploy to limit competition. A number of state Public Utility Commissions (PUC's) have restricted these abusive practices, with no resulting adverse impacts on their utilities and ratepayers. Unfortunately, many PUC's lack jurisdiction over all utilities in their state and FERC lacks a workable program to address abuses. This is not net metering, it's the rules of the road for interconnection with the electrical grid. We believe that federal legislation is needed to limit the requirements that utilities can impose on small scale renewable energy systems up to 100 kW.

In closing, we are very appreciative of the helping hand that federal programs have provided us at various times over the last 30 years. For us, federal programs, many covering aspects of the energy business, have been more help than hindrance. We are particularly appreciative of the brand new tax credit for small wind, which we had been advocating for the last 23 years. We are supportive of the direction in which the Obama administration and the Congress are taking energy policy and we look forward to helping to build a major new clean energy industry.

Thank you again for this opportunity to share my views.

U.S. House of Representatives Committee on Small Business
Subcommittee on Investigations and Oversight
The Impact of Energy Policy on Small Business
August 25, 2009

Testimony by Robert J. Sullivan, Jr, Owner
Sullivan and Company L.L.C.
Oil and Gas Exploration and Production

I wish to thank the Committee for allowing me to testify on behalf of myself and the thousands of others like me who depend 100% on the independent oil and gas business for our livelihoods. For perspective, I own and operate a small oil and gas exploration and production company, with 16 employees in our Tulsa office and another 10 field supervisors and workers. We just passed our 50th anniversary of looking for oil and gas reserves. Both of my grandfathers relied on this industry for their livelihoods. I learned the business at the knee of my father. I now have a son learning the business. I drill wells and pay employees out of the same pocketbook I buy groceries out of. The success or failure of our operations is very personal to my wife and me and to our six children and 10 grandchildren.

Independent oil and gas operators get the money for exploration and production activities from two sources: internally generated cash from production, and outside capital raised from non-operator investors. In our company, we annually “plow back” 100% of the cash generated from production and employ several times that amount from outside investors. Capital tends to flow into the business for new exploration when the business can provide reasonable expectations of a strong return, and flows to other industries when oil and gas is viewed as too risky for expected rewards.

In my 35 years in this volatile business, approximately 22 of those years were sideways or down economic experiences for our company and our family. The other 13 were rewarding economic experiences. Obviously, the good years have to pay for the bad ones.

Federal government actions directly impact my business. There are three topics important to my operations that are on your plate in Washington today. Any one of these could severely cripple my business.

- (1) Elimination of Intangible Drilling Costs as a Tax Deduction – IDC's are the expenses we incur every time we drill a well. They are normal business expenses, just like any business incurs – paying people, buying supplies, buying services. In the name of punishing oil and gas companies, Congress wants to repeal these items as tax deductions.
- (2) Repeal of Percentage Depletion as a Tax Deduction – Percentage Depletion has been recognized for over 50 years by the accounting profession as a normal and logical recognition of a depleting asset, much like depreciation on a piece of income producing real estate. Like drilling cost deductions, eliminating percentage depletion has become a politically popular vehicle for nailing oil companies. The most misunderstood fact among elected officials is that, if the objective is to bash Big Oil, the major oil companies don't even use Percentage Depletion as a tax deduction – they use cost depletion. So the repeal of Percentage Depletion hurts only little guys, like me.

In a lookback on my operation for 2008, had these two business expenses deductions been repealed, as is now proposed in Congress, my family and the investors we have attracted to our activities would have paid **\$975,000** more in federal income taxes.

The consequences of that burden would be as follows:

- **My investors would direct their money to another industry, or not invest at all.**
- **Our family would very likely not continue in this business – too much risk for the perceived reward.**
- **26 employees at Sullivan and Company would be out of work**
- **Dozens of vendors would no longer be selling supplies and services to us.**
- **America would have less Heartland domestic oil and gas reserves and production.**

- (3) Classification of fracturing fluids as hazardous materials under the Safe Drinking Water Act. Fracturing rocks under the ground far below any drinking water sources has been taking place all over the world for decades, with no known adverse consequences to drinking water supplies. The thought of polluting our water supplies makes for a tantalizing, negative mental image for the uninformed and a tempting tool to bash alleged polluters. Hydraulic fracturing is not a high risk practice. For decades, the oil and gas industry worldwide has employed belts and suspenders to assure protection of drinking water sources, and has an enviable track record in this undertaking.

To classify hydraulic fracturing fluids as hazardous materials would serve to shut down (not slow down) a very large segment of today's domestic drilling operations. All of the currently burgeoning shale plays (Barnett, Haynesville, Fayette, Bakkan, Antrim, Marcellus) and much of the country's Coalbed Methane development would shut down. These relatively new producing provinces comprise the heart of America's newest and most important domestic reserves.

In my case, over 90% of the drilling we are now undertaking and planning over the next few years requires hydraulic fracturing. While this subject is likely to be considered first in the regulatory world (EPA), it is of such national importance that legislative action is also likely. **I urge you, as responsible representatives and fellow stewards of our natural resources, to reject any federal action that would restrict hydraulic fracturing as a proven method of recovering much needed domestic oil and gas reserves.**

In closing, let me make a general request. The private sector in this country has proven that it has been and can be the engine that has propelled America to the highest standard of living in the history of mankind. While responsible oversight and regulation are necessary to prevent abuses, the general posture of the federal government should be to avoid being a hindrance to the ingenuity, creativity, determination, productivity and honest pursuit of prosperity by small companies like mine. **The best thing you can do for us is to encourage, and not discourage, independent producers to find and produce domestic oil and gas.**

Respectfully Submitted,
Robert J. Sullivan, Jr.

United States House of Representatives

Committee on Small Business

Subcommittee on Investigations and Oversight

Hearing

The Impact of Energy Policy on Small Business

August 25, 2009

Tulsa, Oklahoma

Written Comments of David W. House

Jireh Resources LLC is a small start-up exploration and production company. My partners and I have decades of experience in this business and the energy policy of the United States will have major impact on our ability to succeed and even survive as we begin this new venture.

Let me begin by saying that all government policy has substantial impact on small business. We are so easily swept away by the winds of change that seem to be the soup de jour of government today. While faceless bureaucrats question the need for our industry and elected representatives feel compelled to churn the waters of law and regulation, small companies are tossed about in a never never land of changes that ignore our needs and the impact of such change on our livelihood and our families.

Our role in society is to deploy capital effectively and efficiently and provide energy resources to our nation while providing jobs for our employees, tax payments to our state and nation and to care for the land and environment as we do our job. We proudly say that while not perfect, we meet those goals in the best way possible and do substantially better jobs than most governmental agencies in meeting our mission.

I will turn to energy specifically and visit about the problems and opportunities that we see going forward for our nation. It is commonly understood by those in our industry that our nation has not had a viable energy policy, ever. So it is without picking on either political party that independent producers wonder how energy policy gets talked about often, but nothing is ever done to put us on a secure energy footing, including encouraging domestic energy exploration.

The current administration stresses the green energy solution. While a laudable goal, reality must set in at some point in time. There are varying estimates, but most would agree that all the wind and solar energy available today is less than two percent (2%) of our national energy supply. If we annually add all the green energy we have produced to date over the last 25 years, which is clearly a fiction waiting to be written, it would take us 15 years to get to one-third of our energy needs from green sources, and that is assuming no growth in our energy needs. The cost to develop this green energy will be hundreds of billions if not trillions of dollars. If we grow all the green energy we can, it is still nothing but a blip on the screen and a footnote in our energy future for decades to come.

If we have never had a viable policy and the current proposal is not a realistic solution what alternatives do we have? Frankly, until the last few years I have not been hopeful about our future. Let me digress for a moment and comment on a social phenomenon I have noticed. There is a severe lack of understanding of the history and current importance energy plays in our nation. Few realize or acknowledge the core role energy plays in our economy, our defense and our daily lives. We won WWII in large part because the German panzers ran out of fuel. We could not defeat the Japanese because we could not keep our ships and men in fuel. Thus we had to drop the bomb. We are currently in our second Middle East conflict to maintain some semblance of peace in the world's most prolific hydrocarbon producing region. Energy is the core value in a growing economy and key to our national defense. We must begin to give it the importance it deserves in our past and in our future.

We have been blessed as a nation with a domestic energy supply that is abundant, relatively inexpensive and environmentally acceptable to all but the most radical naysayers. That supply is of course natural gas. It is safe, domestic and abundant. We must seize the opportunity that we have been afforded and fully develop our natural gas reserves and markets. The updated estimates indicate over 2,000 tcf is available under current economic standards. That is up more than 33% in just two years. We have decades of available supply of this domestic transportation fuel that directly offsets imported oil.

Just for the record, everyone who is paying attention already knows, but the increase in supply is due to the improved technology that has made shale gas economically recoverable. Its existence was known for decades, but getting it out of the ground has always been the challenge. These vast quantities of hydrocarbon bearing source rock can now be directly exploited in order to extract the natural gas.

So let me briefly set out a national energy policy. It has very few moving parts and great benefit for the nation. First of all instead of mandating MPG which does nothing except upset the natural curve of the market, mandate that all new government vehicles (state and federal) will be fueled by compressed natural gas (CNG). The technology to use CNG as a transportation is old school. It is used around the world and the technology will only get better when there is a growing market for its use. Phase in the requirement over 36 months to give the car manufacturers time to change their fuel systems and service station owners time to add CNG pumps. At the same time begin a low level phase in of private fleets to be CNG fueled and provide tax credits needed to stimulate the demand to buy them. It is much smarter to give someone \$4500 to buy a new CNG car than pay him \$4500 for a heap of junk. The goal is to have all fleets and a substantial portion of our private vehicles utilizing CNG for fuel over the next decade.

Let me clearly say the goal is not to put producers and refiners of oil out of business, but rather give us a viable alternative to imported oil. Domestic production of oil and natural gas will be part of our energy portfolio for decades to come. Neither is the goal to bypass wind and solar nor nuclear for that matter. We will need all available energy sources for decades to come. We need a clear policy that favors domestic energy supply and at the same time protects us from the potential of price spikes caused by disruptions around the world. The only current way to do this is aggressively promote the drilling, production and transportation market for natural gas.

The purposeful migration to CNG as a significant portion of our transportation fuel accomplishes many goals. First, it stimulates domestic drilling. Domestic drilling creates American jobs, royalty owner payments and states severance taxes. Those workers and royalty owners pay taxes on all their income. Second, this policy stimulates new jobs in the fueling industry and in the pipeline industry. These new jobs will be American workers paying taxes here, not overseas. Third, CNG as a fuel cuts pollution by half versus gasoline. CNG fueled engines operate with significantly fewer oil changes and last for more miles. Fourth, for every mile driven on CNG we drive one less mile on imported crude oil. This reduces our massive payments to foreign governments. If we are able to reverse our massive imbalance of trade it will help with the pending inflation and devaluation of the dollar that we currently face. It is the right energy policy at the right time.

In addition to creating demand, we need to be sure we don't kill the supply at the same time. There are those who think ending all domestic hydrocarbon energy production is a worthwhile goal. They live in a make believe world of no need for serious transportation of goods, services and people. They would live in a world that has no plastic, no medicine, no carpet, no rubber, no computers, no electricity and no indoor plumbing. If that is the world they want to live in I encourage them to consider some other nation to live in. I want to live in a nation that has reasonably priced environmentally responsible and domestically available energy from a variety of sources to help us accomplish our goals.

Current energy policy proposals stray off into two main areas at this time, tax and environmental. The tax code relative to oil and gas has remained essentially the same for decades. The tax treatment of hydrocarbon production is a cornerstone of our business and for decades has recognized the unique risk and challenges of exploring for and producing energy. Current proposed tax increases are specifically pointed at the independent exploration and production industry. They are designed to reduce the number of wells drilled in the US. It might be worth noting for the record that independents currently drill over 80% of the domestic wells every year, so these proposals strike at the heart of the domestic industry. Why a policy maker would think increased reliance on a hostile foreign nation for the single most critical element of the

economy and our defense is a good policy is beyond comprehension of a rational person.

The first proposal is repealing the expensing of intangible drilling costs. This provision has been in the tax code for decades. It recognizes the high risk nature of our business and the utter worthlessness of costs incurred in drilling a well, after the well is drilled. The value of the well is in the rock, not the drilling. Changing this key tax provision will substantially reduce capital available to a capital intensive industry. It is independents that must go outside our companies and raise capital and independents that drill most of the wells.

The second proposal is changing the method of calculating the deduction for depletion. As you are aware, the tax code has had more schemes for calculating depreciation than Carter has pills. Depletion is the same calculation for underground reserves as depreciation is for buildings and other assets. Again for decades smaller independents have had a methodology for depletion calculation referred to as percentage depletion. It is a method the industry has relied upon for part of the formula of capital attraction given the high risk nature of the business. This proposed change would reduce available capital and cause fewer wells to be drilled.

Another very important existing law is the exemption from passive loss rules for working interest owners. The current proposal removes this exemption for the passive loss rules. While operators of wells have the primary function of day to day care of the wells, all working interest owners have the obligation to their interest for due care and concern of proper operation, lease maintenance, accounting, marketing and a variety of issues. A working interest owner in a well is vastly different than being a passive owner in an apartment house or a stockholder in a public company. The proposal to do away with this long standing exemption from the passive loss rules would cause substantial capital to flee our industry.

As we turn to the environmental front there is a major change that has been bandied about as helpful to the environment. It is the prohibition of hydraulic fracturing. The fear mongering that environmentalists enter into is not based in fact nor science but emotion. It seems like it should be bad so it must be bad. The truth and the science is that hydraulic fracturing does not in any way impact the water supply, it does not ruin water wells and it does not hurt aquifers. This has been studied by the EPA and former EPA chief, now environmental czar Carol Browner when head of the EPA agreed that hydraulic fracturing was not harmful the water supply or aquifers. The banning of hydraulic fracturing would make the production of shale gas impossible and take us back twenty years in technology. It would make trillions of cubic feet of natural gas inaccessible and would make meeting our energy needs from domestic supply

unobtainable. This proposal would starve this nation of critically needed domestic production and put us at greater risk than any time in our history.

There are a host of other problems small business faces as we tangle with the federal government in trying to fulfill our mission. They range from drilling permit requests sitting on BLM desks for months without action to the refusal of the BLM to issue leases on offshore lands that have been legitimately leased, increased environmental regulations, OSHA rules and the list goes on. My purpose here today is only to address the newly proposed changes that adversely impact us as a small exploration and production company and our industry specifically.

There are other current onerous proposals which negatively impact our industry and nation. Cap and trade will cripple America as we struggle to compete in the world market. Tax increases will take money out of drilling and put it in superfluous social programs and make American companies pay some of the highest taxes in the world. Health care changes that will serve to ration health care and cost business more money and massive deficits will invade the capital markets and make it substantially more expensive to borrow money and cause substantial inflation. This country is headed to second class status faster than the bullet trains the Congress would like to build. The degradation is based in excess taxation and regulation coupled with trying to borrow and spend our way out of debt. A student of history will know that this is a treacherous and unobtainable path.

Thank you for the invitation to testify before the subcommittee and for your patience in listening today.

David House

Jireh Resources LLC

2526 E. 71st Street, Suite A

Tulsa, OK 74136

Jireh Resources LLC 2009

Jireh is a start-up exploration and production company. We are focused on oil exploration in the Mid-Continent area of the United States. I am President and CFO of Jireh.

Primary Natural Resources, Inc. 2000-2008

As president of Primary I was responsible for overall management of the company as well as the specific management of the banking, accounting, marketing and administration.

El Paso Natural Gas/Energy Services Group 1996-2000

I was the senior vice-president for the Mid-Continent region in charge of purchasing and marketing of approximately 400,000 mcf of natural gas. El Paso closed the Mid-Continent region office in 1998 and Energy Services Group took most of the supply and market and continued the business until 2000.

Samson Resources Company 1979-1996

I held a number of increasing responsibility positions related to accounting, administration and product marketing for Samson. In 1986 I became President of Premier Gas Company a wholly owned gas marketing company. In 1996 Premier was sold to El Paso and I remained with Premier.

Arthur Young & Co. 1974- 1979

Staff auditor specializing in audits of oil and gas companies.

Professional and Education

BS in Accounting, Harding University 1974

Certified Public Accountant

Past Chairman and current Board Member of Oklahoma Independent Petroleum Association

Past President of Natural Gas Association of Oklahoma

Current Membership Chairman of OIPA

Married for 35 years to Donnita C. House

Two adult children

The U.S. House of Representatives

Small Business Subcommittee

On Investigation & Oversight

Testimony by: Michael E. Terry-President

Oklahoma Independent Petroleum Association

August 25, 2009

The Impact of Energy Policy on Small Business

The Oklahoma Independent Petroleum Association is the largest oil and gas association in Oklahoma and one of the largest state oil and gas associations in the country. Although some of the OIPA's more than 2000 members are large independents like Devon and Chesapeake the 50-plus, year-old association boasts hundreds of small producing companies with less than 10 employees. For the most part, independent producers spend more than 100 percent of their profits each year exploring for crude oil and natural gas. They are not big oil! They are defined as non-integrated companies that do not operate refineries or sell gasoline. Much like farmers and ranchers who sell their cattle and wheat at market prices, independents have no say in what price their products bring. They simply take what the market gives them.

Oklahoma's oil and gas fields remain strong relative to other states and rank third or forth in natural gas production and fifth in crude oil production. Independents dominate the energy industry, drilling 90 percent of the new wells, producing 96 percent of the crude oil and 88 percent of the state's natural gas. Sadly, it is estimated that 70 percent of our state's natural gas is transported to other states, losing the value added that could be included in our state's economy.

Even more relative to Oklahoma's energy industry and the connection to small business are the marginal oil and gas wells. These low volume producers, also known as "stripper wells," are defined as producing less than 10 barrels of oil per day or 60 mcf of gas. Oklahoma has more than 73,000 marginal oil and gas wells. Marginal wells produce 29 percent of the U.S. domestic oil and 85 percent of the state's oil production. With more than 400,000 of these wells in the United States, they represent over 1 million barrels of oil per day.

It goes without saying; these independent producers are a major component of our state's economy. For the first time in history, more than \$1 billion was paid to the state in gross production taxes in 2006. When gross production taxes are combined with income taxes, ad valorem taxes, motor vehicle taxes and other miscellaneous taxes, the oil and gas industry accounts for more than 25 percent of all taxes paid to the state. Add to that a 2007 work force estimated at 76,297 workers with a total labor income of \$8.9 billion. The industry's wages are much higher than other state industries; paying an average \$97,420 annually, almost three times the average wages earned outside the industry.

But equally important to the jobs and taxes paid, are the philanthropic contributions made by these business owners and their employees. They are the same people who devote their time and resources to local charities, schools, civic clubs, churches, hospitals and museums. All you have to do is travel around this state and look at the names on the buildings at universities, museums, hospitals, etc. to see the imprint of the oil and gas sector.

I have spent this time defining the Oklahoma energy sector to make a point. The independent producer is inextricably linked to small business. And small business is critical to our state's economy! A recent survey completed by the Oklahoma Marginal Well Commission reported that approximately 50 percent of the respondents operated less than 10 wells.

With that in mind, I turn to the negative impact the U.S. government could have on small business. I'll do that by concentrating on two areas of grave concern; tax policy and regulatory burden.

The tax policy of oil and gas drilling and production activities have been the foundation of the independent producer's decision-making process for years. These age-old tax policies have recognized three essential elements of the business; the huge capital expenditures required to drill and equip wells, the high risk associated with exploration and production activities, and ultimate decline curve of the production.

In my opinion, the proposed tax policies proposed by the White House combined with the Cap-and-Trade bill passed by the U.S. House would be the largest "money grab" on small business in the history of our country. The proposed tax treatment is specifically designed to dramatically curtail the drilling and production of the independent oil and gas industry, thus thrusting a dagger in the heart of small business in America.

Repealing the expensing of intangible drilling costs, reducing or eliminating the deduction for depletion, and exempting passive losses for interest owners will have severe implications on the independent's capabilities for attracting sources of capital. The result would be immediate. Fewer wells will be drilled, production (especially marginal wells) will decrease at an alarming rate, consumer energy prices will escalate and dependence on hostile foreign countries for energy will grow dramatically. Any government policy that would cause increases in energy costs during a severe recession is bad policy and beyond comprehension.

H.R. 2454, also known as the Cap-and-Trade Bill, is one of the worst pieces of legislation to ever come out of the U.S. House. It is a perfect example of economic pain without environmental gain. The estimated cost by the EPA to consumers and energy producers is \$1-2.9 trillion by the year 2050. The goal to reduce Greenhouse gases 80 percent by 2050 is simply impossible, especially since most of the other top carbon-producing countries in the world will never participate in a meaningful reduction of emissions. Big government will become much larger and a "No Free Market" regime will be established as the government will dictate the number of emission allowances auctioned, the amount purchased by each entity, the stacks of bureaucratic red tape, and the monitoring required to prevent fraud and cheating.

The system is also designed to give big business another advantage over small business. As the large, publicly-held, international companies develop emissions trading departments, it will become just another "profit center" for large companies as they buy, sell and trade emissions while small companies are left in the dark unable to hire experts, establish trading activities or even have a good understanding of how to compete in this new world of emissions trading.

Finally, environmental and regulatory rules and regulations have become the "ball and chain" for the independent producer. And as the environmental movement sweeps across the country, there is a constant barrage of new bureaucracy facing our members year after year. One of the most difficult responsibility's of our association is to educate our members on issues like storm water, drilling permits, water permits, air quality, tribal authority, SPCC rules, the Endangered Species Act, FEMA, BLM, OSHA, CO2 sequestration, floodplains; and the list goes on and on! It is an exhausting and expensive process!

And the latest war mongering by the environmentalist is (again) the regulation of hydraulic fracturing. Although this issue has already been investigated at length by the EPA and found to be non-harmful to our water supplies, the oil and gas industry is again the target of more regulation.

As I stand here today, both as a former small business owner and now, representing hundreds of small business men and women who explore and produce the energy that has provided our country with the greatest quality of life on the planet, I am troubled and frustrated. I believe the independent producer is under attack like never before. And that means small business is under attack. Excessive taxation and extreme regulation is a sure recipe for the demise of small business and a path toward a socialistic society. We must educate the uneducated, encourage the oppressed, and stand firm on our convictions. Time will tell if we are up to challenge.

Thank you for courteous attention and the opportunity to share my views on this important subject!

Larry Mocha Witness Testimony

“The Impact of Energy Policy on Small Business”

Rep. Mary Fallin

Ranking Member

Subcommittee on Investigations and Oversight

Committee on Small Business

United States House of Representatives

Tulsa, Oklahoma

August 25, 2009

My name is Larry Mocha and I am the owner of APSCO, Inc., a small manufacturer in Tulsa. We manufacture pneumatic cylinders and valves for applications on dump trucks, garbage trucks, winch trucks and other mobile equipment. Our company was started by my father in his garage in 1964. We have grown from \$491 of sales in our first year to over \$6 million in 2008. I began working with my father in the family business in 1970.

My father taught me a great deal about how to meet the many financial and competitive demands of running a small business. In the years he ran the business I watched him deal with the issues that always plague small business--undercapitalization, marketing and advertising of products, and survival through industry downturns. He died in 1984 at the young age of 65. While he taught me a lot, he died too soon, as I had so much more to learn.

Since taking over after my father's passing, the Company has had to deal with two product liability law suits, numerous recessions, the effects of globalization, a hypercompetitive market and the advent of numerous regulations which have increased our costs and lowered our margins. To improve our company and help our competitive position, in 2004, we successfully completed the rigorous requirements to achieve our ISO9001 2000 certification. Starting in 2007 we embarked on the journey of continuous improvement and we are daily seeking ways to lean our processes. We are a proud recipient of the Oklahoma *Safety Pays* Award and work diligently to maintain a safe work environment. We work very hard to be good citizens and obey the laws and regulations set forth by our State and federal government.

Personally, I have been an active participant in the small business community both locally and nationally since the early 1990's. I was appointed by Senator Don Nickels as his representative to the 1995 White House Conference on Small Business. In 1996 I was appointed a charter member of the SBA Small Business Regulatory Fairness program. Currently I am serving on the Small Business Advisory Committee of the Oklahoma State Department of Commerce and engaged in conducting conferences throughout the State to capture the needs and ideas of small business owners.

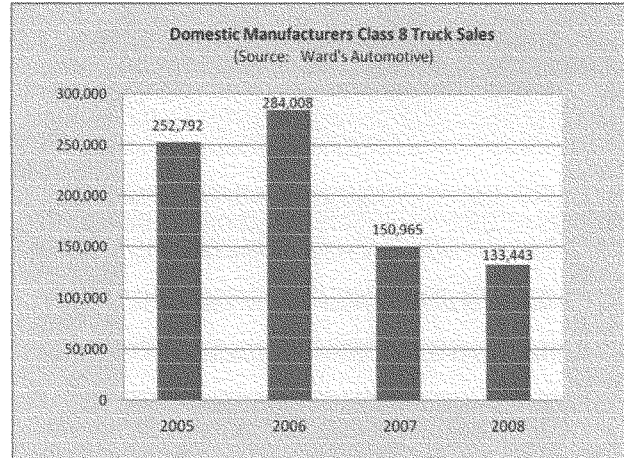
That background is relevant to my message today as it has given me the opportunity to meet and listen to the daily challenges that confront small businesses around our State. Equally important, my history has afforded me the chance to work with many State and federal agency heads and employees. I can honestly say that I have never met an agency representative that intentionally created regulations intended to hurt small business. Yet, it seems that every day agency regulators implement rules and restrictions in response to legislation without regard to their multi-level impact.

A significant segment of my sales are to customers who build parts for truck body outfitters who, in turn, furnish truck bodies to truck companies. These truck companies then sell trucks to corporations, governments and municipalities, and individual owner/operators. Therefore, the ripple effect of regulatory change is very real; when the truck owners or manufacturers are required to alter their operations due to compliance requirements it often takes a long time for upstream suppliers, like me, to recover. The truth is that all too often our government fails to understand the negative affect that regulations have on the business climate. And guys like me find it difficult to survive and to communicate our pain.

In 2006, for example, our small business was on target to reach a sales milestone of \$10 million. During the last quarter of that year, the new 2007 Class 8 trucks were introduced to our market. These vehicles, designed to comply with the new EPA emission standards, reached the market with

significantly higher price tags and were perceived to have a lower performance level. The market rejected these trucks and buyers failed to replace their older model vehicles as expected, instead opting to continue running with their existing fleets. This began a tailspin in truck sales that has been devastating to our industry. The downturn in the industry which started in 2007 has been further exaggerated by the general economic downturn and the tightening of consumer access to credit. In the last two years, the three largest purchasers of our products have reduced their truck sales over 90% from their historical purchases. Some of our long-term customers have had to close down. (It may be noteworthy to mention that the environmental improvements targeted by the increased emissions standards have been significantly delayed with the continuing use of older fleets.)

In 2003, an earlier increase in the EPA emission standards occurred that significantly impacted the Class 8 trucking industry; however, the recovery was much quicker. As indicated by the following chart, domestic truck sales were continuing to grow and reflected a 12% increase between 2005 and 2006. Although industry analysts agree that a portion of the 2006 sales performance was associated with a "pre-buy" – acquiring an excess of 2006 vehicles which were cheaper than the 2007 models which required the higher emission standards – the industry was a solid performer.

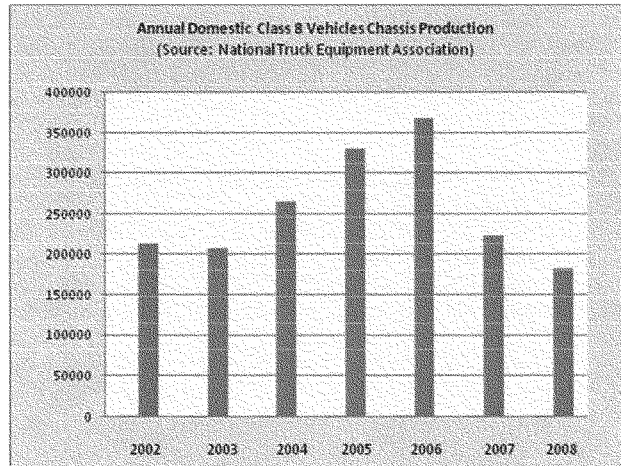


(Source documents for this illustration are included in the Appendix to this testimony)

However, following the introduction of the 2007 emission standards, truck sales throughout the industry dropped dramatically: - 47% from 2006-2007; and -12% from 2007-2008.

The industry's annual production of Class 8 chassis is monitored by the National Truck Equipment Association and is another indicator of the health of the industry. As illustrated in the following chart, the industry had slowed some with the EPA emission increases in 2003; however, it had regained strength and showed significant growth in the three years prior to the 2007 emission

regulations. In conjunction with this EPA adjustment it is evident that the standards had a critical impact on this industry, which continues to this day.



(Source document for this illustration is included in the Appendix to this testimony)

In the US, Class 8 trucks are widely used in the construction industries and historically the annual number of housing starts has been an excellent indicator of the health of the trucking industry. As indicated by the chart below, housing starts remained relatively strong until the second half of 2007; however, both truck sales and chassis production began dropping prior to the reduction in housing starts. It seems fairly evident that it was the EPA energy policy emissions standards of 2007 that accounted for the downward trend in the trucking industry not a sluggish housing market.



(Source document for this illustration is included in the Appendix to this testimony)

The trickle-down effect on our business has been profound. We have had to reduce our workforce by about half and continue to scramble just to find enough business to support the core number of workers we must maintain in order to make and sell our products. Already we are hearing that the recovery we had hoped for by next year is probably being pushed even further away. Just in the past few weeks, Daimler Trucks issued a press release announcing a \$7,000-9,000 emissions equipment surcharge associated with adding selective catalytic reduction (SCR) equipment on their 2010 model trucks in order to meet EPA standards. It seems likely that the remainder of the industry will follow suit. According to Fleet Equipment online magazine the good news is that feedback from various fleet managers regarding early beta testing of the new SCR engines indicates marked improvement in exhaust output, fuel consumption, and vehicle performance. Regardless of these enhancements, the increase in total truck prices likely may impede the small signs of recovery.

Despite our best efforts to maintain a business that can support our smaller number of workers, we often feel we are fighting a battle with too many fronts. The much-discussed and very real threat to American workers continues unabated. We see car and truck manufacturing leaving the US and going to other countries where there are no corresponding EPA standards so manufacturing costs are significantly less. Although American workers are capable of competing with foreign workers on productivity, quality, and ingenuity, they cannot possibly win a struggle based on cost when their competitors are allowed to play by rules that ensure less expensive production. Like so many others, it has become necessary for my small business to relinquish product components to overseas sources, that until recently, I was making in my own shop. While I still hold onto all product assembly and quality inspection jobs, much of my competition continues to lower their costs by sourcing even those jobs internationally.

Further damage to the industry results from allowing the import of Class 8 trucks produced by foreign companies. These products have the cost advantage of being produced without the

requirement for friendly environmental practices. The prospect for the trucking industry in the face of more environmental regulations is grim. Higher energy prices will most certainly result in greater cost of goods sold and further reduced margins within an already declining market. Additionally, competitors in foreign countries are utilizing lower wage workers (often underage) and frequently manufacturing product in unsafe working facilities to keep their costs down.

Of course, the government cannot afford to turn away from the pressing issues of the environment. However, neither can the government afford to ignore the urgent issues of the small business environment. It is critical that together we find the right solutions. How can we find incentives for companies to comply with environmental requirements but still enable them to manufacture competitively here in the US? How can we assure clean air and water for the next generation and at the same time assure jobs for ourselves and our children? I suggest that we initiate what I call "The Fallin Initiative" in honor of the small business owner's friend for many years and our host today, US Congress Representative, Mary Fallin.

I believe it is essential that we "level the playing field" for American business. The "Fallin Initiative" is one way to accomplish this objective. It is critical for our environment as well as our business climate that we stop allowing products into our marketplace that have been produced in countries without controls similar to those that are expected of American manufacturers. The "Fallin Initiative" would establish a "Moral Code" for all who would compete for the American consumer's dollar by insuring that they utilize processes which protect the air and water quality and respect the worker's welfare. It would assure that the competition, at least within the US, is a fair competition, in which the American worker is not predetermined to be the loser.

With respect to the proposed Cap and Trade act, the timing is all wrong. We are still mired in the problems of the current recession. We are hopeful that recovery will begin soon; but we have not yet seen any of the positives that recovery will bring—our sales have not yet improved and we have not yet been able to afford to rehire positions that we were forced to let go. We are still facing a long and painful struggle. Making the costly investments to fight competition is the only focus we can afford for the foreseeable future. The prospect of additional regulations that cost us money and keep us from being able to concentrate on the essentials of business survival are extremely distressing. Under Cap and Trade small business will have higher energy costs dumped on them from the large energy providers and this additional burden surely will be a burden so heavy many more small business owners will not survive. It will most certainly shackle my hopes for recovery and rebuilding my company. I do not need more mandated regulations with their accompanying administrative burden. I do not need the additional taxes that will be required to staff the government agency to oversee this new set of complex regulations.

It is very difficult to be in business today! Our world is changing and the environment is being threatened. The US has accepted its responsibility to improve manufacturing processes that will positively influence the US environment, but it must broaden that initiative. By not demanding that importing companies play by the same rules which govern US producers we not only compromise our environmental gains but also penalize our small businesses. The "Fallin Initiative" would level the playing field for business and create a behavioral change for other countries. By insisting that all businesses that want to sell product in the US utilize environmentally responsible manufacturing processes, we can leverage the power of our marketplace for good energy consumption and for good competition. The same advantages we receive from EPA programs can be enjoyed worldwide and the impact of them exponentially increased.

**WARD'S U.S. Retail Sales of Trucks by GVWR and Company
12 Months 2005**

| | 6,000 & less | 6,001- 10,000 | 10,001- 14,000 | 14,001- 16,000 | 16,001- 19,500 | 19,501- 26,000 | 26,001- 33,000 | 33,001 & over | Total |
|------------------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|------------------|
| Chrysler | 382,204 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 382,204 |
| Dodge | 383,309 | 500,927 | 35,038 | 0 | 0 | 0 | 0 | 0 | 919,274 |
| Jeep | 476,532 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476,532 |
| Total Chrysler | 1,242,045 | 500,927 | 35,038 | 0 | 0 | 0 | 0 | 0 | 1,778,010 |
| Freightliner | 0 | 0 | 14 | 4,283 | 727 | 13,646 | 27,349 | 76,243 | 122,262 |
| Sterling | 0 | 0 | 0 | 0 | 13 | 1,358 | 4,263 | 15,733 | 21,367 |
| Western Star | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,924 | 2,924 |
| Total Freightliner | 0 | 0 | 14 | 4,283 | 740 | 15,004 | 31,612 | 94,900 | 146,553 |
| Mercedes | 41,252 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 41,252 |
| Total DaimlerChrysler | 1,283,297 | 500,927 | 35,052 | 4,283 | 740 | 15,004 | 31,612 | 94,900 | 1,965,815 |
| Ford | 680,192 | 1,041,938 | 122,903 | 18,793 | 22,010 | 14,951 | 5,604 | 0 | 1,906,391 |
| Lincoln Mercury | 90,629 | 36,118 | 0 | 0 | 0 | 0 | 0 | 0 | 126,747 |
| Land Rover | 46,175 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 46,175 |
| Volvo | 49,967 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 49,967 |
| Total Ford | 866,963 | 1,078,056 | 122,903 | 18,793 | 22,010 | 14,951 | 5,604 | 0 | 2,129,280 |
| Buick | 96,148 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 96,148 |
| Cadillac | 44,267 | 29,876 | 0 | 0 | 0 | 0 | 0 | 0 | 74,143 |
| Chevrolet | 1,215,189 | 577,831 | 1,007 | 7,568 | 5,512 | 2,014 | 2,707 | 0 | 1,811,828 |
| GMC | 306,374 | 231,198 | 1,407 | 7,063 | 12,322 | 2,204 | 5,754 | 0 | 566,322 |
| Hummer | 33,140 | 23,213 | 374 | 0 | 0 | 0 | 0 | 0 | 56,727 |
| Oldsmobile | 466 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 466 |
| Pontiac | 42,494 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 42,494 |
| Saab | 2,272 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,272 |
| Saturn | 107,730 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 107,730 |
| Total GM | 1,848,080 | 862,118 | 2,788 | 14,631 | 17,834 | 4,218 | 8,461 | 0 | 2,758,130 |
| BMW | 68,367 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 68,367 |
| Hino | 0 | 0 | 0 | 278 | 553 | 2,906 | 553 | 0 | 4,290 |
| Honda | 624,650 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 624,650 |
| Hyundai | 129,054 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 129,054 |
| International | 0 | 0 | 0 | 588 | 398 | 20,865 | 33,044 | 46,093 | 100,988 |
| Isuzu | 12,177 | 0 | 5,167 | 6,977 | 2,732 | 163 | 748 | 0 | 27,964 |
| Kia | 129,456 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 129,456 |
| Mack | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 27,303 | 27,303 |
| Mazda | 65,028 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 65,028 |
| Mitsubishi | 37,523 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 37,523 |
| Mitsubishi Fuso | 0 | 0 | 670 | 2,477 | 1,150 | 1,072 | 143 | 0 | 5,512 |
| Nissan | 417,260 | 86,945 | 0 | 0 | 0 | 0 | 0 | 0 | 504,205 |
| Nissan Diesel | 0 | 0 | 276 | 466 | 861 | 975 | 80 | 0 | 2,658 |
| Kenworth | 0 | 0 | 0 | 0 | 0 | 0 | 3,874 | 27,153 | 31,027 |
| Peterbilt | 0 | 0 | 0 | 0 | 0 | 0 | 4,739 | 30,274 | 35,013 |
| Total PACCAR | 0 | 0 | 0 | 0 | 0 | 0 | 8,613 | 57,427 | 66,040 |
| Porsche | 13,607 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 13,607 |
| Subaru | 74,577 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 74,577 |
| Suzuki | 24,329 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24,329 |
| Toyota | 970,940 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 970,940 |
| Volvo Truck | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 26,446 | 26,446 |
| Volkswagen | 20,479 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20,479 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 623 | 623 |
| Total | 6,585,787 | 2,528,046 | 166,856 | 48,493 | 46,278 | 60,154 | 88,858 | 252,792 | 9,777,264 |

**WARD'S U.S. Retail Sales of Trucks by GVWR and Company
12 Months 2006**

| | 6,000 & less | 6,001- 10,000 | 10,001- 14,000 | 14,001- 16,000 | 16,001- 19,500 | 19,501- 26,000 | 26,001- 33,000 | 33,001 & over | Total |
|------------------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|------------------|
| Chrysler | 371,152 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 371,152 |
| Dodge | 344,323 | 420,687 | 36,057 | 0 | 0 | 0 | 0 | 0 | 801,067 |
| Jeep | 460,052 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 460,052 |
| Total Chrysler | 1,175,527 | 420,687 | 36,057 | 0 | 0 | 0 | 0 | 0 | 1,632,271 |
| Freightliner | 0 | 0 | 0 | 5,334 | 985 | 14,248 | 26,046 | 78,428 | 125,041 |
| Sterling | 0 | 0 | 0 | 76 | 26 | 1,147 | 3,597 | 16,712 | 21,558 |
| Western Star | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3,463 | 3,463 |
| Total Freightliner | 0 | 0 | 0 | 5,410 | 1,011 | 15,395 | 29,643 | 98,603 | 150,062 |
| Mercedes | 69,163 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 69,163 |
| Total DaimlerChrysler | 1,244,690 | 420,687 | 36,057 | 5,410 | 1,011 | 15,395 | 29,643 | 98,603 | 1,851,496 |
| Ford | 539,972 | 907,666 | 105,955 | 20,616 | 25,817 | 15,766 | 6,871 | 0 | 1,622,663 |
| Lincoln Mercury | 70,545 | 36,700 | 0 | 0 | 0 | 0 | 0 | 0 | 107,245 |
| Land Rover | 47,774 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,774 |
| Volvo | 46,332 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 46,332 |
| Total Ford | 704,623 | 944,366 | 105,955 | 20,616 | 25,817 | 15,766 | 6,871 | 0 | 1,824,014 |
| Buick | 70,593 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 70,593 |
| Cadillac | 27,915 | 56,334 | 0 | 0 | 0 | 0 | 0 | 0 | 84,249 |
| Chevrolet | 969,714 | 632,400 | 876 | 6,628 | 7,388 | 1,545 | 2,459 | 0 | 1,621,010 |
| GMC | 169,153 | 287,412 | 1,337 | 5,822 | 9,450 | 1,831 | 6,217 | 0 | 481,222 |
| Hummer | 54,052 | 17,107 | 365 | 0 | 0 | 0 | 0 | 0 | 71,524 |
| Oldsmobile | 29 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 29 |
| Pontiac | 57,009 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 57,009 |
| Saab | 5,789 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5,789 |
| Saturn | 95,896 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 95,896 |
| Total GM | 1,450,150 | 993,253 | 2,578 | 12,450 | 16,838 | 3,376 | 8,676 | 0 | 2,487,321 |
| BMW | 58,089 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 58,089 |
| Hino | 0 | 0 | 0 | 335 | 258 | 4,542 | 1,068 | 0 | 6,203 |
| Honda | 665,408 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 665,408 |
| Hyundai | 128,204 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 128,204 |
| International | 0 | 0 | 0 | 680 | 785 | 28,236 | 32,113 | 53,373 | 115,187 |
| Isuzu | 8,614 | 0 | 4,929 | 7,036 | 2,748 | 294 | 744 | 0 | 24,365 |
| Kia | 145,355 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 145,355 |
| Mack | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 29,524 | 29,524 |
| Mazda | 81,905 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 81,905 |
| Mitsubishi | 34,715 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 34,715 |
| Mitsubishi Fuso | 0 | 0 | 93 | 3,403 | 1,150 | 1,241 | 173 | 0 | 6,060 |
| Nissan | 393,440 | 72,192 | 0 | 0 | 0 | 0 | 0 | 0 | 465,632 |
| Nissan Diesel | 0 | 0 | 232 | 356 | 859 | 1,179 | 157 | 0 | 2,783 |
| Kenworth | 0 | 0 | 0 | 0 | 0 | 0 | 5,040 | 33,091 | 38,131 |
| Peterbilt | 0 | 0 | 0 | 0 | 0 | 0 | 6,307 | 37,322 | 43,629 |
| Total PACCAR | 0 | 0 | 0 | 0 | 0 | 0 | 11,347 | 70,413 | 81,760 |
| Porsche | 10,569 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10,569 |
| Subaru | 75,113 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 75,113 |
| Suzuki | 37,887 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 37,887 |
| Toyota | 1,084,368 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,084,368 |
| Volvo Truck | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 30,716 | 30,716 |
| Volkswagen | 20,169 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20,169 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,379 | 1,379 |
| Total | 6,143,299 | 2,430,498 | 149,844 | 50,286 | 49,466 | 70,029 | 90,792 | 284,008 | 9,268,222 |

**WARD'S U.S. Retail Sales of Trucks by GVWR and Company
12 Months 2007**

| | 6,000 \$ less | 6,001- 10,000 | 10,001- 14,000 | 14,001- 16,000 | 16,001- 19,500 | 19,501- 26,000 | 26,001- 33,000 | 33,001 & over | Total |
|-----------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|------------------|
| Chrysler | 280,705 | 28,788 | 0 | 0 | 0 | 0 | 0 | 0 | 309,493 |
| Dodge | 301,677 | 373,243 | 46,553 | 0 | 588 | 0 | 0 | 0 | 722,061 |
| Jeep | 475,237 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 475,237 |
| Total Chrysler | 1,057,619 | 402,031 | 46,553 | 0 | 588 | 0 | 0 | 0 | 1,506,791 |
| Ford | 550,749 | 811,803 | 81,155 | 28,331 | 22,647 | 14,284 | 5,574 | 0 | 1,514,543 |
| Lincoln Mercury | 97,346 | 32,432 | 0 | 0 | 0 | 0 | 0 | 0 | 129,778 |
| Land Rover | 49,550 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 49,550 |
| Volvo | 43,964 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 43,964 |
| Total Ford | 741,609 | 844,235 | 81,155 | 28,331 | 22,647 | 14,284 | 5,574 | 0 | 1,737,835 |
| Buick | 54,969 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 54,969 |
| Cadillac | 22,808 | 60,726 | 0 | 0 | 0 | 0 | 0 | 0 | 83,534 |
| Chevrolet | 555,268 | 914,535 | 24,729 | 5,606 | 6,189 | 988 | 1,695 | 0 | 1,509,010 |
| GMC | 154,532 | 322,875 | 8,653 | 4,279 | 8,243 | 1,371 | 5,793 | 0 | 505,746 |
| Hummer | 43,430 | 12,431 | 125 | 0 | 0 | 0 | 0 | 0 | 55,986 |
| Pontiac | 34,054 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 34,054 |
| Saab | 5,257 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5,257 |
| Saturn | 120,989 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 120,989 |
| Total GM | 991,307 | 1,310,567 | 33,507 | 9,885 | 14,432 | 2,359 | 7,488 | 0 | 2,369,545 |
| BMW | 63,260 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 63,260 |
| Freightliner | 0 | 0 | 0 | 2,218 | 737 | 11,793 | 23,672 | 37,371 | 75,791 |
| Mercedes | 74,458 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 74,458 |
| Mitsubishi Fuso | 0 | 0 | 52 | 2,962 | 945 | 1,182 | 129 | 0 | 5,270 |
| Sterling | 0 | 0 | 0 | 425 | 160 | 979 | 2,655 | 12,054 | 16,273 |
| Western Star | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,281 | 2,281 |
| Total Daimler | 130,583 | 0 | 52 | 5,605 | 1,842 | 13,954 | 26,456 | 51,706 | 230,198 |
| Hino | 0 | 0 | 0 | 259 | 172 | 3,901 | 1,116 | 0 | 5,448 |
| Honda | 669,327 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 669,327 |
| Hyundai | 163,641 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 163,641 |
| International | 0 | 0 | 0 | 802 | 1,523 | 17,966 | 19,977 | 29,675 | 69,943 |
| Isuzu | 7,098 | 0 | 4,350 | 5,828 | 3,002 | 347 | 462 | 0 | 21,087 |
| Kia | 152,206 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 152,206 |
| Mack | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 13,438 | 13,438 |
| Mazda | 97,402 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 97,402 |
| Mitsubishi | 43,834 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 43,834 |
| Nissan | 366,516 | 65,746 | 0 | 0 | 0 | 0 | 0 | 0 | 432,262 |
| Nissan Diesel | 0 | 0 | 279 | 281 | 716 | 978 | 105 | 0 | 2,359 |
| Kenworth | 0 | 0 | 0 | 0 | 0 | 0 | 4,239 | 19,299 | 23,538 |
| Peterbilt | 0 | 0 | 0 | 0 | 0 | 0 | 5,009 | 19,948 | 24,957 |
| Total PACCAR | 0 | 0 | 0 | 0 | 0 | 0 | 9,248 | 39,247 | 48,495 |
| Porsche | 12,547 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 12,547 |
| Subaru | 62,447 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 62,447 |
| Suzuki | 42,716 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 42,716 |
| Toyota | 1,106,840 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,106,840 |
| Volvo Truck | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 16,064 | 16,064 |
| Volkswagen | 29,507 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 29,507 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 835 | 835 |
| Total | 5,682,334 | 2,622,579 | 165,896 | 50,991 | 44,922 | 53,789 | 70,426 | 150,965 | 8,841,902 |

**WARD'S U.S. Retail Sales of Trucks by GVWR and Company
12 Months 2008**

| | 6,000 & less | 6,001- 10,000 | 10,001- 14,000 | 14,001- 16,000 | 16,001- 19,500 | 19,501- 26,000 | 26,001- 33,000 | 33,001 & over | Total |
|-----------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|------------------|
| Chrysler | 175,724 | 22,254 | 0 | 0 | 0 | 0 | 0 | 0 | 197,978 |
| Dodge | 233,258 | 246,836 | 29,638 | 0 | 5,386 | 0 | 0 | 0 | 515,118 |
| Jeep | 333,901 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 333,901 |
| Total Chrysler | 742,883 | 269,090 | 29,638 | 0 | 5,386 | 0 | 0 | 0 | 1,046,997 |
| Ford | 449,222 | 596,049 | 60,139 | 18,437 | 17,699 | 6,767 | 3,551 | 0 | 1,151,864 |
| Lincoln Mercury | 71,978 | 19,467 | 0 | 0 | 0 | 0 | 0 | 0 | 91,445 |
| Volvo | 28,469 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 28,469 |
| Total Ford | 549,669 | 615,516 | 60,139 | 18,437 | 17,699 | 6,767 | 3,551 | 0 | 1,271,778 |
| Buick | 45,394 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 45,394 |
| Cadillac | 16,191 | 39,675 | 0 | 0 | 0 | 0 | 0 | 0 | 55,866 |
| Chevrolet | 364,853 | 679,955 | 30,968 | 4,086 | 4,158 | 612 | 1,319 | 0 | 1,085,951 |
| GMC | 108,051 | 243,718 | 10,574 | 2,473 | 7,334 | 1,002 | 3,844 | 0 | 376,996 |
| Hummer | 21,373 | 6,095 | 17 | 0 | 0 | 0 | 0 | 0 | 27,485 |
| Pontiac | 20,689 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20,689 |
| Saab | 3,660 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3,660 |
| Saturn | 107,179 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 107,179 |
| Total GM | 687,390 | 969,443 | 41,559 | 6,559 | 11,492 | 1,614 | 5,163 | 0 | 1,723,220 |
| BMW | 54,028 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 54,028 |
| Freightliner | 0 | 0 | 0 | 3,130 | 369 | 8,499 | 14,789 | 33,935 | 60,722 |
| Mercedes | 66,312 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 66,312 |
| Mitsubishi Fuso | 0 | 0 | 202 | 933 | 493 | 623 | 87 | 0 | 2,338 |
| Sterling | 0 | 0 | 12 | 793 | 1,199 | 675 | 1,822 | 7,477 | 11,978 |
| Western Star | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,227 | 1,227 |
| Total Daimler | 66,312 | 0 | 214 | 4,856 | 2,061 | 9,797 | 16,698 | 42,639 | 142,577 |
| Hino | 0 | 0 | 0 | 165 | 145 | 3,478 | 1,129 | 0 | 4,917 |
| Honda | 551,062 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 551,062 |
| Hyundai | 109,495 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 109,495 |
| International | 0 | 95 | 609 | 2,564 | 894 | 15,736 | 15,828 | 32,399 | 68,125 |
| Isuzu* | 4,758 | 0 | 2,568 | 3,602 | 2,036 | 413 | 106 | 0 | 13,483 |
| Kia | 119,882 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 119,882 |
| Land Rover(Tata)* | 29,718 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 29,718 |
| Mack | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11,794 | 11,794 |
| Mazda | 87,057 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 87,057 |
| Mitsubishi | 22,348 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 22,348 |
| Nissan | 323,712 | 34,053 | 0 | 0 | 0 | 0 | 0 | 0 | 357,765 |
| Nissan Diesel | 0 | 0 | 112 | 191 | 307 | 582 | 193 | 0 | 1,385 |
| Kenworth | 0 | 0 | 0 | 0 | 150 | 828 | 2,732 | 15,855 | 19,565 |
| Peterbilt | 0 | 0 | 0 | 0 | 130 | 182 | 3,480 | 17,613 | 21,405 |
| Total PACCAR | 0 | 0 | 0 | 0 | 280 | 1,010 | 6,212 | 33,468 | 40,970 |
| Porsche | 11,216 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11,216 |
| Subaru | 71,725 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 71,725 |
| Suzuki | 34,503 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 34,503 |
| Toyota* | 860,563 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 860,563 |
| Volvo Truck | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 13,061 | 13,061 |
| Volkswagen* | 32,015 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 32,015 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 112 | 112 |
| Total | 4,358,336 | 1,888,197 | 134,839 | 36,374 | 40,300 | 39,397 | 48,880 | 133,473 | 6,679,796 |

**WARD'S U.S. Retail Sales of Trucks by GVWR and Company
July 2009**

| | 6,000 & less | 6,001- 10,000 | 10,001- 14,000 | 14,001- 16,000 | 16,001- 19,500 | 19,501- 26,000 | 26,001- 33,000 | 33,001 & over | Total |
|-----------------------|-----------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|----------------|
| Chrysler | 11,037 | 402 | 0 | 0 | 0 | 0 | 0 | 0 | 11,439 |
| Dodge | 14,415 | 16,008 | 2,431 | 0 | 222 | 0 | 0 | 0 | 33,076 |
| Jeep | 22,276 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 22,276 |
| Total Chrysler | 47,728 | 16,410 | 2,431 | 0 | 222 | 0 | 0 | 0 | 66,791 |
| Ford | 43,315 | 41,895 | 3,050 | 978 | 784 | 174 | 287 | 0 | 90,483 |
| Lincoln Mercury | 5,727 | 452 | 0 | 0 | 0 | 0 | 0 | 0 | 6,179 |
| Volvo | 2,334 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,334 |
| Total Ford | 51,376 | 42,347 | 3,050 | 978 | 784 | 174 | 287 | 0 | 98,996 |
| Buick | 3,797 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3,797 |
| Cadillac | 648 | 1,812 | 0 | 0 | 0 | 0 | 0 | 0 | 2,460 |
| Chevrolet | 31,597 | 39,203 | 1,272 | 161 | 214 | 0 | 38 | 0 | 72,485 |
| GMC | 6,716 | 13,852 | 460 | 319 | 303 | 20 | 190 | 0 | 21,860 |
| Hummer | 666 | 133 | 0 | 0 | 0 | 0 | 0 | 0 | 799 |
| Pontiac | 891 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 891 |
| Saab | 91 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 91 |
| Saturn | 3,684 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3,684 |
| Total GM | 48,090 | 55,000 | 1,732 | 480 | 517 | 20 | 228 | 0 | 106,067 |
| BMW | 2,977 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,977 |
| Freightliner | 0 | 0 | 0 | 29 | 27 | 265 | 981 | 1,688 | 2,990 |
| Mercedes | 4,418 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4,418 |
| Mitsubishi Fuso | 0 | 0 | 14 | 33 | 19 | 26 | 4 | 0 | 96 |
| Sterling | 0 | 0 | 1 | 70 | 63 | 52 | 44 | 338 | 568 |
| Western Star | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 61 | 61 |
| Total Daimler | 4,418 | 0 | 15 | 132 | 109 | 343 | 1,029 | 2,087 | 8,133 |
| Hino | 0 | 0 | 0 | 1 | 4 | 163 | 47 | 0 | 215 |
| Honda | 37,966 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 37,966 |
| Hyundai | 8,450 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8,450 |
| International | 0 | 4 | 30 | 16 | 55 | 1,064 | 1,088 | 2,158 | 4,415 |
| Isuzu | 0 | 0 | 105 | 176 | 85 | 8 | 21 | 0 | 395 |
| Kia | 10,789 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10,789 |
| Land Rover (Tata) | 1,822 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,822 |
| Mack | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 748 | 748 |
| Mazda | 6,007 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6,007 |
| Mitsubishi | 1,567 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,567 |
| Nissan | 18,981 | 1,467 | 0 | 0 | 0 | 0 | 0 | 0 | 20,448 |
| Nissan Diesel | 0 | 0 | 0 | 6 | 24 | 35 | 11 | 0 | 76 |
| Kenworth | 0 | 0 | 0 | 0 | 3 | 40 | 201 | 1,038 | 1,282 |
| Peterbilt | 0 | 0 | 0 | 0 | 3 | 8 | 186 | 1,032 | 1,229 |
| Total PACCAR | 0 | 0 | 0 | 0 | 6 | 48 | 387 | 2,070 | 2,511 |
| Porsche | 541 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 541 |
| Subaru | 8,281 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8,281 |
| Suzuki | 1,430 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,430 |
| Toyota | 68,083 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 68,083 |
| Volvo Truck | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 439 | 439 |
| Volkswagen | 4,230 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4,230 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| Total | 322,736 | 115,228 | 7,363 | 1,789 | 1,806 | 1,855 | 3,098 | 7,503 | 461,378 |

Table 1 Housing Starts, U.S. and Regions

| | U.S. TOTAL (1) | ONE UNIT (2) | 2-4 UNITS (3) | 5+ UNITS (4) | MULTI- FAMILY (5) | NORTH- EAST (6) | MID- WEST (7) | SOUTH (8) | WEST (9) |
|----------------------------------|----------------------|--------------------|---------------------|--------------------|-------------------------|-----------------------|---------------------|--------------|-------------|
| 1991 | 1,014 | 840 | 36 | 138 | 174 | 113 | 233 | 414 | 284 |
| 1992 | 1,200 | 1,030 | 31 | 139 | 180 | 127 | 288 | 407 | 288 |
| 1993 | 1,288 | 1,128 | 29 | 133 | 182 | 120 | 288 | 502 | 302 |
| 1994 | 1,487 | 1,188 | 38 | 224 | 286 | 138 | 329 | 638 | 381 |
| 1995 | 1,354 | 1,076 | 34 | 244 | 278 | 118 | 290 | 618 | 331 |
| 1996 | 1,477 | 1,181 | 48 | 271 | 316 | 132 | 321 | 682 | 361 |
| 1997 | 1,474 | 1,134 | 44 | 296 | 340 | 137 | 364 | 670 | 363 |
| 1998 | 1,617 | 1,271 | 43 | 303 | 346 | 148 | 339 | 743 | 386 |
| 1999 | 1,641 | 1,303 | 32 | 307 | 339 | 184 | 347 | 746 | 382 |
| 2000 | 1,569 | 1,231 | 38 | 299 | 308 | 184 | 318 | 714 | 363 |
| 2001 | 1,603 | 1,273 | 37 | 293 | 330 | 149 | 330 | 732 | 381 |
| 2002 | 1,706 | 1,389 | 39 | 308 | 347 | 158 | 369 | 782 | 418 |
| 2003 | 1,848 | 1,499 | 34 | 318 | 349 | 163 | 374 | 838 | 472 |
| 2004 | 1,956 | 1,611 | 42 | 303 | 348 | 178 | 386 | 909 | 516 |
| 2005 | 2,068 | 1,716 | 41 | 311 | 383 | 190 | 387 | 996 | 528 |
| 2006 | 1,801 | 1,468 | 43 | 283 | 334 | 167 | 286 | 910 | 444 |
| 2007 | 1,366 | 1,046 | 32 | 277 | 309 | 143 | 210 | 681 | 321 |
| 2008 | 926 | 622 | 18 | 266 | 284 | 121 | 126 | 483 | 186 |
| Seasonally Adjusted Annual Rates | | | | | | | | | |
| JAN 07 | 1,409 | 1,130 | 23 | 256 | 279 | 178 | 191 | 712 | 328 |
| FEB | 1,400 | 1,189 | 29 | 262 | 281 | 137 | 163 | 796 | 384 |
| MAR | 1,486 | 1,202 | 37 | 256 | 283 | 131 | 234 | 782 | 378 |
| APR | 1,480 | 1,187 | 37 | 256 | 283 | 166 | 286 | 732 | 368 |
| MAY | 1,418 | 1,130 | 33 | 282 | 288 | 158 | 243 | 688 | 326 |
| JUNE | 1,448 | 1,131 | 38 | 279 | 317 | 189 | 232 | 708 | 348 |
| JULY | 1,364 | 1,042 | 39 | 273 | 312 | 146 | 237 | 638 | 331 |
| AUG | 1,330 | 987 | 37 | 336 | 373 | 96 | 239 | 686 | 286 |
| SEP | 1,183 | 935 | 29 | 219 | 248 | 144 | 174 | 592 | 273 |
| OCT | 1,264 | 878 | 39 | 347 | 386 | 159 | 203 | 625 | 277 |
| NOV | 1,187 | 833 | 21 | 343 | 364 | 130 | 213 | 598 | 286 |
| DEC | 1,037 | 808 | 11 | 221 | 232 | 106 | 139 | 571 | 221 |
| JAN 08 | 1,063 | 764 | 27 | 292 | 318 | 134 | 188 | 548 | 242 |
| FEB | 1,100 | 722 | 29 | 349 | 378 | 126 | 164 | 674 | 246 |
| MAR | 993 | 717 | 16 | 260 | 276 | 116 | 136 | 514 | 227 |
| APR | 1,001 | 676 | 15 | 310 | 328 | 92 | 162 | 595 | 242 |
| MAY | 971 | 679 | 19 | 273 | 292 | 123 | 138 | 492 | 218 |
| JUNE | 1,078 | 688 | 22 | 401 | 423 | 249 | 137 | 465 | 207 |
| JULY | 933 | 632 | 14 | 287 | 301 | 162 | 183 | 426 | 182 |
| AUG | 849 | 612 | 18 | 222 | 237 | 134 | 128 | 397 | 190 |
| SEP | 822 | 548 | 19 | 254 | 273 | 112 | 138 | 408 | 164 |
| OCT | 783 | 534 | 10 | 219 | 229 | 76 | 121 | 467 | 189 |
| NOV | 688 | 487 | 18 | 186 | 196 | 56 | 107 | 366 | 137 |
| DEC | 566 | 393 | 9 | 184 | 163 | 63 | 76 | 283 | 134 |
| JAN 09 | 468 | 387 | 13 | 118 | 131 | 38 | 86 | 284 | 138 |
| FEB | 674 | 387 | 13 | 204 | 217 | 62 | 93 | 368 | 113 |
| MAR | 821 | 361 | 31 | 129 | 160 | 69 | 98 | 274 | 80 |
| APR | 479 | 388 | 11 | 88 | 91 | 50 | 84 | 231 | 114 |
| MAY | 561 | 469 | 9 | 133 | 142 | 69 | 79 | 276 | 137 |
| JUNE | 587 | 462 | 9 | 96 | 108 | 80 | 101 | 280 | 126 |
| JULY | 661 | 490 | 11 | 86 | 91 | 67 | 114 | 276 | 124 |
| AUG | | | | | | | | | |
| SEP | | | | | | | | | |
| OCT | | | | | | | | | |
| NOV | | | | | | | | | |
| DEC | | | | | | | | | |

All data are in thousands of units.

Housing start = The start of construction of a privately-owned housing unit is when excavation begins for the footings or foundation of a building intended primarily as a housekeeping residential structure and designed for nontransient occupancy. All housing in a multifamily building is defined as being started when excavation for the building has begun.

(6) Northeast includes: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey & Pennsylvania.

(7) Midwest includes: Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Missouri, North & South Dakota, Nebraska, & Kansas.

(8) South includes: Delaware, Maryland, District of Columbia, Virginia, West Virginia, North & South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas.

(9) West includes: Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, Alaska, & Hawaii.

Source: U.S. Bureau of the Census, Construction Reports, Series C-28, Housing Starts.

Prepared by Economics Department, NAHB. Available at www.HousingEconomics.com

Industry Report

Daimler Trucks announces pricing for EPA 2010 technologies

By Successful Dealer Staff

Daimler Trucks North America announced pricing for meeting EPA 2010 standards with its Detroit Diesel BlueTec or Cummins midrange engine emissions technologies.

Emissions technology surcharges for vehicles equipped with Detroit Diesel DD15 and DD16 big-bore engines, as well as the medium-bore DD13, will be \$9,000 per vehicle. A surcharge of \$7,300 will be added to vehicles equipped with the Cummins ISC8.3 engine, and a \$6,700 surcharge will be added to the price of vehicles equipped with Cummins ISB6.7 engines. The surcharges reflect costs associated with adding selective catalytic reduction (SCR).

"SCR is the only emissions technology in decades proven to be as good for business as it is for the environment," said Martin Daum, president and CEO, Daimler Trucks North America. "Daimler Trucks North America and Detroit Diesel lead the North American trucking industry in both the research and development of SCR technology and the diesel exhaust fluid (DEF) infrastructure to support it. Our decade of commitment to this technology as a vertically integrated chassis and engine manufacturing company has allowed us to contain design and development costs. Most importantly, we're pleased to deliver a proven solution that gives our customers a return on their emissions technology investment."

Advanced electronic engine controls link the elements of the system to make SCR a convenient and economical solution for vehicle owners and drivers, according to Daimler Trucks. And since virtually no base engine changes are needed for SCR to work, service technicians also will find no engine maintenance changes for EPA 2010.

"SCR is the only technology that will provide significant fuel savings to our customers," said Mark Lampert, senior vice president of sales for Daimler Trucks North America. "In fact, customers are reporting up to a five percent increase in miles per gallon with BlueTec-equipped EPA 2010 test engines hauling freight today."

"We feel strongly that providing our customers with payback in the form of significant improvement in fuel economy is of fundamental importance and an appropriate return on their investment in 2010 technology."

Detroit Diesel BlueTec fuel efficiencies are the result of three optimization factors which are: base engine-out NOx levels, diesel particulate filter (DPF) regeneration intervals and exhaust back pressure. In addition, reduced reliance on exhaust gas recirculation (EGR) lowers heat rejection, which means no expansion of cooling capacity and no resulting impact on aerodynamics or under-hood packaging, the company said.

Daimler Trucks North America will offer customers choice in engines and emissions technologies from Detroit Diesel and Cummins. "Either technology will deliver fuel savings and lifecycle improvements to the long-term cost of vehicle operations, representing our commitment to shaping the future of transportation," Lampert added.

According to Lampert, from an operating perspective, the fuel efficiencies achieved with the Detroit Diesel DD15 engine with BlueTec emissions technology effectively return North American trucking to pre-EGR fuel economy levels while reducing dependence on foreign oil and reducing emissions to near-zero levels at the tailpipe.

August 13, 2009 Article taken from Randall-Reilly, Truckers.Com website, August 21, 2009 (<http://www.etrucker.com/apps/news/article.asp?id=80886>)

2010 engine test fleets weigh in

In August 2009 Issue by Carol Birkland

Fleet managers talk about their experiences testing 2010 diesel engines.

The 2010 diesel engine EPA emission compliance deadline for new builds is near. Several fleets around the country have been testing the new engine technology. Here's what they have to say about the engines.

Good results

Terry Clouser, director of maintenance for AAA Cooper Transportation says, "We are running three trucks from Volvo with the 2010 SCR engines: a Class 8 single axle with an 11-liter engine with 405 HP, a Class 8 tandem axle with a 13-liter engine with 475 HP and a Class 8 sleeper with a 13-liter engine with 465 HP. The single axle and the sleeper both have the Volvo I-Shift transmissions; the tandem axle has the Freedom shift.

"The 11-liter is getting 6.4 MPG doing both line-haul and city use, putting on about 670-700 miles per day. This unit usually runs about 20 hours a day Monday through Friday. The 13-liter day-cab runs about 750 miles a day line-haul and a short pedal run and is getting 6.2 MPG. The sleeper is running about 5,500 to 6,000 miles a week and is getting 6.1 MPG. The diesel exhaust fluid (DEF) usage is about 3-gal. per 100 gal. of fuel and this is about the average for all three units."

He goes on to say that drivers are very pleased with how the trucks drive. There is no regens to worry about because it is done automatically with the SCR system. "They love the power because this is the most horsepower we have run in a long time. For the most part, these units have had very little down time," he notes. "As far as any engine problem, we have had none.

"The engine seems to be working really well because there is no smoke coming from the exhaust regardless of the amount of throttle you give. The exhaust stack is just as clean as the day it came with absolutely no soot build up at all. We have had very little down time for any engine trouble. Most of the down time is to replace some of the components, which Volvo sends us that upgrade the engine to the highest level for their production engines. They come to our facility often to upgrade the software in the computers."

Clouser adds that they are not having any trouble getting DEF, noting that Volvo has been sending it to them during the testing process. "We have a 275-gal. tote in Dothan and one in Dallas, Texas with pumps and flow meters," he says.

Transparent process

For Penske Truck Leasing, the evaluation of a 2010 Cummins ISB6.7-liter engine was a transparent process. "This has been one of the more positive experiences we've ever had with a beta evaluation," stated Mike Hasinec, Penske vice president – maintenance systems/support, of placing the 2010 engine in a 2008 M-2 Freight liner. "Penske actively volunteers for OEM evaluations so we can better understand emerging technology."

As Kurt Seymour, Penske manager of product compliance and reliability, explained, the Cummins engine was placed into the Freight liner medium-duty straight truck in June 2008, and since then two customers have been using it daily in western Pennsylvania. "Pittsburgh was selected because of the colder climate and close proximity to the Cummins engineering group in Indiana," Seymour added.

During the last year, Cummins thoroughly examined the engine every 90 days, adding several upgrades along the way. "Our technicians had no reliability issues, and servicing the engine was transparent," Hasinec noted.

"Typically, when evaluating a product in its beta phase you can expect to experience some product issues," Hasinec continued. "That's the reason for putting a product out in the real world in the beta phase. It allows the manufacturer to work out the bugs before the product is put in production.

"One customer, whose biggest concern is fuel economy, was extremely pleased with the MPG," Hasinec said. "The industry claims there is a 4% to 6% MPG improvement on the 2010 engines, but our customer experienced a remarkable 10% improvement with the Cummins engine over their existing units."

Seymour adds, "There was very good performance, and there were no issues with availability of diesel exhaust fluid and the need for re-supplying the vehicles with DEF often. The consumption rate of DEF was as good as advertised, 2% of the fuel consumption level."

"This is the future, and thanks to this evaluation, we feel we're better prepared for this new technology," he said. "More than three dozen new fault codes will be introduced as part of the new onboard diagnostics (OBDII) and infrastructure challenges. We'll be ready."

All in all, Penske Truck Leasing issued high grades to the 2010 engine it evaluated and expects to soon introduce more into its fleet. "These engines will be in our fleet in 2010," Hasinec stated. "This new engine delivers on what has been promised: cleaner air, meeting new emissions standards, and less NOx with better fuel economy."

Heavy-haul capabilities Bill Vogelsberg, president of Vogelsberg Grain Co., is testing a 2010 Mack SCR 605 HP engine with a torque rating of 2,000 ft.-lbs. on one of his "Michigan train" bulk haul dump trucks. "We think this is a conservative rating," says Vogelsberg. "The truck is the most powerful one in our fleet right now and we are very pleased with its performance. Titan by Mack is by far the best for fuel economy, power, drivability and overall complete driver satisfaction of all the trucks in the fleet," he notes. The fleet is a regional hauler with routes that take it around Michigan to Ohio and into Ontario, Canada, which are all within 150 miles of fleet headquarters.

Vogelsberg received the test truck in the middle of January of this year, so it's been on the road for seven months logging about 45,000 miles. "We were pleasantly surprised that our fuel economy is slightly better with this truck at 4.5 MPG, which is pretty impressive, since the 154,000 lbs. GCW is about 187% more than the typical 80,000 lbs.," he adds. "So far the truck has been trouble-free and there is nothing for our drivers to do but get in, start the truck and drive. We thought with our stop-and-go operation we'd have to do regens on the diesel particulate filter, but that has not been the case."

Michigan's cold weather has not been a concern either. The fleet received the trucks during the winter and had no problems with cold starts. The other good news is that the driver likes the truck. The throttle feels better, more responsive and smoother, compared to the other vehicles in the fleet, Vogelsberg adds.

Improvements

Detroit Diesel customer, Dave Miller, vice president of Global Policy and Economic Sustainability for Con-way Freight Inc. says, "Con-way beta tests a number of initiatives, including on-board diagnostics. We know that fuel efficiency will continue to be the name of the game. In 2010, engines using SCR will be about as efficient as they can get. After that, we'll continue to see more aerodynamics designed into the trucks. Then, based on our experience, the only way left to reduce CO2 will be to reduce fuel consumption by allowing for more efficient truck combinations (longer vehicles and heavier load limits). Our data shows hauling more tons per mile can improve fuel efficiency by up to 20%. Other future policies and regulations will be needed to better manage traffic congestion and improve road and bridge infrastructure."

Another Detroit Diesel SCR engine test fleet reports, "I'm satisfied that SCR offers strong fuel economy. At a 2% consumption rate, the cost of fuel plus the cost of diesel exhaust fluid will equal a savings advantage—with no (reliability) fear factor," says Don Streuber, president and CEO of Bison Transport. "Operationally, the difference in paying a few thousand dollars more in engine cost pales compared to a half-mile-per-gal. fuel penalty (of non-SCR engines) over the lifetime of the truck, especially when, like Bison, you average 140,000 miles per truck per year. This impact will only be amplified as the price of fuel goes up. It cannot be ignored. Fuel economy is a top priority in our equipment specification. SCR is proven and we'll take every 3% to 5%

advantage we can find. It allows us to give our customers better pricing."

According to Harry Muhlschlegel, chairman and CEO of New Century Transportation Inc., "I'm satisfied and confident and looking forward to the 2010 engines. The engines may cost more, but they will run better with SCR and urea [DEF]. SCR should be a good pre-investment to keeping the trucks longer."

Schneider National is testing Detroit Diesel's SCR technology with BlueTec. Schneider has integrated the two engines into its fleet to collect real-world data and has been sharing that information with Detroit Diesel on a daily basis. So far, the engines have racked up more than 45,000 miles. "By actually field testing the technology, we are putting the units into real-life situations, which ultimately helps Detroit Diesel engineers to identify every possible issue in advance," said Steve Duley, vice-president of purchasing for Schneider National. "We are confident the experience we gain from CDUs will give us additional time to prepare for the transition." According to Duley, more than 90% of the Schneider fleet is powered by Detroit Diesel engines.

Engineering tests

According to Steve Schrier, communications manager for the Navistar Truck Group, "We currently have more than 60 engineering test vehicles with 2010-compliant engines in operation today, logging thousands of miles each and every week. As testing and validation is finalized in preparation for launch, these test vehicles will have logged millions of driving miles in real-world conditions.

"As for customer test units, we currently do not have any 2010 vehicles in customer hands. Since our 2010 solution does not require significant changes to truck hardware and, at this point, our testing mainly involves engine calibration refinements, we believe the benefit of road testing by our own engineering team outweighs the learning obtained from customer field test units."

Article taken from FleetMagazine.com website, August 21, 2009 (www.fleetequipmentmag.com/809-engine-test.html)

Statement of the National Association of Home Builders

"The Impact of Energy Policy on Small Businesses"

**House Small Business Committee
Subcommittee on Investigations and Oversight**

Field Hearing August 25, 2009

The National Association of Home Builders (NAHB) appreciates the opportunity to submit this statement to the House Small Business Committee on the impacts of energy policy on small businesses. Home building is an industry dominated by small businesses. Approximately sixty percent of NAHB's 200,000 members build less than 25 homes per year and eighty percent of them have less than \$5 million in annual receipts.

For the purposes of this hearing, this statement focuses on issues in energy policy of specific importance to housing and real estate generally. These include:

- Consumer trends in demand for energy efficiency and green building;
- Impacts of H.R. 2454, the *American Clean Energy and Security Act*, climate change legislation recently passed by the House of Representatives; and
- The importance of federal incentives to increase energy efficiency in the built environment.

To set the context for the discussion, we will begin with a brief overview of the current conditions of the housing market and the long term outlook.

Housing Conditions and Outlook

The current housing recession is the worst since World War II. Total starts have fallen 80 percent from their peak in January 2006-- from 2.3 million starts to a low point of 479,000 starts in April. Virtually every housing indicator (starts, permits and sales) reached all time record lows within the past two quarters. The drop in single family construction alone has resulted in more than 3 million lost jobs in construction and the related industries supplying materials and goods to housing construction.

Glimmers of hope, however, suggest that the three plus year decline in housing may have stabilized. Existing and new home sales appear to have bottomed. Existing single-family home sales hit a low of 4.05 million in January 2009 improved to 4.32 million sales at a seasonally adjusted, annual rate in June. Meanwhile, new home sales bottomed in January 2009 at 329,000 and have since shown a modest recovery to 384,000 in June.

The inventory of unsold new homes continues to fall from a peak of 572,000 in July 2006 to 281,000 in June 2009. The decline has reduced the month's supply of unsold homes, but not as dramatically because sales continue at a very slow pace. The NAHB Housing Market Index (HMI) languished at a single digit rate for five straight months from late 2008 through the first quarter 2009, but has since picked up to 18 at the latest reading in August. Single family housing

starts have shown strength recently, likely in response to the first time home buyer tax credit enacted as part of the economic stimulus legislation enacted in February 2009. Multifamily starts have been very weak and will likely continue to fall in the face of a large overhang of apartments and single family homes on the market.

These “buds” of growth notwithstanding, a number of housing specific headwinds will continue to buffet any significant housing recovery:

- A large inventory of vacant homes and apartments on the market
- A pipeline of foreclosures feeding the inventory
- Continuous downward price pressures from too much supply and not enough demand
- Tight mortgage underwriting and low appraisals making it difficult for a willing buyer to complete the sale
- Extremely difficult financing terms and availability for builder AD&C credit

This data suggests that residential construction is now bouncing along a bottom. We forecast that housing starts face a long, slow recovery that will take several years. NAHB forecasts 572,000 housing starts for 2009 and 711,000 for 2010.

Trends in Energy Efficiency

According to the most recent NAHB/Wells Fargo Housing Market Index survey, energy efficiency is significantly more atop the minds of customers interested in building a new home. When asked if their buyers were willing to pay extra for green amenities, fifty-six percent responded that at least some of them were willing. However, cost and maximizing value for the dollar are critical drivers of potential buyers’ decision-making, especially in the current economic downturn. Most consumers are not willing to pay extra for a more efficient home unless they are likely to see the benefit of their investment within a reasonable length of time.

On the supply side, programs like the Energy Star New Home Certification Program continue to gain ground. According to estimates by the Department of Energy and the Environmental Protection Agency, who together administer this program, as many as 25 percent of the homes built in 2009 will be Energy Star compliant. The difficulty for homebuilders, however, is that the current depressed housing market makes it difficult to recoup the costs of Energy Star certification in the final price of a home. This undermines the incentives to pursue this certification and increases the importance of federal programs for increasing energy efficiency in the built environment; discussed later in this statement.

Green Building

In 2005, NAHB published the National Green Home Building Guidelines (the Guidelines) as the first step towards creating a consensus on residential green building that could be implemented nationally on a voluntary basis. The use of the Guidelines flourished, along with the burgeoning green movement, and its success led to even greater calls for a national consensus standard that could offset growing attempts to mandate privately-developed rating systems. Thus, in 2007, NAHB partnered with the International Code Council (ICC) and the NAHB Research Center (as Secretariat) to convene a consensus group of 42 industry, environmental, and government stakeholders to develop the National Green Building Standard™. After two years, thousands of

public comments, and countless input from technical experts, the National Green Building Standard™ was approved by the American National Standards Institute (ANSI) on January 29, 2009, as the *first and only* ANSI-approved national green building standard.

NAHB is working hard to promote green building within the Congress and the Obama Administration. The ability to offer an ANSI-approved green building standard as an alternative to private programs is an important first step. The new standard, along with NAHB's multi-million dollar national green building program, confirms the home building industry's commitment to promoting green building for every aspect of residential construction – single family, multifamily, remodeling, and site development.

Congress must avoid green building mandates, especially for private rating systems, while better alternatives are available for affordable green building. Many state and local programs are having great success with green building and these strides should not be sidelined by overly aggressive federal action. The industry voluntarily initiated the effort to create the first national green building standard and invested time, money and expertise to ensure its integrity and its ability to be constantly improved going forward. Mandating a privately-developed program would have stifled such innovation and Congress must allow for further advancement in green.

Impacts of the American Clean Energy Security Act

On June 26, 2009, the U.S. House passed the *American Clean Energy Security Act* (ACES Act), establishing the first economy-wide cap-and-trade regime to reduce greenhouse gas (GHG) emissions 83 percent by 2050. While the majority of the bill covers the creation of a trading system for “allowances,” or the right to pollute one ton of GHGs for major fuel and energy-intensive industries, a substantial portion of the bill covers energy efficiency requirements.

Title II, Section 201 – Greater Energy Efficiency in Building Codes

Section 201 of the ACES Act requires state and local governments (states and locals) to adopt energy codes that are at least 30 percent above 2006 IECC upon enactment, increase compliance to 50 percent by 2014, and then incrementally increase 5 percent every three years until reaching 75 percent by 2029. States and locals have one year to certify compliance with the federal targets after each increase. States and locals that fail to the federal targets will lose emissions allowances and federal funding under the bill, as well as be subject to federal DOE enforcement of the energy code in their State/local jurisdiction. Adoption of California Title 24 within the first 2 years is considered compliance with first threshold. States/locals can set higher targets than federal minimums in intervening years.

The federal government taking over the role of code enforcement at the state and local levels - effectively enforcing legislation never enacted by the state - raises potential constitutional questions under the Tenth Amendment. Under the Tenth Amendment powers not expressly granted to the federal government in the Constitution—like zoning and building codes—are reserved to the states and local governments. Furthermore, Congress' traditional constitutional authority to regulate industry under the Commerce Clause does not extend to housing, raising additional questions about the constitutionality of Section 304. In *DEWEY J. JONES v. UNITED STATES*, 529 U.S. 848 (2000), the Supreme Court held that “an owner-occupied residence not

used for any commercial purpose does not qualify as property “used in” commerce or commerce-affecting activity.”

The legislation also creates the untenable position where a builder and/or building owner is penalized solely for living or working in a state that refuses to comply with ACES Act. If the builder/owner follows the statute and builds to the national energy code, s/he may be in violation of a state or local code that, despite Congress’ efforts to preempt, is still in effect as far as that state or local jurisdiction is concerned. Finally, there are many unanswered questions as to how this provision will be implemented. For example, when will federal enforcement inspections occur – during construction or after the building is complete? If enforcement inspections occur after the building is completed, what is the statute of limitation for pursuing enforcement actions?

Additional concerns are raised in the context of completed residential construction, as typically the home will be occupied shortly after construction is complete. How will DOE enforcement inspectors gain access to the home? Are property owners required to allow federal agents without warrants onto their property to conduct inspections? What if the owner refuses? Will inspections occur only when permission to enter is granted by the occupants? Will inspectors secure warrants (presumably from federal court) to enter the premises?

Title II, Section 204 – Building Energy Performance Labeling

Section 204 of the ACES Act establishes a building energy performance label designed only to apply to new construction to encourage improvements in data collection and information on energy use in buildings and homes. The program would be developed and administered by the EPA upon rulemaking, but is generally based on the HERS index system, Energy Star models, and the California HERS II Program Custom Approach. The provision covers multifamily and single family housing, as well as multi-tenanted commercial buildings larger than 50,000 square feet in both public and private sectors. The information on the label will be required upon any sale/transaction of the building or unit – i.e., change of ownership, new lease, new lien, or final inspection of major renovations or with any energy audit.

While this provision highlights and recognizes the energy efficiency of the 500,000 new homes that will be built this year, it misses the mark by doing nothing to improve the efficiency of the tens of millions inefficient, older homes. This is a significant oversight in the ACES Act that should clearly be addressing the 74 percent of homes built before an energy code existed (approximately 94 million homes). Essentially, if you live in an older, less efficient house, you do not have to take any steps to improve your efficiency, including stating the energy efficiency of the home with a label. Yet, older homes are the source of the vast majority of the energy loss associated with buildings in the United States.

Title II, Subtitle H – Sections 281-299 – the GREEN Act

Subtitle H of the ACES Act includes in its entirety the provisions of H.R. 2336 – the *Green Resources for Energy Efficient Neighborhoods Act* or GREEN Act, a bill that was cooperatively developed with significant input from NAHB. This bill creates an incentive program for green building and energy efficiency improvements to HUD-assisted properties – including all HUD programs and FHA-insured mortgages. This provision offers additional credit in HUD programs for compliance with green building standards – including the National Green Building Standard™ - and encourages greater use of energy-efficient and location-efficient mortgage products within the federal housing programs. The subsection also creates federal regulations for including consideration of green and energy efficiency in appraisals.

Unfortunately, the mandates in the ACES Act will undercut the new programs created in the *Green Act*, which are explicitly designed to preserve housing affordability while delivering sustainability through incentives for green building and energy efficiency. The new code requirements created in section 201 of the ACES Act are arbitrary, unrealistic, and will dramatically increase costs for newer, more energy efficient homes; hurting Americans that share the biggest burden from energy costs – lower income families. At its higher levels, the new federal energy code established by the ACES Act exceeds every national green building program available today, despite the fact that green homes and buildings are more environmentally sound.

New versus Existing Homes

Overall, the approach taken in ACES Act does not address the most wasteful sector in the residential area – existing homes. U.S. Department of Energy research demonstrates that homes built between 1991 and 2001 account for only 2.52 percent of total energy consumption. Stated another way, if each of the new homes built over the 1991-2001 period consumed zero energy, total consumption in the U.S. would be only 2.52 percent less than at present. The same result could be achieved by improving the average efficiency of the pre-1991 homes by 14.7 percent.

A 2008 study for the California Homebuilding Foundation revealed that spending \$10,000 to retrofit a typical home built in the 1960s could eliminate about 8.5 tons of green house gas emissions, whereas increasing the energy efficiency of a new home by 35 percent would cost about \$5,000, but only cut emissions by 1.1 tons. In other words, retrofitting existing homes with energy-efficient features is four to eight times more carbon- and cost-efficient than adding further energy-efficiency requirements to new housing. This further highlights the shortcomings of the policy approach taken in the ACES Act which is designed to require aggressive increases in efficiency for new construction that ultimately may not deliver the greatest energy savings.

The ability to realize additional energy savings from an already super-efficient segment of the residential sector via building codes is extremely limited, and thus cannot be expected to deliver dramatic results in terms of greenhouse gas (GHG) emissions reductions or consumer utility savings. The biggest return on efficiency investment in the residential sector would be realized by improving older homes (pre-1991), which according to the U.S. Census Bureau comprise 74.1 percent of the current U.S. housing stock. In this context, it is critical to have incentives for both

the construction of new homes, energy efficient homes and incentives to reclaim energy savings from older, less energy efficient homes.

Incentives for Energy Efficiency in the Built Environment

Instead of the approach of using mandates as seen in the ACES Act, NAHB Congress urges to continue to use incentives to drive energy efficiency in the built environment. In 2005, the *Energy Policy Act* was passed creating several critical energy efficiency incentives in the tax code to do this. They include (the section references refer to that section of the tax code where the incentive resides):

1. Section 45L – New Energy Efficient Home Tax Credit (New Homes Credit)
 - \$2,000 credit to builder of new home that is 50 percent above 2003 International Energy Conservation Code with supplements
 - Subject to basis adjustment and the Alternative Minimum Tax (AMT)
 - Expires December 31, 2009
2. Section 25C – Nonbusiness Energy Property Credit (Retrofit Credit)
 - Credit to consumers (homeowners) who make efficiency upgrades to existing homes
 - Expanded in stimulus legislation to amount of 30 percent of cost (capped at \$1,500)
 - Qualified improvements include specific types of windows, water heaters, HVAC equipment, woodstoves, insulation, etc
 - Expires December 31, 2010
3. Section 25D – Residential Energy Efficient Property (Solar Credit)
 - Credit to consumers (homeowners) who purchase renewable energy systems for existing homes – includes solar/PV, geothermal, and residential wind
 - Credit amount is 30 percent of cost of system with no cap
 - Expires December 31, 2016
4. Section 179D – Deduction for Energy Efficient Commercial Buildings (Commercial Credit)
 - Deduction for commercial buildings (including multifamily property above 4 stories) based on energy savings at 30 percent and 50 percent above ASHRAE 90.1-2001 standard
 - Deduction of \$0.60 per square foot for 30 percent above level and deduction of \$1.80 per square foot for 50 percent threshold
 - Expires December 31, 2013

All of these incentives play a unique and critical role in the marketplace for increased energy efficiency. The New Homes Credit is of particular interest to many NAHB members and has seen a three-fold increase in usage since its creation in 2005. It stands alone as the only incentive in the tax code for energy efficiency in single family home construction. This incentive will help to insure that new homes built today and going forward are highly energy efficient and carry that efficiency for their full usable life.

We believe there are several ways to substantially enhance the impact of the New Homes Credit. They include increasing credit amount to \$5,000 and making it permanent, allowing internal components of a house (heating, ventilation and/or air conditioning equipment), in addition to building envelope, to be eligible for reaching the 50 percent efficiency threshold, make the credit permanent, eliminate the basis reduction that comes with the credit and allow it to be used against AMT. This last recommendation is especially important because most home builders pay their taxes under the individual tax system and frequently get caught up in the AMT which limits their ability, and incentive, to use the New Homes Credit.

The Retrofit Credit is also critical to reclaiming lost energy from existing homes, as discussed earlier in this statement and helps to insure a balanced approach to reducing energy usage in residential housing. We also suggest several improvements to this incentive, including increasing the lifetime cap from \$1,500 to \$5,000 and allowing installation costs to be allowable for the credit amount (windows, doors, insulation and roofing).

The Commercial Credit can also assist in closing the efficiency gap in commercial and multifamily housing properties, a substantial portion of the built environment. Unfortunately, some commercial multifamily real estate is unable to take full advantage of this credit. This could be addressed by allowing the incentive to be used for construction of energy efficient condo (owner-occupied) units in buildings 4 stories or more above grade. As well, allowing a builder to claim the credit as deduction (similar to 45L credit) would enhance its incentive power in the marketplace.

Finally, the Solar Credit serves a growing market that is seeing significant advances in efficiency and is now making its way into the production plans of the largest single family home builders, among others. To maximize its impact on the market, NAHB recommends that fuel cell use be eligible under the credit in all owner-occupied homes. Currently, fuel cell credits may be claimed for principal residence installation only. All others – wind, geo, solar – may be installed in owner-occupied units.

In the case of all of the energy efficiency incentives above, we strongly urge the Congress to make them permanent. Having to be continually extended blunts their take-up in the market, which desires as much certainty as possible in making investment decisions along these lines. Efforts are underway now in the Senate to expand and extend these energy efficiency tax incentives. In particular, NAHB applauds the work of Senators Olympia Snowe (R-ME), Jeff Bingaman (D-NM) and Diane Feinstein (D-CA) for introducing S. 1637, the *Expanding Building Efficiency Incentives Act*. We urge the House to follow a similar course to ensure the continued availability of these critical programs.

Conclusion

NAHB appreciates the opportunity to share our views on federal energy policy and its impacts on business, especially home builders and housing. Energy efficiency in the built environment continues to grow in importance to the marketplace and value to the nation's overall efforts to reduce carbon emissions. Support from the federal government in the form of incentives instead of mandates is critical to maintaining the market momentum. We look forward to working with policymakers to ensure this outcome.

House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Field Hearing:

Subcommittee on Investigations and Oversight of the House Committee on Small Business
The Impact of Energy Policy on Small Businesses
August 25, 2009, 10:00 AM, B.S. Roberts Room in the North Building, OSU-Tulsa Campus, 700
N. Greenwood Tulsa, Oklahoma

Statement for the record: Submitted by the National Association of Royalty Owners (NARO)
15 West 6th Street Suite 2626 Tulsa, OK 74119

We are the National Association of Royalty Owners (NARO) and represent the concerns of an estimated 8.5 million American private owners of oil and gas mineral and royalty interests. We live and vote in all 50 states, even though our producing minerals may be in Arkansas, New Mexico, North Dakota, Oklahoma, Pennsylvania, Texas, Utah, Wyoming or any other of the 22 producing states. NARO has been educating and advocating for mineral/royalty owners since our original incorporation 29 years ago in 1980.

The average NARO member is over 60 years old, widowed, and receives less than \$500 in monthly royalties as a supplement to their social security retirement income. Managing even smaller royalties such as these can at first seem overwhelming for some of our members, many of whom are elderly and not versed in the lexicon of lease negotiations, sometimes with large energy companies, or with the legalese of interpreting and negotiating division orders, etc. Almost every element of a lease is negotiable, therefore educating themselves regarding industry common practices and executing such negotiations are no small tasks for these entrepreneurs. They nonetheless carry out their business faithfully and to the best of their abilities, because for many of them this income is a necessity of survival, not simply a luxury.

The majority (something over 70%) of the minerals in the U.S. are owned by individuals and leased to companies for development. Thanks to the efforts of one of our members, we recently took a snap shot of one marginal oil well ('marginal' here means producing less than 15 barrels of oil per day) in Grady County Oklahoma. This one little well has over 300 individuals in 46 states receiving royalty payments from its production.

Just to give you an idea of how many citizens are royalty owners, if you take our membership in each state as a percentage of a total and then multiply by the estimated 8.5 million royalty owners you get a rough idea of how many royalty owners live in each state. And here are those numbers:

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|------------|------------|-------------|-------------|-------------|
| AK 13,600 | AL 33,150 | AR 255,000, | AZ 144,500, | CA 510,000, |
| CO 654,500 | CT 17,000 | DC 17,000 | DE 2,550 | FL 161,500 |
| GA 85,000 | HI 8,330 | IA 33,150, | ID 35,700 | IL 76,500 |
| IN 27,200 | KS 147,900 | KY 11,050 | LA 125,800 | MA 30,600 |
| MD 35,700 | ME 5,525 | MI 44,200 | MN 47,600 | MO 110,500 |

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|------------|--------------|------------|-------------------|------------|
| MS 39,100, | MT 47,600 | NC 67,150 | ND 24,650 | NE 19,550 |
| NH 13,600 | NJ 47,600 | NM 161,500 | NV 44,200 | NY 127,500 |
| OH 30,600 | OK 1,691,500 | OR 51,000, | PA 119,000 | RI 5,525 |
| SC 22,100, | SD 5,525 | TN 59,500 | TX 2,975,000 | UT 39,100 |
| VA 85,000 | VT 2,550 | WA 39,100 | WI 39,100 | WV 19,550 |
| WY 30,600 | | | Total nationwide: | 8,440,755. |

Remember, these are estimated numbers of *royalty* owners. The total number of *mineral* owners is much greater, as vast areas are unproductive or have not yet been explored and developed.

There is currently much legislative attention being paid to the structure of financial incentives in the energy market, and to how those incentives on one hand affect the level of responsible ecological stewardship within the industry, and on the other hand how those incentives can enable small businesses in our economy to function, or can hinder them from functioning. This attention is reflected both within the carbon emission provisions of H.R. 2454 which was passed by the House on June 26, 2009, and in provisions of the President's proposed budget for fiscal year 2010. It is invaluable to the legislative stewards of our economy and our ecology to fully understand the effects of these policies on small mineral management companies and on individual royalty owners.

To better understand the effects such policy will have on the industry, especially on small producers and royalty owners, it is useful to first look at the level of production from 'marginal' wells. Economically 'marginal' wells produced "321 million barrels of oil and 1.76Tcf (Trillion cubic feet) of natural gas" in 2005, accounting for "17 percent of domestic oil and 8 percent of natural gas production."¹

All of the proposed legislative changes that affect oil and gas industry decisions to drill affect owners of undeveloped minerals. A provision of the President's 2010 budget eliminates the ability to expense intangible drilling costs. This is only exacerbated by the costs of mandatory carbon emission caps as laid out in H.R. 2454. The combination of increased costs and increased taxes creates an environment where marginal producers will cease to produce. This environment renders many undeveloped properties as well as low producing properties valueless. The 2010 budget's elimination of credits for marginal wells and tertiary recovery, followed by instituting carbon caps in HR 2454 would result in the plugging of thousands of older wells and a subsequent loss of vital supplemental income for countless retirees.

One change proposed in the 2010 budget will directly impact every one of the nation's millions of royalty owners. Under current law, each royalty owner is allowed to take 15% of their gross royalty income as a deduction on their income tax returns. This allowance was put into law in the 1920s to accommodate the fact that minerals are a non-renewable asset, and to provide for the "cost" of these diminishing assets as an expense against the mineral owners' income. This deduction is the Percentage Depletion Allowance; and contrary to some Congressional comment and misguided public discussion, percentage depletion is allowed on over 200 minerals from our earth and should continue since, unlike trees (also classed as depletable by tax code), oil and gas are non-renewable and once extracted are exhausted assets. Royalty owners currently pay property tax, ad valorem tax, severance tax, state income tax, local tax, non-resident income tax, federal income tax . . . on their producing minerals. Does your income get taxed this much? Too

many royalty owners, both individuals and small energy companies, will be negatively impacted if HR 2454 becomes law in tandem with these tax increases in the President's budget.

We are comprised of small business owners, teachers, farmers, ranchers, homemakers, accountants, firemen, plumbers, retirees, bankers, dentists, factory workers, engineers, pet groomers, widows, roofers, lawyers, policemen, florists, architects, carpenters, secretaries, bricklayers, members of Congress . . .

Most of us are ordinary citizens or small businesses, not multi-national corporations. We consider our mineral estates as assets to be managed and protected with responsible stewardship as in any other small business. For the majority of us, our minerals are part of a family legacy acquired through the hard work and sacrifices of our forbearers. Royalty income pays to educate our children, care for aging parents, and supplement salaried and Social Security income. Ultimately, our desire from engaging in the mineral business is to provide a better future for our posterity. Is this not the ultimate goal of most small businesses in America?

We spend our money in our communities, give to our local charities and save for the future. Our financial benefits come solely from the mineral interests we own – deep under American soil. When those resources have been exhausted, the royalty income ends.

In closing we want to provide the following letter to NARO members as posted on the NARO-Arkansas message board in September 2006. This is a very typical royalty owner story.

"I would have liked to have been at the Convention and Lord willing, I will be at the next one. My absence related to the health of my mother, a 20 year quadruple survivor of cancer. 2 years ago she was once again diagnosed with the disease and elected not to use aggressive treatments. She was given some 3 months to live. I was blessed with 2 years of her continued presence and she was able to live by herself until about one month ago. My niece, my girl friend, my brother, and I were able to stay with her around the clock until Sept. 6th when we moved her to a nursing home. On Sept. 10th she passed away being lucid until just hours before dying.

It is not unusual to die, my grandfather was fond of saying that it was the most natural thing about living. But I bring up the subject for another reason. The last check my mother received Sept 1 from our Family General Partnership was about \$700, that and spousal SS benefits were all she had to live on. Without her royalty income, she could not have remained in her own home which she had lived in since 1944. Quite recently she remarked that without that check she could never have afforded the several hundred dollars per month in medicine that she took in her battle with cancer. In my mother's case, that royalty interest, reserved in 1938 by the foresight of my grandfather in a county which had no oil or gas production, was the difference between living an independent life and living as a ward of the state. . . " *signed by Terrel Shields.*

¹ The Interstate Oil and Gas Compact Commission, (summer 2007) "Oil and Gas Policy Evaluation for Energy Security" p. 12, <http://iogcc.publishpath.com/Websites/iogcc/PDFS/2007-Oil-and-Gas-Policy-Evaluation-for-Energy-Security.pdf> Retrieved 28 August 2009

