

# SHORT-TERM SOLUTIONS FOR INCREASING ENERGY SUPPLY FROM THE PUBLIC LANDS

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## OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND  
MINERAL RESOURCES

OF THE

COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

May 22, 2001

**Serial No. 107-30**

Printed for the use of the Committee on Resources



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>  
or  
Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

72-515 PS

WASHINGTON : 2002

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## **SHORT-TERM SOLUTIONS FOR INCREASING ENERGY SUPPLY FROM THE PUBLIC LANDS**

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**Tuesday, May 22, 2001**

**U.S. House of Representatives**

**Subcommittee on Energy and Mineral Resources**

**Committee on Resources**

**Washington, DC**

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The Subcommittee met, pursuant to call, at 10:13 a.m., in Room 1324, Longworth House Office Building, Hon. Jim Gibbons [Chairman of the Subcommittee] presiding.

### **STATEMENT OF THE HONORABLE JIM GIBBONS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA**

Mr. GIBBONS. The oversight hearing by the Subcommittee on Energy and Mineral Resources will come to order.

The Subcommittee is meeting today to hear testimony on short-term solutions for increasing energy supplies on public lands under Rule 4(g). The Chairman and the ranking minority member, in this case it will be Mrs. Napolitano, can make opening statements. If any members have other statements, they can be included in the record under unanimous consent.

Today's hearing is the seventh in a series of oversight hearings which the Energy and Mineral Resources Subcommittee is conducting to examine the issues concerning energy supplies from our public lands, including the outer continental shelf.

This is the first since President Bush released his national energy policy report of the task force led by the Vice President. The administration has said many times since that our energy woes did not happen overnight, nor can they be fixed quickly.

The President's plan envisions reductions in energy demands and increases in supply over the long term, a very sensible approach.

Today, however, we have asked our witnesses to give us their ideas for changes in the manner in which onshore and offshore Federal mineral estates can best contribute to America's energy supplies within the relatively short-term period of the next 5 years or less.

For Californians and others suffering through some of the rolling blackouts, 5 years may seem like an eternity. But there is an old saying that Rome wasn't built in a day.

Surely, increased natural gas supplies will reach California sooner than that from other pipelines from the San Juan basin of New Mexico or from increased production on existing pipelines.

But for the nation as a whole, where will the gas come from to meet forecasted demand while at the same time production from the Gulf of Mexico and existing wells declines at a faster and faster pace?

Chairman Cubin, who is unable to be here today, asked the oil and gas and coal and geothermal industries to testify, the latter of which is submitting written testimony for the record.

Likewise, I understand that an environmental organization from Chairman Hansen's state will be submitting written testimony as well.

The President submitted a proposed amendment to Congress on May 7 for his Fiscal Year 2002 budget for the Department of Energy. The amendment would increase spending on research and development of renewable energy resources by nearly \$40 million, reflecting a strong commitment to advancing solar, wind, geothermal, and biomass energy supplies for the future.

But let's be realistic. Renewables can provide but a tiny fraction of our needs any time soon, with geothermal energy providing the lion's share when it comes to public lands. By necessity, we must rely upon fossil fuels and existing nuclear power to alleviate power shortages.

And let me remind everyone that the nuclear option is dependent upon finding a solution to nuclear waste, another problem that will probably not be solved within the 5-year timeframe that is the subject of this hearing.

So we come back to oil, gas and coal once again to satisfy our energy appetite for the near term as we starve ourselves. The hunger pangs we feel today are because we let the pantry run low before realizing it was time to restock our energy supplies and staples. The public lands and the OCS, outer continental shelf, can provide us with a grocery store, but will the checkout line be express or an interminable delay?

[The prepared statement of Mr. Gibbons follows:]

**Statement of The Honorable Jim Gibbons, Vice Chairman,  
Subcommittee on Energy and Mineral Resources**

Today's hearing is the seventh in a series of oversight hearings which the Energy & Mineral Resources Subcommittee is conducting to examine issues concerning energy supplies from our public lands, including the outer continental shelf.

This is the first since President Bush released his National Energy Policy report of the task force led by the Vice President. The Administration has said many times recently that our energy woes did not happen overnight, nor can they be fixed quickly. The President's plan envisions reductions in energy demand and increases in supply over the long-term, a very sensible approach.

Today, however, we have asked our witnesses to give us their ideas for changes in the manner in which onshore and offshore Federal mineral estate can best contribute to America's energy supplies within the relatively short-term period of the next five years or less. For Californians and others suffering through rolling black-outs, five years may seem an eternity, but Rome wasn't built in a day. Surely, increased natural gas supplies will reach California sooner than that from another pipeline from the San Juan Basin of New Mexico or from increased compression on existing pipelines. But for the Nation as a whole, where will the gas come from to meet forecasted demand while at the same time production from Gulf of Mexico existing wells declines at a faster and faster pace?

Chairman Cubin, who is unable to be here today, asked the oil, gas, coal and geothermal industries to testify, the latter of which is submitting written testimony for the record. Likewise, I understand that an environmental organization from Chairman Hansen's state will be submitting written testimony as well.

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But, lets be realistic, renewables can provide but a tiny fraction of our needs anytime soon, with geothermal energy providing the lion's share when it comes to public lands. By necessity then we must rely upon fossil fuels or nuclear power to alleviate power shortages. And, let me remind everyone that the nuclear option is dependent upon finding a solution to nuclear waste - another problem not about to be solved within the five-year time-frame of this hearing.

So, we come back to oil, gas and coal once again to satisfy our energy appetite for the near-term, or we starve ourselves. The hunger pangs we feel today are because we let the pantry run low before realizing it was time to restock our energy staples. The public lands and the OCS can provide us with a grocery store, but will the check-out line be express or interminable delay?

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Mr. GIBBONS. With that, I would turn now to Mrs. Napolitano, if she wishes to make any remarks, or Mr. Markey.

**STATEMENT OF THE HONORABLE EDWARD J. MARKEY, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
MASSACHUSETTS**

Mr. MARKEY. Thank you, Mr. Chairman.

Let me begin by just framing this issue: Is there an energy crisis in the United States? There is an electricity crisis in California and the states that abut California because of a unique set of circumstances that center around one of the stupidest laws ever passed in the history of the United States and a historic drought in the Pacific Northwest.

If we had a national electricity crisis, we would hear threats of blackouts and brownouts all across the United States, which obviously we are not hearing.

So we have a regional electricity crisis that is caused by a peculiar set of unique circumstances that has only one short-term remedy, which is the Federal Government moving in to control exploitive, unfair, and unjust prices being charged by energy producers because of a dysfunctional marketplace, the price of electricity rising from \$7 billion to \$70 billion in California over the last 2 years. Dysfunctional.

Is there a national oil crisis, refinery crisis? In fact, there has been a 20 percent increase in refinery capacity over the last 10 years in the United States.

People say, "Well, there are fewer refineries today than there were 15 years ago." That is true. However, that's like saying, "Well, there are fewer supermarkets today than there were 15 years ago," which is also true, because, more and more, the supermarkets have 24 checkouts and so they close down four or five supermarkets in each community.

Does it mean that there is less food because there are fewer supermarkets? No. There is actually more food.

Does it mean because the large oil industry interests have consolidated onto larger sites, their refinery capacity, and in fact

increased it by 20 percent over the last 10 years, that there is less of refined production? Absolutely not. A phony issue.

What happened was, without question, the industry has been caught sleeping. One, the auto industry refused to increase the fuel economy standards of SUVs and automobiles, and, in fact, had the Republican leadership attach a rider to each years' appropriations bill for the last 7 years prohibiting the Federal Government—prohibiting it—from dealing with the fuel economy standard issue.

Now, we put two-thirds of all oil in the United States into gasoline tanks. Two-thirds. So if there is an oil crisis, it relates to gasoline tanks, with a prohibition on dealing with that issue.

Now, in turn, the Federal land issue is central. But interestingly, Bill Clinton increased oil and gas production on Federal lands greater than George Bush and Ronald Reagan did. They leased more land that led to more production. That is the Clinton plan on public lands.

But you can only have so much production if it is unaccompanied by a look at the technologies in the United States. We only have 3 percent of the world's oil reserves. OPEC has 75 percent of the oil reserves. We can't compete with them on that field. We're never going to have energy independence.

As the Cato Institute said, that is nonsense on stilts. We can't. It is just a crazy concept.

The question is, are we going to be smart? Are we going to reduce our consumption? Are we going to use technology?

Every single car in the United States going to a junk yard today—a junk yard—is more fuel efficient than the vehicle being replaced by the consumer in the United States. Now, that can't be a good sign.

These OPEC ministers aren't stupid. They know that we have a prohibition on our laws that increase the fuel economy standards for motor vehicles in this country, so they are in the driver's seat.

But if we did what Gerald Ford did, who deserves the Kennedy Profiles in Courage award for what he did in 1975, signing a bill which doubled the fuel economy standards, we wouldn't have to risk what I think the Republicans are calling for, which is a compromise of the environmental protections for the most sensitive American public lands.

Their proposal is a Trojan horse aimed at environmental and health laws, which the energy industry has always opposed, vigorously tried to keep off of the books.

And so it is a very small, narrow agenda, which they have developed, aimed only at one purpose, going into the most sensitive lands, whether it be the Arctic wildlife, national monuments, even though President Clinton has proved that you can dramatically increase the amount of oil and gas production on public lands without endangering those most precious lands that should be passed for a 1,000 years to all subsequent generations, all Americans.

So I thank you for the opportunity, Mr. Chairman, of speaking here.

Mr. GIBBONS. Thank you, Mr. Markey.

Interesting to see that President Clinton was the drill, drill, drill president.

Mr. MARKEY. He was, indeed.



[Laughter.]

Mr. GIBBONS. Mr. Tauzin?

Mr. TAUZIN. Thank you, Mr. Chairman.

There is a guy back in town. We haven't seen him for a long time. His name is David Freeman. He was around during the Carter years. He had an interesting theory. In fact, he propounded one of the most profound energy statements, I think, this country has ever heard.

His theory was that energy will last forever if we simply don't use it. And I thought about that, and said, "Golly, you know, he's right."

Unfortunately, we use energy in this country. Unfortunately, this country depends upon energy. Unfortunately, we depend upon others to make it for us in all too many cases.

I think one of the greatest ironies today is that we are buying oil from Iraq to turn it into jet fuel to fly our planes over Iraq to bomb Iraqi radar sites. It is an incredible irony.

And yet, that is the policy of this country as we receive it from the past administration.

We have, indeed, a situation with riders on appropriations in this Congress and in past Congresses. And the riders I think we ought to most focus on are the riders that say all across this country that even we know there are abundant energy resources available for this country in this country, that riders are attached declaring moratoriums on drilling and producing on lands that are easily available and easily producible.

Not only are they easily producible, easily available, but testimony from various Interior Secretaries in this Committee room have indicated that they are high in hydrocarbon potential, low on environmental risk, but we still pass riders locking them up.

If Mr. Clinton is famous for one thing—and it isn't drill, drill, drill, which I really question—

[Laughter.]

—it is in locking up access to resources available in America for Americans.

Now, look, we can argue about how much more we can do with conservation. And we will have that argument in the Energy and Commerce Committee this year.

In fact, the first bill I hope to offer to the Full Committee will be a conservation measure, so we can see as far as we can see demand reduction in this country, and we can promote as far as we can promote it.

But when we get through with a conservation measure, I suspect, as we look toward the energy future for our country, we are going to see several unassailable facts we have to deal with.

The first fact is that even with conservation measures already in place and new ones we are going to propose, this country's dependence on other people to produce energy for us will continue to grow, and some of those people are not so reliable as others.

It was astounding to me to find out that Louisiana sent more young men and women per capita than any state in America in the Persian Gulf war to defend those oil fields. I was astounded by that fact. I couldn't understand it at first until we examined it a little more thoroughly.

What we found out was that the young men and women of Louisiana who served in higher numbers per capita than any other state in America were in the Persian Gulf because they had lost their jobs in the oil fields in Louisiana. They joined the National Guard and Reserves for extra money for their families.

The irony was that because we couldn't put them to work in America producing needed supplies of fuel for this country in this country, they were putting their lives on the line defending somebody else's oil fields, in a very risky corner of the world.

I don't think that is the kind of policy that sane Americans would endorse. We have to think about how we provide access to lands in this country that are producible with new technologies with all due concerns for the environment and for the protection of those lands.

In Louisiana, we produce most of our reserve lands. And we put some of the trust money into preserving those same lands. We actually produce them, and we use the money developed from the resources.

I think we have sunk 1,600 wells into preserved wetlands of our state. And we take revenues from those productions, and we turn it back into projects to preserve and enhance the quality of the environment of those wetlands areas in our state.

That is good, sensible policy, using the best technology so you do as little or no harm as possible in production of its resources and turning the resources back into preservation and protection.

That makes good, common sense. This Committee ought to be thinking about that. And I hope it will as we move forward with an energy policy that begins to establish some sanity and some common sense to the needs of this country as we move into this high-tech economy.

And if you don't think we have a crisis—the first question I was asked by Bill Press on “Crossfire” the other night was, “You guys are really making up this crisis, aren't you? There's no real crisis in America?”

Mr. Markey, we have expanded refining capacity in this country. But our dependence on foreign-refined fuels has tripled and quadrupled over the same period.

And depending on refined fuels is even more dangerous than depending upon crude oil. We can get more crude oil, but if you can't refine it in this country, what are you doing to do with it?

Every time I hear a call to open up the SPRO (Strategic Petroleum Reserve) so we can have more gasoline in this country so prices will come down, I laugh. My question is, where do you want to send it? To what country are we going to refine it to bring it back to this county, because our refineries are operating at 96 percent, 98 percent capacity today, and we can't keep up with demand.

We haven't licensed a new refinery in America since 1976, the Marathon refinery built in Garyville, Louisiana, in my district.

What are we going to do? Just continue to rely upon other people to refine our products? Are we going to be like California, relying on price controls and restraints on production in our country so that we end up depending upon other people, who we can't control, to set the prices and the quality of fuel available to us in this country?

I suggest to you the last place we ought to look for suggestions about improving America's energy future is California. California has locked up its own resources. It refused to build pipelines. It hasn't built effective grids to move energy from one part of the state to the other.

It has put price controls at the retail level. It has put price controls at the wholesale level. And it had to ignore those because it found that it didn't work.

And now they find themselves depending upon their neighbors for the reserve energy. And their neighbors need that reserve energy. They are not going to give it to California. They are going to sell it to California; they are going to demand exactly a huge price for it. And that is terrible.

That is terrible. But why do you expect California's neighbors would want to sell California energy on a price that is determined by California, when they need their reserves for their own growth in their own states?

The head of ISO in California himself testified that price controls at the wholesale level on imported energy into California would lengthen and deepen the blackouts in California. It wouldn't add an ounce of energy. It would detract energy from California.

But that is the kind of policy we are being told is good for America, the same policy that has California in the dark today. No thank you.

Now, we ought to think about a rational policy that gives real, serious looks and access to hydrocarbon-rich areas in this country that can be developed in an environmentally sensitive manner and that plows back some of the resources from that development into preservation and protection and enhancement of those areas.

That is the policy we use in our state today in Louisiana.

And I want to say one final thing. Just as it galled me to think about the young men and women in Louisiana who were putting their lives on the line in somebody else's oil field, because they couldn't work in their own, it galls me to hear folks from other parts of the country continue to talk about locking up areas around this country and saying, "Oh, don't worry. Louisiana and Texas and Oklahoma, those states will produce it for America."

There are consequences to production, indeed there are consequences. I have a port in my district that is growing like gang busters and it is served by a two-lane road. And it is the biggest jumping off port right now for the deep drilling that is occurring, that is producing oil and gas for America.

As a consequence, that road is falling apart. I would like to see that road built. I wish somebody would help us build it.

There are consequences to us developing in Louisiana. But this notion that nobody else should develop, lock up everything in this country and count on a few states to do it, is crazy.

And if ever the people in my state took the attitude some people around this country took to opening up our lands to development, what a sick shape this country would be in today.

You better hope we never do. You better hope we continue in our enlightened view that you can develop with an eye toward the environment, that you can develop by putting resources back in the enhancement and protection of areas.

And you had better develop until you depend less on people you can't depend upon to satisfy your economy's needs for energy in the future.

Thank you, Mr. Chairman.

Mr. GIBBONS. Thank you, Mr. Tauzin.

And let me say that during hearing we held in New Orleans, I think it was last week, on this very issue, the two-lane road into Port Fourchon, it was concluded that is what is needed there is to line and pave that road with some weather-resistant gold mined in Nevada so that it doesn't wear out.

What we would like to do now is recognize Mr. Kind, the ranking Democratic member, for his opening statement.

**STATEMENT OF THE HONORABLE RON KIND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN**

Mr. KIND. I thank my friend from Nevada for recognizing me.

And I always feel so conflicted, sitting between these two gentlemen, my friend from Massachusetts and my friend from Louisiana, listening to their opening statements.

First of all, let me thank the witnesses for coming to give your testimony. Hopefully, we will be able to have an enlightened conversation in regard to our short-term energy needs.

I want to compliment my friend from Louisiana for the leadership he has shown on certain important conservation pieces; CARA, namely, the chief one that we vote very closely on, and I thought was a very good bill that we need to get back to work on as well.

But I don't think that anyone is suggesting here that production isn't going to be a short-term issue for this country. No one is expecting us to turn on a dime when it comes to our dependence on fossil fuel and the burning of fossil fuel for our short-term energy needs.

I think the real question though is, what is the answer in the short term in order to address short-term energy challenge that we are facing?

We are unquestioningly facing a 21st century energy challenge. And, hopefully, we are going to have 21st century response, one that is going to bring balance to this energy debate, recognizing that there is production going on in this country right now. We need to find out what restrictions are in place, inhibiting our ability to meet short-term needs, what type of regulatory burdens that the private producers are facing that we might be able to streamline.

But I think we also need to have a conversation in regard to the balance of this energy debate, one that also recognizes the values of alternative and renewable energy sources, the potential of geothermal power, for instance, one that is going to emphasize the use of modern technology for increased energy efficiency.

I think all of this is going to have to be a part of the equation as we move forward in this debate, and that it shouldn't just be one-sided, and that is drill, drill, drill, and more access, more access, and more access.

I just want to raise a few quick points before we begin the testimony.

First, according to sworn testimony that we already have in one of the eight hearings that we have had in this Subcommittee in regard to access to our energy resources on public lands, approximately 110 million acres, or 95 percent of Federal lands, are already open to energy development.

Secondly, and according to the Department of the Interior, during the 8 years of the Clinton administration, the Federal Government operated oil and gas offshore and onshore leasing programs that exceeded production levels during the previous Reagan and Bush administrations.

And third, while we can debate what the Clinton administration did or did not do during those 8 years, the fact is that oil and gas prices were, by historic standards, very low during most of the past 8 years, and thus discouraged energy exploration and investment.

It is one of the questions I am going to pose to the panel here today, is how much of this is being driven by just economics and market forces and investment decisions, and how much of it is dependent on greater access to the public lands, to an easing of regulatory burdens.

Or is the vice president of Exxon/Mobil correct, that if we just allow the market forces to play out, that the market eventually is going to clear it, because investments are being made on generating capacity and refinery capacity in this country? And is it really a supply problem that we are facing right now, especially of OPEC keeping per barrel prices, recently, within the \$25 to \$30 range?

And we certainly are not looking at the same type of energy crisis we had during the 1970's, so I think our response is going to have to be a little bit different as well.

Obviously, a lot of issues, a lot of questions that need to be answered, so I look forward to the testimony. And I appreciate the witnesses' presence here today.

Thank you.

[The prepared statement of Mr. Kind follows:]

**Statement of The Honorable Ron Kind, Ranking Democrat Member,  
Subcommittee on Energy and Mineral Resources**

This will be the eighth oversight hearing conducted by the Subcommittee on Energy and Mineral Resources this year, including one held at full committee, to address the availability and need for additional energy supplies from Federal lands.

The stated purpose of today's hearing is to identify specific "short-term" policy options for Congress that would that would significantly increase the supply of energy resources from Federal lands, including the Outer Continental Shelf, within the next five years or less.

Despite the amount of time spent on this issue by the Subcommittee, the case for opening up additional public lands to energy development in order to increase the supply of energy resources has simply not yet been made by those who would benefit most from such a policy.

First, according to sworn testimony to this Subcommittee, approximately 110 million acres or 95 percent of Federal lands are already open to energy development.

Second, according to the Department of Interior, during the eight years of the Clinton Administration, the Federal government operated oil and gas offshore and onshore leasing programs that exceeded production levels during the previous Reagan and Bush Administrations.

Third, while we can debate what the Clinton Administration did or did not do, the fact is that oil and gas prices were, by historic standards, very low during most of the past eight years, and thus discouraged energy exploration and investment.

Consequently, the issues of high energy costs or possible supply shortages do not derive from restricted or diminished access to public resources, as some would have us believe.

There are two essential issues related to energy that the Federal government should address. One has to do with the high price of electricity in California and other Western States. And the other has to do with high prices at the gasoline pump. Both of these issues are serious and important to our constituents. However, opening up protected Federal lands to oil and gas drilling will solve neither of these problems.

Instead, we see the issue resolving itself in the market place. According to the New York Times, the latest statistics from government and industry analysts show that the energy industry is shifting into high gear, investing heavily in areas that were seen as unattractive just a few years ago. Even before the government has eased regulations, the investment boom promises a cyclical increase in supplies that is expected to stabilize or reduce prices in coming months.

It would appear that if we allow the market to work, as suggested by a vice president of the Exxon Mobil Corporation, "the markets will clear," or meet demand.

I look forward to hearing the testimony of our industry witnesses today.

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Mr. GIBBONS. Thank you, Mr. Kind.

In an effort to move this hearing along, if any of the members wish to make opening remarks, I would suggest that we do that in writing, so that we can get to the witnesses. I know they all have a busy schedule, and they are here today to graciously help educate us.

Let me, as Chairman, ask that if members wish to make additional opening remarks, that we leave the record open and allow for them to submit written testimony.

Let me introduce now the first panel that will come before us. And in doing so, let me recognize Mr. Mark Rubin, upstream general manager, American Petroleum Institute; Mr. Terry O'Connor, vice president, external affairs, for Arch Coal Company, and he will be testifying on behalf of the National Mining Association; Mr. Earl Sims, president of Sims Consulting, and he will be testifying on behalf of the Independent Petroleum Association of America; and Mr. Tom Fry, president of the National Ocean Industries Association.

The Chairman would recognize Mr. Mark Rubin.

But before I do, let me introduce you to our traffic light system that we have here before us. There will be green light, which will give you approximately 5 minutes to summarize your testimony.

And for the record, you may submit your complete written statement. And within that 5-minute time frame, verbally summarize your statement, if you wish.

When you see the yellow light, you have approximately 1 minute remaining.

And of course, the red light, just like a traffic light, would indicate that time has expired. Please make every effort to sum up at that point in time so that we can continue this hearing in a timely fashion.

With that, Mr. Rubin, welcome. The floor is yours, and we look forward to your testimony.

**STATEMENT OF MARK RUBIN, UPSTREAM GENERAL  
MANAGER, AMERICAN PETROLEUM INSTITUTE;**

Mr. RUBIN. I am Mark Rubin, General Manager of upstream for the American Petroleum Institute, a national trade association

representing more than 400 companies engaged in all sectors of the U.S. oil and natural gas industry.

We are gratified that members of the Subcommittee appreciate the importance of access to Federal lands, and we applaud the administration for including access in its energy plan.

Today, we have been asked to comment on measures that might increase the supply of energy from Federal lands in the next 5 years.

One area that clearly should be a focus of short-term efforts to increase production is BLM and Forest Service multiple-use lands in the western U.S. Many of the barriers to development of these lands involve permitting problems or regulatory processes that could be streamlined by administrative action.

Often, getting a lease is not the most significant problem for oil and natural gas producers on Federal lands. Inadequate agency resources in many BLM offices and outdated resource management plans make it difficult to get drilling permits, and the expediting of the permitting process and updating resource management plans could produce significant supply effects within 1 to 2 years.

For example, in Wyoming's Powder River basin, BLM has a backlog of more than 2,700 drilling permits for coal bed methane wells that are delayed mainly due to a lack of staff resources to complete the planning and permitting processes.

Difficulties in acquiring permits to drill on Federal lands and overly restrictive lease stipulations are responsible for limiting production. The BLM and Forest Service often dictate extraordinary lease stipulations as conditions of approval for exploration and production.

Such stipulations are intended to protect resource values in conjunction with proposed projects, yet many conditions required essentially prevent exploration and production.

Relaxing unnecessary restrictions is especially important for natural gas, which tends to be a North American commodity and is not easily supplemented by large-scale imports. Almost half of the untapped natural gas on Federal lands in the Rockies is in areas that are either off limits or restricted by these types of stipulations.

The Gulf of Mexico currently supplies around one-quarter of both the oil and natural gas produced in the U.S. And while the shallow waters of the outer continental shelf provide the bulk of supply from the gulf, production from this area is declining.

Fortunately, as shallow water supply has declined, deepwater supply has increased enough to keep production growing. The question of whether this growth will be sustained may well be decided in the next 5 years.

We must increase deepwater development. Much of the shift to deepwater has occurred due to the far-sightedness of Congress in passing the Deepwater Royalty Relief Act in 1995. This shows the importance of not losing sight of long-term objectives as we focus on the next 5 years.

We will soon have a great opportunity to sustain this growth. Outer continental shelf Lease Sale 181 in the eastern Gulf of Mexico is scheduled for December 2001.

The sale area is based on comprehensive environmental reviews and consultations with then-Governors Lawton Chiles of Florida and Fob James of Alabama.

Congress understands the importance of Sale 181 and did not include it in the area placed off limits by moratoria in the past appropriations bills. The Sale 181 area is estimated to contain 7.8 trillion cubic feet of natural gas and 1.9 billion barrels of oil.

Also, the consistency provisions of the Coastal Zone Management Act are another matter that should be considered by Congress when looking to ways to expedite resource development.

Under the guise of due process and consultation, these provisions have caused serious, costly delays to Federal OCS activities.

Regulations issued by NOAA in the last days of the previous administration add impediments to energy development in the OCS, contrary to the balancing of competing interests directed by Congress when it enacted CZMA.

A third area of potential increased production is the NPR-A area in Alaska, where a Federal lease sale was held in 1999 in which 133 leases were awarded. There has been significant exploration activity on these leases over the past two winters. And just yesterday, Phillips and Anadarko announced that several of these wells had yielded significant new field discoveries.

The Department of Interior should consider broadening the area leased in NPR-A in order to encourage exploration and development in the near term.

Finally, it is important to note that in providing more access to Federal lands for exploration, we do not believe that we must choose between domestic energy supplies and environmental protection. We can have both.

Our Federal lands are an asset with multiple values, and the time has come to recognize that energy values play a significant role in that mix.

One additional comment: Although my prepared remarks are focused on public lands, I would add one comment in response to Congressman Markey's mention of increases in refinery capacity. I am told by our refining experts that the actual increase in refining capacity over the last decade has only been 6 percent, not 20 percent, and that additional capacity additions have been limited by permitting problems and regulatory restrictions.

Thank you for this opportunity.

[The prepared statement of Mr. Rubin follows:]

**Statement of Mark Rubin, Upstream General Manager,  
American Petroleum Institute**

The American Petroleum Institute (API) welcomes this opportunity to present the views of its member companies on the question of short and intermediate term initiatives to enhance energy development in the United States. API is a national trade association representing more than 400 companies engaged in all sectors of the U.S. oil and natural gas industry, including exploration, production, refining, distribution, and marketing.

We are gratified that this Committee appreciates the importance of access to the Federal lands in our nation's future energy supply. We applaud the Bush Administration for including access to Federal lands in its review of energy policy by a Cabinet-level task force on the subject, and we are encouraged that you and other Members of Congress of both parties are putting access high on your agendas.

Today, we are asked to comment on measures that might be taken to impact the supply of energy from Federal lands within the next five years. In fact, while there



are some frontier developments in deep water offshore and on the North Slope of Alaska that require longer lead times, most of the access issues we have emphasized in other testimony before this Committee this session could result in positive supply impacts in a time frame of five years or less. However, as I will point out, some of the most significant supply developments on Federal properties over the next five years are the result of congressional and administrative actions in the mid-90's. As a consequence, we should be cautious that a focus on the next five years does not distract us from measures needed today with equally or more serious consequences for supply 10 or 15 years in the future.

*What do we mean by access?*

Let me begin by defining carefully what we mean by access to Federal lands, and just as importantly, what we do not mean. Our critics characterize our quest for improved access as a call for the wholesale opening of all Federal lands to resource development, without regard to environmental impacts. Quite the contrary is in fact the case. The U.S. oil and gas industry does not ask to drill on parklands or in wilderness areas set aside by Acts of Congress. Rather, we seek access to a very selective set of resource-prone areas offshore, and in the American West that have been designated as "multiple-use" by Congress, and areas of Northern Alaska designated for potential oil and gas development. What we ask is that on these lands the value of energy potential be considered along with other values, and that when this potential can be developed consistent with such values, that development should be permitted.

#### *Onshore Access in the Western States*

The first area, and the area with the greatest potential for short-term impact, is the multiple use land in the Western states. Most of the barriers to development on these lands involve regulatory processes that could be streamlined by administrative action. Most of these multiple-use areas are simply vast expanses of non-descript Federal lands. However, because they lack the beauty and grandeur of the Grand Canyon or the Grand Tetons does not mean that we treat them with less respect than we do any other lands entrusted to us by the government, or by private landowners. Most people driving near or hiking in one of these areas would be hard-pressed to locate one of our facilities once the drilling rig is removed. Safety and environmental protection are critical concerns, regardless of the location of drilling.

Yet, despite our record of sound stewardship, President Clinton used his executive powers under the Antiquities Act to bar oil and gas exploration and other activities on vast regions of government lands. For example, the designation of the Grand Staircase-Escalante Monument in Utah in 1996 summarily withdrew promising valid oil and gas leases on state lands without even notice to or consultation with state and local authorities, or affected communities. Likewise, the U.S. Forest Service recently banned our companies from exploring for oil and natural gas on promising government lands when it published rules to bar road building on nearly 60 million acres in the Forest System that, according to a Department of Energy study, could hold 11 trillion cubic feet of natural gas. Furthermore, the roadless rule case illustrated the cavalier disregard with which energy potential is dismissed in Federal land use actions. In the Rocky Mountains, access to about 83 percent of the affected gas resource could have been preserved by less than a 5 percent reduction in the roadless acreage. It was not.

In the lower-48 states, a study by the Cooperating Associations Forum found that Federal lease acreage available for oil and gas exploration and production in eight Western states (California, Colorado, Montana, Nevada, New Mexico, North Dakota, Utah and Wyoming) decreased by more than 60 percent between 1983 and 1997—and that does not count the major land withdrawals, such as Monument designations, since 1997.

Approximately 205 million acres of Federal lands in these states are under the control of two Federal agencies with broad discretionary powers. The Bureau of Land Management (BLM), whose land management planning authority is derived from the FLPMA of 1976, and the U.S. Forest Service (USFS), whose jurisdiction is derived from the National Forest Management Act, administer these Federal, non-park lands. Both agencies are required to manage most of these lands under the congressionally mandated concept of multiple use. Yet, BLM and USFS discretionary actions have withdrawn Federal lands from leasing, and long delayed other leasing decisions and project permitting.

Congress has directed the BLM and Forest Service to allocate non-wilderness lands for resource use, identify areas that are available for oil and gas leasing, identify important wildlife habitat areas, and inventory wilderness candidate lands among other uses. Each agency has completed land resource management plans for

the lands they administer, including lands that are candidates for wilderness designation. Yet, some lands found unsuitable for wilderness designation are, however, managed as "wilderness study areas," effectively removing approximately 28 million acres inappropriately from consideration for resource development. Further, these agencies often dictate extraordinary lease stipulations as conditions of approval for exploration and production. Stipulations are intended to protect resource values in conjunction with proposed projects, such as exploratory wells, yet many conditions required, such as "no surface occupancy," essentially preclude exploration and production from occurring.

Relaxing these restrictions is particularly important if we are to address the immediate problem of natural gas supply in the U.S. Unlike oil, gas tends to be a North American commodity, not supplemented easily by large scale imports from outside of North America. Gas is also critical to a serious transition currently underway in the manner we are going to satisfy the already burgeoning demand for new electrical generating capacity. Since natural gas markets are regional, rather than global, 86 percent of the natural gas consumed in the United States is produced domestically. The Rocky Mountains are one of the areas of the U.S. with the greatest potential, containing an estimated 346 TCF of remaining technically recoverable gas. Moreover, it is an area where development can occur quickly, if allowed, so that it offers the real potential of substantial supply effects within a 1 to 2 year window. In the Foreland region, for instance, supply is estimated by the NPC to rise by about 38 percent between 2000 and 2005.

Often, getting a lease is not the most significant problem for producers. Difficulties in acquiring permits to drill wells on onshore government lands and overly restrictive lease stipulations are responsible for limiting natural gas production. These are restrictions, such as "no surface occupancy" or seasonal stipulations, which go above and beyond the normal environmental stipulations and can prevent economic development of the lease without commensurate environmental benefit.

Almost half of the untapped natural gas on multiple-use government lands in the Rockies is in areas either off limits or restricted by this type of stipulation laid down by one Federal agency or another.

This information is important because the facts are often ignored and often distorted by those who do not believe greater access to government lands is needed by our industry. In recent testimony before this subcommittee, for instance, we heard material distortions by the witness for the Wilderness Society. In particular, the Wilderness Society witness, in his testimony and in the study submitted for the record, concluded that only a small percentage of BLM lands in five western states is off limits to leasing and development.

Those conclusions gloss over the most significant point: the percentage of government lands available for leasing is a meaningless figure without knowing whether the leases can be developed. In many instances, lessees cannot obtain the permits needed to develop leases. In others, development is rendered uneconomic by unnecessarily restrictive operating stipulations.

The Wilderness Society witness surgically selected certain data, and omitted other significant data to attempt to prove their inaccurate assertions. For example, while the numbers presented by the Wilderness Society do show that only about 3.5 percent of the BLM lands in Wyoming, Utah, New Mexico, Montana, and Colorado is strictly off limits to development, oil and gas resources in those states are not distributed uniformly across BLM lands. Specifically, while the Wilderness Society says only 3.5 percent of BLM lands are off-limits, the NPC study identifies another 3.2 percent that are subject to No Surface Occupancy. The NPC study indicates that this 6.7 percent of BLM lands represents 15 percent of the BLM natural gas resources, which are either off-limits or significantly impinged.

More important, however, is the role of non-standard lease stipulations. The Wilderness Society's data show that seasonal and other non-standard stipulations restrict access to an additional 32 percent of BLM lands. However, this impacts access to 47 percent of the natural gas resources estimated to exist on BLM lands in the Rockies. When all of these restricted and off-limit BLM lands are combined they total 38.7 percent, affecting 62 percent of the natural gas resources.

Further, BLM is not the only Federal land management agency making such restrictions. These witnesses omitted the U.S. Forest Service, the Bureau of Indian Affairs and the departments of Defense and Energy in their computation of Federal multiple-use lands that are restricted to oil and gas development. In total, the National Petroleum Council estimates that some 137 TCF of natural gas resources lie beneath Federal land in the Rockies that is either off limits to exploration, or heavily restricted. This is 48 percent of the natural gas on Federal land in the region. This does not include the more than 11 trillion cubic feet (TCF) of natural gas

that was summarily placed off limits late last year alone by the USFS "Roadless" rule, as mentioned above.

But stipulations are not the only impediments to bringing the oil and natural gas to America's consumers. Inadequate agency resources in many BLM offices and required but outdated resource management plans often make it difficult to get drilling permits, seriously delaying viable projects for up to 100 days, or sometimes years. In the Rawlins, Wyoming BLM office, for example, thousands of Applications for Permits to Drill are awaiting action because of manpower shortages. In the Buffalo, Wyoming office, thousands more are not being accepted by BLM because of limitations of the resource management plans (RMP) for the area. This is because the "Reasonable Foreseeable Development" (RFD) figures, estimates of future development, failed to recognize the interest in developing coal bed methane. Updating these RMPs and RFDs takes the BLM two or more years to complete, thus limiting further oil and gas activity in that area until the plans are finished. Expediting the land use planning process is critical to increasing production from these lands over the next 5 years.

The NPC study on natural gas referred to earlier also points out that vast reserves of natural gas in the form of coal bed methane (CBM) lie beneath Federal lands, especially in Wyoming and Montana. However, BLM's inability to grant permits in a timely manner has greatly hindered CBM development, and may contribute to further shortfalls in necessary future gas production. In some instances, we recognize that individual BLM offices may be understaffed and therefore are simply unable to efficiently process permitting requests. We therefore support increased funding for BLM to adequately address these critical permitting backlogs.

In summary, the resources of the Federal lands in the Western states offer enormous potential to address the immediate energy demands for natural gas in the U.S. This potential is currently highly underutilized due to restrictions on land use for energy development, and relaxing the restraints on access described here could produce significant supply effects within one to two years.

#### *Federal OCS*

The second area of Federal property of key importance to supply growth over the next five years is the Federal Outer Continental Shelf. The OCS has assumed increasing importance to U.S. energy supply over the past half century. The Federal portion of the OCS now supplies 24 percent and 27 percent of the oil and gas produced in the United States. Offshore production promises to play an even more significant role in the future. The Department of Energy forecasts that offshore production will rise to nearly a third of our domestic oil and gas supply within a decade.

Technological revolutions, such as 3-D seismic profiling of promising structures, coupled with astounding computer power and directional drilling techniques which allow numerous reservoirs to be accessed from one drill site have driven down the costs of finding oil and gas. And at the same time these technologies allow development with much less disturbance to the environment. Tremendous advances in our ability to drill and produce in the deep waters of the Gulf have also resulted in vast new reserves being added to our resource base.

The Gulf of Mexico currently supplies over 25 percent of U.S. natural gas production. However, it is currently in the midst of a transition that will be substantially played out over the next five years. That is, while the shallow waters of the shelf now provide the bulk of supply from the Gulf, there is now accumulating evidence that resource depletion is overtaking the effects of technical advances on the cost structure of shelf development, and the decline from new gas wells there is now estimated to be as high as 40 percent per year. Fortunately, as the supply from the shallow waters of the shelf declines, that from the deepwater is increasing, at a sufficient rate to keep total production from the Gulf growing, although there is a question as to how long. The NPC report, prepared in 1999, estimated that this expansion would continue until 2010, when Gulf production would peak at 8 TCF/yr. An MMS report prepared last year estimated a somewhat lower peak, of 6.7 TCF, also by 2010. This year, new estimates from the MMS project a peak much earlier, in 2002, at a still lower level, 5.2 TCF/yr.

These numbers illustrate three points. First, they illustrate the growing importance of the deep water in OCS supply, which is rapidly transitioning to becoming the principal source of such supply. Second, they raise the possibility that the feasibility of sustaining this transition may well be decided in the five year window we are concerned with. The numbers suggest that the drilling and capital expenditures required to replace and augment reserves will become increasingly important, and that we must increase deepwater development. Finally, the transition to deepwater illustrates the importance of not losing sight of long term objectives as we focus on the next five years. That is, much of the shift to deepwater activity has occurred

within the past five years, in part due to the farsightedness of Congress in passing the Deepwater Royalty Relief Act in 1995. It is essential that as the deepwater grows into the major source of Gulf supply, we not lose sight of the actions that need be taken today to sustain this growth. The MMS OCS Policy Committee, Subcommittee on Natural Gas on the Outer Continental Shelf, concluded that unless exploration and development scenarios in the Gulf of Mexico change dramatically, the production forecasts such as those estimated by the NPC will not be realized.

The nation will soon have a great opportunity to sustain this growth. Federal OCS Lease Sale 181, in the Eastern Gulf of Mexico Planning Area, is scheduled for December 2001. The sale area is based on comprehensive environmental reviews, and consultations between former Secretary of the Interior Bruce Babbitt and then-Governors Lawton Chiles of Florida and Fob James of Alabama. Congress in the past several appropriations bills understood the importance of Sale 181 going forward and did not include it in the areas placed off-limits by moratoria. The area available in Sale 181 is estimated by the National Petroleum Council to contain 7.8 trillion cubic feet of natural gas and 1.9 billion barrels of oil. This means that natural gas from the Sale 181 area could satisfy the current electricity needs of Florida's 5.9 million households for the next 13 years. Moreover, the crude oil from the Sale 181 area (most of which is expected to come from the deepwater areas, far removed from the coastline) could fuel 74,000 cars for 20 years.

Finally, of both short and long term significance are the "consistency" provisions of the Coastal Zone Management Act (CZMA). Under the guise of due process and consultation, these provisions have caused serious duplicative and incredibly costly delays to Federal OCS leasing and production activities that would have no adverse environmental impacts on states' coastal zones. And regulations issued by the National Oceanic and Atmospheric Administration (NOAA) in the last days of the Clinton Administration appear to add impediments to environmentally compatible energy development in the OCS, contrary to the balancing of competing interests directed by Congress when it enacted the CZMA. Both the summary withdrawal of multiple use government lands without stakeholder consultation under the Antiquities Act, and the endless due process used by opponents to block Federal offshore production that does not affect a state's coastal zone are extreme, and must be moderated.

#### *Alaskan North Slope*

A third area of concern to both short and long-term energy supply is the Federal lands of Alaska's North Slope.

First, again we note that an area of growing current exploratory interest is the Northeast corner of the National Petroleum Reserve in Alaska, where a Federal lease sale was held in 1999, in which 133 leases were awarded. Eight wells have been drilled, and more are planned. Again, the activity we are now seeing in NPR-A and the prospective supply effects in the next five years is attributable to actions taken by the Federal government in the past five years. Likewise, actions needed within the current five year window should be designed to sustain the activity begun in the last one, including the planning of further lease sales within NPR-A.

While probably not within the five year window for new production, it is no less urgent that Congress authorize exploration on the small section of the Arctic National Wildlife Refuge (ANWR) that was specifically set aside by law for exploration in 1980. DOE's Energy Information Administration estimates that the ANWR coastal plain contains between 5.7 billion and 16 billion barrels of technically recoverable oil. The coastal plain provides the best prospect in North America for a new giant, Prudhoe Bay-sized oil field.

#### *Summary*

Increased access to Federal lands—in the West, offshore, and Alaska—is the single most important lever that the government holds to affect domestic oil and gas supply in the next five years and beyond. Increased access extends beyond the mere act of leasing property it extends to removing barriers to the utilization of that property in a manner consistent with environmental protection, recognizing the fact that technology has greatly reduced the scope of conflict between energy development and environmental protection. Those in the Federal government who are most familiar with our industry have lauded our technological advances. A 1999 DOE report, *Environmental Benefits of Advanced Oil and Gas Exploration and Production Technology*, stated that, "innovative E&P approaches are making a difference to the environment. With advanced technologies, the oil and gas industry can pinpoint resources more accurately, extract them more efficiently and with less surface disturbance, minimize associated wastes, and, ultimately, restore sites to original or better

condition. [The industry] has integrated an environmental ethic into its business and culture and operations [and] has come to recognize that high environmental standards and responsible development are good business.”

To promote such growing access, there is a strong need for improved information on the access status of the existing resource base. We applaud the action taken in the last Congress when it reauthorized the Energy Policy and Conservation Act (EPCA) (Section 604) directing the Departments of the Interior and Energy and the Forest Service to conduct an inventory of the oil and gas resources on Federal lands and the restrictions that prevent access to these critical resources. We urge Congress to fully fund this inventory in the Fiscal Year 2002 appropriations bill so that adequate information will be available on resource availability. This is an important step in bringing about increased development of U.S. oil and gas resources and an important component in any effective national energy policy.

The American public does not have to choose between domestic energy supplies and environmental protection. We can, as a nation, have both—and we cannot afford to heed those negativists who tell us otherwise. Meeting U.S. energy needs and protecting the environment are both critical to our nation’s continued economic growth—and critical to achieving the future prosperity and well being we all seek. Our Federal lands are an asset with multiple values, and the time has come to recognize that energy values play a significant role in that mix.

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Mr. GIBBONS. Thank you, Mr. Rubin.

Mr. O’Connor, the floor is yours. Welcome to the Committee. We look forward to your testimony.

**STATEMENT OF TERRY O’CONNOR, VICE PRESIDENT,  
EXTERNAL AFFAIRS, ARCH COAL, INC., ON BEHALF OF THE  
NATIONAL MINING ASSOCIATION**

Mr. O’CONNOR. Thank you very much.

For the record, my name is Terry O’Connor. I am Vice President of Arch Coal, the nation’s second largest coal producer, here representing the National Mining Association.

I thank all of you gentlemen and ladies for the opportunity to appear here on this very timely subject.

I think most of us are aware that, from an electricity standpoint, over 50 percent of all the electricity generated in this country comes from coal. And 40 percent of that coal is mined on Federal lands, almost exclusively in the western United States.

Various energy experts project that as we look out into the next 20 years, some 90 percent of the projected increase in coal demand for this country is going to come from these Federal lands, so this is a very relevant and timely subject.

I want to address three principal areas today. I would ask you to allow me to incorporate our written testimony into the record. It covers a lot more, but I will address three in the interest of time.

First is the issue of conflicts between coal bed methane development and coal mining and production. This is exclusively an issue in the Powder River basin of Wyoming and Montana; it doesn’t have any impacts outside of those two states, other than from a supply standpoint.

And the issue goes back for some 30 years—35 years, in fact—as the Bureau of Land Management has issued oil and gas leases to one company and coal leases to another company off of Federal lands, without regard, without regulations, stipulations, legislation or policies as to how to deal with these issues when those two valuable resources collide.

Those of you who have been to the Powder River basin are aware that we are blessed with an incredible magnitude and quality of both of these resources.

From a coal bed methane standpoint, this is an emerging industry in which there may be 70,000 wells drilled in the course of the next 10 years from the Powder River basin.

The Powder River basin itself is the Saudi Arabia of coal. One mine—there are 14—one mine itself on an energy equivalency basis represents about an equivalency of 650,000 barrels of oil a day, larger than any oil field in the southern 48.

We desperately need legislation to deal with these issues of conflict, so that both of these valuable industries can go forward without the unnecessary and acute problems that are occurring, that are creating investment uncertainties.

I will give you one anecdotal piece of information here to identify this. Three years ago, my company was a successful bidder on a lease. We submitted a bid of \$158 million. We did not know that there would be coal bed methane development on there. And only later did we find that a coal bed operator planned to put some 60 wells right in the face of our ongoing operations.

Had we known that was going to happen, we would not have bid the \$158 million, but have been required significantly to devalue that bid, because we would have known then, after we got the right to mine that, we were going to have to pay many, many millions of dollars to the coal bed operator to entice him to move more expeditiously and remove his production activities.

There are lease sales coming up as early as this fall that are going to address this same issue. And unless and until Congress deals in a proactive manner, both the Federal and state governments are going to receive less revenues from these coal lease sales than they would otherwise receive.

So I urge you to look favorably on this issue, and pass legislation as introduced by Congresswoman Cubin, H.R. 1710.

The second issue, the issue of public land withdrawals and the roadless initiative, is an issue that others have testified before this and other Committees earlier.

A couple of quick points on there. We are unsure where the administration is going to be going in light of the Idaho injunction, but Congress must keep the pressure for rational forest protection here. Two very quick examples.

One of our mines in Colorado, we are actually facing a potential very serious safety problem, because it is an underground mine. We have experienced unexpectedly high levels of methane. The only way that we are able to flush this area from the active mine areas is to actually drill bore holes down from the surface in order to get fresh air and flush that.

These bore holes will be drilled on leased ground that we have under lease. But to get to that surface, we have to cross a small section of Forest Service lands, and we are encountering major impediments because of the roadless initiative that prohibit us or are impeding us now from being able to drill those holes, creating a major potential safety issue for our employees. And these are issues that will spread elsewhere.

In Utah, are plans to develop at least two additional power plants to service the electrical shortages for the Rocky Mountain west. This roadless initiative has the potential to create a serious problem, because in all likelihood, new coal mines would be needed to supply those new power plants. And 70 percent of all the coal production now is on Forest Service lands.

A final point, very quickly, because I know my time is running out here. We need to accelerate the Federal coal leasing scheduling process, because of the important strategic value of western Federal coal leasing.

I understand that the 2002 budget has allocated an additional \$1.3 million and four FTEs to accelerate Federal coal leasing. We are not sure how that money will be spent or where it is going to be spent.

But right now, particularly in the Powder River basin of Wyoming, if we expressed interest in a lease sale today, it would probably be 2011 or 2012 before we would be producing on that.

We have to accelerate that process. And we can do it without compromising environmental or other regulatory means by really administratively focusing BLM in the areas where there needs to be greater focus.

Thank you very much.

[The prepared statement of Mr. O'Connor follows:]

**Statement of Terry O'Connor, Vice President, External Affairs, Arch Coal, Inc., on Behalf of the National Mining Association**

Madame Chairwoman, my name is Terry O'Connor. I am Vice President of External Affairs for Arch Coal, Inc. I am appearing here on behalf of Arch Coal and the National Mining Association (NMA) to testify on the potential that energy resources on Federal lands, specifically coal resources, have to play in solving our nation's short-term energy supply problems. We would like to thank you for your leadership in holding these hearings and working to find ways to increase energy production on Federal lands, while at the same time making certain that exploration and production is done in a way that is compatible with protecting the environment in which we live and work.

*Summary*

Our nation is facing a crisis—a shortage of affordable energy. While this is a long term problem that will only be solved with policies that encourage long term investments in the environmentally sound development of our energy resources, in efficiency and conservation, the problem also requires short term solutions. Domestic, affordable and increasingly clean coal that provides over 20 percent of all the energy that is used in the United States, the fuel of choice for over 50 percent of the electricity generated in our nation today, must be part of the short run answer. Nearly 40 percent of our coal production is from mines located on Federal lands. Over one-third of the nation's coal reserves are owned or controlled by the Federal government. Forecasts show that over 90 percent of new production expected to come on line over the next 20 years will be from mines on Federal lands. Much of this production can come on line quickly if electric generators can use it. However, policies now in effect discourage modification of existing capacity and construction of new clean coal generating capacity. Policies also have discouraged, or prevented the exploration, development and investments that will be required to bring new coal production on Federal lands quickly on line. That is the subject of this hearing today. The Congress, in concert with the Administration, can take action in three areas to allow expansion of coal production from Federal lands, dependent upon the demand to use coal.

- The Congress can enact legislation to resolve conflicts involving simultaneous development of coal bed methane and leased Federal coal reserves in the Powder River Basin. We thank you Madame Chairman, for the legislation, H.R. 1710, which you introduced for this purpose and which has been referred to this Sub-Committee;

- The Administration can extend its review of public lands withdrawals and lease stipulations, announced last week as part of the President's energy policy, to include coal resources as well as oil and gas. In particular, the Administration needs to address changes needed in the Forest Service Roadless Area Conservation Rule; and,
- The Administration can extend its review of Federal leasing policies—also announced last week—to include a review of the coal leasing process with the goal of taking the administrative actions necessary to accelerate the leasing process. Legislation is also required to reform Federal coal leasing.

#### *Background*

By way of background, Arch Coal, Inc., headquartered in St. Louis, is the second largest coal producer in the United States. In 2000, our operating subsidiaries mined more than 112 million tons of coal—approximately 10 percent of the nation's production—from surface and underground mines in Wyoming, Colorado, Utah, Illinois, West Virginia, Kentucky and Virginia. Arch shipped coal to approximately 149 power plants in 30 states providing the fuel for 6 percent of the electricity used by Americans last year. Arch owns or controls approximately 3.2 billion tons of coal reserves including reserves on Federal lands.

In 2000, our company mined nearly 65 million tons of low-sulfur, sub-bituminous coal from our two large surface mines in the Powder River Basin ("PRB") of Wyoming, Black Thunder and Coal Creek mines. We also produced 3.4 million tons in our West Elk Mine in Colorado and 9.4 million tons at three mines in Utah. This coal is almost exclusively mined on Federal lands, including four mines that operate at least partially on National Forest Service Lands. One of Arch Coal's highest priorities is to operate safe and environmentally responsible mines. Our production and reclamation experience on our mines on Federal lands are prime examples of the way that our priorities are met.

The National Mining Association represents producers of coal, metals and non-metal minerals, as well as manufacturers of processing equipment, machinery and supplies, transporters, and engineering, consulting and financial institutions serving the mining industry. The members of National Mining Association produce over 80 percent of America's coal, a reliable, affordable, domestic fuel choice used to generate over 50 percent of the electricity used in the nation.

#### *The Nation Has a Long-Term Energy Problem, But, Short-Term Actions Can Help*

Without question our nation is facing the most serious shortage of affordable energy since the 1970's. Gasoline prices are at record or near record highs throughout the country. Refinery capacity cannot keep up with the demand for the many regionally required fuels. Natural gas prices were very high during the winter and are still far above price levels of only 18 months ago. Electricity shortages and rolling blackouts, a reality in California, may also occur this summer in New England, New York City and Texas<sup>1</sup> as the capacity to generate affordable electricity has not kept up with demand. As President Bush pointed out in his report "National Energy Policy" released last Thursday May 17th, there is a fundamental imbalance between supply and demand—that if allowed to continue will inevitably undermine our economy, our standard of living, and our national security.<sup>2</sup> Our nation's energy infrastructure has an investment deficit. This is a long-term problem that requires the long-term solutions suggested by the President's new energy policy.

But, the effects of this crisis—a shortage of affordable energy—are being felt by our citizens now. We must take short-term actions that will assist in alleviating the crisis even as policies are being developed and implemented to address the longer-term issue. Increasing the supply of energy produced on Federal lands, including coal that is produced on Federal lands, can be part of the short-term solution.

#### *Coal Is An Important Part of Short- and Long-Term Energy Policy*

Increasing the production and use of coal, our nation's most abundant domestic resource, is an important piece of both short and long term energy policy. In 2000, 1.1 billion tons of coal were produced in mines located in 26 states. Coal, or electricity generated from coal, is used in all 50 states. Last year almost all our production, or 1.026 billion tons of coal, was the fuel that generated nearly 52 percent of all electricity used in the United States. The reason that coal has this market share is straightforward: coal is domestic and reliable; coal is affordable (electric rates in regions dependent upon coal for electricity average at least one-third lower than

<sup>1</sup>North American Electric Reliability Council, 2001 Summer Assessment, May 15, 2001

<sup>2</sup>National Energy Policy, Report of the National Energy Policy Development Group, May 17, 2001



regions dependent upon other fuels for electricity); and, coal is increasingly clean. Although coal use in 2000 was more than triple the amount of coal used for electrical generation in 1970, emissions have declined by over one-third, a trend that will continue.

As the National Energy Plan so correctly stated: "If rising U.S. electricity demand is to be met, then coal must play a significant role."<sup>3</sup> Coal fired electricity is and will remain the most affordable electricity available. Coal production will increase by at least 25 percent over the next two decades to meet the increased demand arising from the expected 40 percent or greater increase in demand for electricity.

*Coal on Federal Lands, Is and Will Continue To Be, a Vital Part of the Nation's Domestic Energy Supply*

Coal mined on Federal lands provides a vital portion of the nation's domestic energy supply. In 2000 approximately 405 million tons of coal, 37 percent of national production, were mined on Federal lands. Considering western production only, nearly 80 percent came from mines on Federal lands and, considering that the majority of privately held western reserves are on lands that are effectively controlled by Federal land policies, one can assume that 85 percent or more of the growing western coal industry depends upon Federal land management policies. Coal mines on Federal lands are found in Colorado (89 percent of production within the state), Montana (46 percent), New Mexico (24 percent), North Dakota (7 percent), Oklahoma (35 percent), Utah (88 percent), Washington (33 percent) and Wyoming (92 percent). Less than 0.1 percent of coal production on Federal lands - 365,000 tons - was from lands located in the Appalachian states (Alabama and Kentucky).

Coal produced on Federal lands contributes directly to local economies in a positive way. In 2000, this coal was worth an estimated \$3 billion. Production activities provided high paying jobs for over 15,000 workers in 2000, paying wages in excess of \$600 million. Considering both direct and indirect economic benefits, coal produced on Federal lands provided employment for nearly 150,000 workers with wages of over \$3.5 billion dollars.

Coal produced on Federal lands contributed nearly \$400 million to state and local tax revenue. Royalties paid to the Federal Government last year were an estimated \$330 million.

All the benefits of coal mined on Federal lands do not remain within the region as this coal is shipped to electric generators in 30 states. Major destinations outside the western region include generators in Michigan, Minnesota, Illinois, Indiana, Iowa, Wisconsin, Texas, Kansas, and Arkansas with some being shipped as far as Alabama, Mississippi and Georgia. Taken as a whole, coal mined on Federal lands is used to generate nearly 40 percent of all electricity generated from coal, or approximately 20 percent of all electricity produced in the US. This is not an insignificant amount being enough to supply electricity to the entire South Atlantic census region or to all the customers in the East North Central and West North Central states combined or to 3.2 Californias.

The Federal Government owns about one-third of the Nation's coal resources, which are located on approximately 76 million acres of land principally in the western United States. Western Federal lands contain approximately 60 percent of the total western coal reserve base. An additional 20 percent of the coal resources in the West are managed or impacted by the Federal Government by virtue of (1) the commingling of State and private coal reserves with Federal leases and (2) trust responsibilities for Indian lands.

It is important to note that the enormous coal reserves on Federal lands include some of the best coal from an environmental standpoint. Many of the reserves, especially those located in Wyoming and Montana, are low in sulfur and also low in inherent NO<sub>x</sub> when burned in power plants. These coals are ideally suited to meet the increasingly stringent emission requirements of the Clean Air Act Amendments of 1990 and the regulations that EPA has promulgated.

Whether viewed as an environmental, an economic or as a domestic energy security and reliability issue, continued coal production from reserves on Federal lands is critically important to the economy and the well being of the United States. Energy, especially electricity would not be as readily available or as affordable if it were not for coal from Federal lands.

Coal from federal lands is projected to increase over the next two decades. The EIA Annual Outlook 2001 forecasts shows that over 90 percent of the expected 250 million tons increase in US coal production will come from coal reserves located on Federal lands. Clearly, coal resources on Federal lands not only can, but must play a major role in meeting the demands of the future.

<sup>3</sup> Ibid. p. 5-14

*What Is Needed to Make the Coal Production Forecast A Reality?*

*Expansion of coal fired electric generating capacity is a condition precedent.*

First and foremost, coal will not be mined unless it can be used. The future demand for coal depends upon the capability of the electric generating industry to continue operation of its existing fleet and to expand with construction of new plants using advanced clean coal technologies. Maximum efficient use of generating capacity in turn depends upon a reliable nation wide transmission network with greater capability than exists today. President Bush has suggested several policies that will allow existing generating capacity to operate at maximum efficiency, new capacity to be built, and the transmission network to be expanded without impact on the environment. Although these policy proposals are beyond the scope of this hearing today, it is important to note that the capacity to use coal, the capability to turn coal into electricity efficiently with minimum impact on the environment, is a necessary precedent to expanding coal production capacity. National Mining Association supports the provisions included in the President's energy plan to expand research to continue development of advanced clean coal technologies. We also believe that legislation to implement a new energy policy must include a provision for incentives to assist companies building new clean coal plants by assuming part of the financial risks associated with commercializing new technologies.

*Coal production on Federal lands can increase rapidly but not without changes in Federal policy.*

As pointed out, coal production on Federal lands is a large and growing portion of production in the United States. Over the next four years, the 405 million tons produced in 2000 can certainly increase to meet demands throughout the nation but most particularly in the west and southwest.

For example, coal production from reserves located in Utah on Forest Service lands, or on lands controlled by the Forest Service, fuels several plants that in turn generate affordable electricity for the California market. The potential power plant expansions in Utah could increase demand for coal mined in Utah by as much as 40 percent in the short term. Production in Wyoming, now at 340 million tons could continue to grow rapidly in both the short and the long term to fuel demand from electric generators in the Mountain states, but also in the Mid west, Texas and in the Southeastern states.

The rate at which the coal industry operating on Federal lands can respond however, depends on several changes in policy. Interpretations of legislation over a long period of time added to the regulatory policies of the previous Administration over the last eight years have acted to discourage or actually prevent responsible development of coal resources on Federal lands. Although there are several issues that need to be considered, rapid increases in coal production in the short term will depend upon action in three areas.

- Resolution of conflicts involving simultaneous development of coal bed methane and leased Federal coal reserves in the Powder River Basin;
- Increased access to the resources located on Federal lands for responsible exploration and development activities. Large reserve blocks have already been effectively removed from development by actions of the Federal Government. <sup>4</sup> The Forest Service Roadless Area Conservation Rule will remove even larger portions of the coal reserves located on Federal lands from responsible development; and,
- Reform of the Federal coal leasing process.

*Coal/Coal Bed Methane Conflict in the Powder River Basin*

It is important that the Congress act quickly to enact legislation that provides for orderly development of energy resources located on Federal lands to ensure that development of one resource does not preclude economic development of a co-located resource. Madame Chairman, you have sponsored and introduced H.R. 1710 to address this problem. A companion bill, S. 675, has been introduced in the Senate.

The Powder River Basin of Wyoming and Montana is one of the world's richest energy resource regions and includes the largest reserves of low sulfur coal in the United States. Virtually all of the coal, and about 50 percent of the oil and gas reserves in the Basin, are owned by the Federal government and managed by the Bureau of Land Management (BLM) under the Mineral Leasing Act of 1920. Problems

<sup>4</sup>For example, the unsuitability provisions under SMCRA (the Surface Mine Control and Reclamation Act of 1977) and land use planning policies under FLPMA (the Federal Land Policy Management Act) have removed some 53 billion tons of Federal coal from future leasing; the previous Administration's use of the Antiquities Act to create National Monument designations removed additional blocks of reserves from development.

have arisen because BLM has issued Federal coal leases and Federal oil and gas leases for the same locations in the Basin. In many cases when these oil and gas leases were issued coal bed methane resource development was not contemplated.

In those areas leased both for coal and for oil and gas, disputes over timing of mineral development have arisen. The sequence of development frequently becomes a critical issue because the production of any one of the minerals can result in the loss of another. For safety and operational reasons, concurrent development typically is impossible. No clear statutory direction exists to resolve disputes over the sequence of mineral development in these areas where the Federal government has "double leased" its minerals. BLM has not provided effective guidance or included conditions in its leases that would provide a resolution to these disputes.

In the 2nd Session of the 106th Congress, the entire Wyoming delegation sponsored legislation (The Powder River Basin Resource Development Act of 2000 - S. 1950 and H.R. 4297) to resolve these conflicts. The proposed legislation (which was reintroduced this year as H.R. 1710 and S. 675) would require competing mineral developers to negotiate first, and urges the BLM to use its regulatory authority to achieve a possible resolution to each conflict. If both negotiations and regulatory efforts fail, either the coal developer or the oil and gas developer could invoke the formal resolution process established by the legislation by filing a petition in the local Federal district court and with the Secretary of the Interior. The bill's process then would require a public interest determination first by the Secretary, then by the court, as to which mineral will be developed first. There would follow a temporary suspension or termination of rights to develop the conflicting mineral. The court, with the aid of an expert panel, would determine the amount to be paid to the non-prevailing mineral developer.

The proposal is the result of lengthy negotiations between the previous Administration, coal producers and oil and gas developers and should be quickly considered and passed by this Congress. Until legislation is passed, conflicts involving simultaneous development of competing fossil fuel resources in the PRB will continue to threaten or delay orderly development of much needed environmentally favorable domestic energy resources.

#### *Forest Service Roadless Conservation Areas*

The Administration can extend its review of public lands withdrawals and lease stipulations, announced last week as part of the President's energy policy, to include coal resources as well as oil and gas. The Forest Service Roadless Conservation Area Rule must be part of this review.

This Committee knows well the history and the effects of the last Administration's Roadless Area Conservation rule that was published on January 12, 2001. Due to the lack of detailed information, Forest Service significantly underestimated the rule's impact on energy supplies in the western United States. Industry analysis however, showed that the implementation of this rule could sterilize over 40 percent of the coal production in Colorado and Utah.

And, according to the Department of Energy:

"The roadless initiative will have an impact on coal reserves in Colorado and Utah, including both the expansion of existing mines and tracts of coal of near-term commercial interest. While these resources are recovered using underground mines, roads are needed to build ventilation shafts and for safety, e.g., to fight underground fires. The mines would not be built or expanded if roads cannot be constructed.

Existing leases may also be affected..."<sup>5</sup>

In Colorado, one of the mines in the Grand Mesa-Uncompahgre Forest is my company's, West Elk Mine where 200 million tons of coal could become unrecoverable because of the rule. This loss of reserves will result in the premature abandonment of the mine and its \$100 million infrastructure.

The Bowie Mine in the Grand Mesa-Uncompahgre Forest will be blocked from developing 50 million tons of high quality coal reflecting over \$2.5 billion in economic activity. The Oxbow Mine, adjacent to the Bowie leases is surrounded on the east and north by roadless areas. These roadless prohibitions will thwart future development at this operation.

The Forest Services Final Environmental Impact statement for the roadless rule declares that in Utah's Manti-La sal Forest three tracts alone account for 185 million tons of high Btu coal that are prejudiced by the rule. Further investigations of coal resources in the area indicate the impact could be much greater.

The Forest Service chose to accept these severe prescriptions even though mine roads are temporary and the Surface Mining Control and Reclamation Act (SMCRA)

<sup>5</sup>Department of Energy Report to the Forest Service, William Hochheiser (November, 2000)

mandates that these roaded areas be reclaimed to a condition as good or better than they were before mining. It should be noted that surface coal mines cannot be permitted on Forest Service administered lands unless the Secretary of Interior “finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations...” In other words, the values the rule is supposed to safeguard have already been considered and protected by an existing statute. Yet, millions of tons of low sulfur coal have been sterilized by this needless and unlawful regulation.

The reserves removed from development by this rule will have an effect on the ability of the coal industry mining on Forest Service lands to meet demand in the short term as well as over the longer run. The Forest Service delayed implementation of this rule until May 12 as part of the Bush Administration’s overall assessment of rules issued at the end of the previous Administration. However, on May 10 a Federal judge’s ruling blocked implementation of the rule pending further review and amendment.

Secretary Ann Veneman has announced that the Department of Agriculture intends to propose amendments to the rule in June. We would urge this Committee to do all it can to encourage a rapid review of these amendments with a view toward allowing industry to continue responsible development of coal, and other energy, resources on Forest Service lands as quickly as possible. Coal production on lands affected by the Forest Service Rule can increase rapidly, but only after resolution of this issue.

#### *Federal Leasing*

The Administration can extend its review of Federal leasing policies—also announced last week—to include a review of the coal leasing process with the goal of taking the administrative actions necessary to accelerate the leasing process. Legislation is also required to reform Federal coal leasing.

In August 1976, the Federal Coal Leasing Amendments Act (“FCLAA”) was enacted. FCLAA imposed for the first time a series of radically more stringent requirements upon Federal coal lessees, the compliance with which forced such lessees to make a host of major financial and operational commitments, many of which made good policy sense but others were counterproductive. Over the past 25 years, those Federal coal lessees who have managed to stay in business have fully complied with both the rational and the questionable requirements.

Federal coal lessees are not today calling for major reform of the FCLAA program, although over time certain of FCLAA’s provisions ultimately may need to be revisited and modified. Even where modifications ultimately may be needed, in most instances, the debate on such modifications can be deferred to a later time when adverse impacts become more focused and imminent. There are two areas that need immediate attention however.

##### *1. Advanced Royalty Provisions*

The first issue that must be addressed is a segment of FCLAA’s current “advanced royalty” provisions, which call for early legislative reform by Congress. The current advance royalty provisions provide, among other items, that:

- Advance royalties may not be paid for more than an aggregate of 10 years,
- Advance royalties paid during the initial 20 year term of a lease may not be carried over past the 20th year, and
- The Secretary of Interior may unilaterally cease to accept advance royalties.

With the progressive deterioration of U.S. coal market prices, several Federal coal lessees have been forced temporarily to curtail production and idle mines. Without the option of extending the lease by paying advanced royalties, producers will be forced to prematurely terminate leases. Once leases are terminated, the probability of the location being mined again is small. The Federal coal and Federal revenues associated with it will be lost.

We recommend that narrowly drafted, surgical changes be made to FCLAA’s advance royalty provisions which would:

- Extend the aggregate entitlement to pay advance royalty in lieu of continued operations from 10 years to 20 years;
- Delete the current prohibition on the carry-over of advance royalty payments made during the initial 20-year period of the lease;
- Delete the current authorization for the Secretary unilaterally to cease to accept advance royalties in lieu of continued operations; and
- Delete the last sentence of Section 39 of the MLLA of 1920 (Section 14 of FCLAA) prohibiting the waiver, suspension, or reduction of advance royalties.

*2. Address the Need to Move Expeditiously on Lease-By Applications*

The Federal Coal Leasing Amendments Act of 1976 ("FCLAA") requires that all leases for Federal coal be conducted by a competitive leasing process. One of the mechanisms for initiating competitive leasing is through a lease-by application ("LBA") procedure, which allows an existing coal mining operation to nominate a tract for the expressed purpose of prolonging the life of the existing mine. The LBA process has been effectively used in Utah, Colorado and Wyoming for over a decade now. In the Powder River Basin ("PRB") of Wyoming, which is called by many the "Saudi Arabia of coal", since that area is producing in excess of 1/3 of all U.S. coal, the LBA process has been critical to the orderly development of Federal coal reserves.

As pointed out, coal production in the PRB has jumped dramatically since the Clean Air Act Amendments of 1990 primarily because western coals are typically very low in sulfur and also very low in inherent NO<sub>x</sub> when burned in power plants. With this dramatic increase in demand for low sulfur western coal has come the need for continued access to Federal coal reserves. Western coal producers clearly recognize this need and make their leasing plans accordingly. Unfortunately, the Bureau of Land Management now is only processing and holding one Federal coal lease sale per year in the Wyoming PRB. Thus, the most recent coal lease applications filed may not be offered for sale for eight years. Permitting requirements will then add another approximately three years. As a consequence, it is readily apparent that there is an excessive backlog of Federal coal lease applications on file and that the timeframe for processing LBAs and issuing leases has become unacceptable to orderly development of this most important domestic energy resource.

There are several administrative opportunities to address this backlog. The first opportunity is to consolidate the NEPA process instead of conducting separate EIS's for each lease application. Several LBAs should be combined into one document. Second, and even more importantly, the Department of Interior expeditiously should evaluate the workload of other BLM offices to determine if there are any personnel available to help work through this backlog. Finally, and of relevance to this hearing, Congress should give favorable consideration to supporting additional Federal funding for the processing of these lease applications in order to short the intolerable backlog.

This concludes my statement Madame Chairwoman and I would be please to answer any questions you may have.

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[Mr. O'Connor's response to questions submitted for the record by The Honorable Nick Rahall follow:]



**TERRY O'CONNOR**  
Vice President - External Affairs

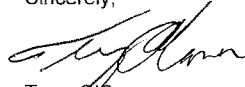
June 6, 2001

U.S. House of Representatives  
Committee on Resources  
Subcommittee on Energy and Mineral Resources  
Attention: Daisy Minter, Clerk  
1626 Longworth House Office Building  
Washington, DC 20515

Dear Ms. Minter:

In response to the May 24, 2001 letter request from Congresswoman, Barbara Cubin, Chairman of the Energy and Mineral Resources Subcommittee, I am providing answers to the written questions submitted by Representative Nick Rahall. These answers relate to my testimony at the May 22, 2001 hearing concerning "short-term solutions for increased energy supply from the public lands".

Sincerely,



Terry O'Connor

TO/cav  
Enclosure

cc: Mr. Jim Zoia  
Minority Staff Director  
Room 1329  
1329 Longworth House Office Building

Mr. Bill Condit  
Majority Professional Staff Member  
1626 Longworth House Office Building

Ms. Connie Holmes  
National Mining Association

Mr. Dave Finkenbinder  
National Mining Association

**Responses to Questions for the Record Submitted by  
U.S. Representative Nick Rahall, Ranking Democrat – House Resources  
Committee Relating to Testimony of Terry O'Connor Before the  
Energy and Minerals Subcommittee Hearing on May 22, 2001**

- 1. Your testimony states that “Forecasts show that over 90% of new production expected to come on line over the next 20 years will be from mines on federal lands.” Please identify the source of this forecast.**

**Response:** This forecast was made by the National Mining Association and is based on the forecasts included in the DOE’s Energy Information Administration’s Annual Energy Outlook, 2001” dated December 2000. The base information is included in the supplemental tables found on the EIA web site [www.eia.doe.gov](http://www.eia.doe.gov). In particular the table is Table 88.

The forecast as prepared by EIA (reference case) is as follows:

Region	2000 million tons	2000 million tons	% change	Change in Tons million tons
Appalachian	424.72	397.02	-7.6%	-32.7
Interior	162.30	152.27	-6.1%	-10.03
Northern Great Plains (PRB)	429.29	661.85	+54.1%	+232.56
Other West	94.30	124.88	+32.4	+30.56
Total	1110.61	1331.02	+19.8	+220.41

As can be seen from the data, production in the Appalachian and the Interior regions is forecast to decline over the next 20 years. Literally all the increase in production comes from the West – specifically the Northern Great Plains region which includes the Powder River Basin.

Given this forecast, NMA assumed that the same or greater percentage amount of production would be on or controlled by federal lands in 2020, as is the case today. Most of the reserves available are on or controlled by federal lands. This is the basis for the statement that 90% of new production will be from mines on federal lands.

- 2. While you are testifying on behalf of the National Mining Association, your testimony makes a number of references to Arch Coal's interest in federal coal resources in the western States. Please supplement your testimony with information on Arch Coal's non-federal coal interests and**

**how this coal is marketed by the company vis a vis its production from federal leases.**

**Response:** Arch Coal, as the Nation's second largest coal producer, currently mines and sells coal in six states: West Virginia, Virginia, Kentucky, Wyoming, Colorado and Utah. In addition to these states, Arch Coal also controls undeveloped coal reserves either through lease or other means of ownership, in New Mexico and in Illinois. We currently operate one mine on federal lands in Wyoming, one in Colorado and three in Utah. The overwhelming majority of our holdings and production in these three states is in the form of federal coal leases from the U.S. Government. In the three eastern states, each of our operations is more complex – generally consisting of a combination of surface and underground operations at each mining complex. We currently operate five mining complexes in West Virginia, one in Kentucky and one in Virginia. None of the coal at these eastern operations is federal coal.

While 31% of our production is from non-federal lands in the eastern U.S., two-thirds of our company's employment is located at our eastern operations, the overwhelming majority of whom are in southern West Virginia. And, because of the significantly higher price of eastern coal, two-thirds of our revenues are generated by these operations.

All of Arch's coal, whether it be federal or non-federal, is marketed in the same way with no regard whatsoever for its state of origin or ownership pattern. Our sales force attempts to market all of our available and produced coal to customers (the overwhelming majority of whom are utilities) who have a willingness to purchase any of our suite of coals, in an attempt to achieve highest and best value for our shareholders. By business necessity, our sales efforts are only limited by coal which is able to be mined, subject to all necessary permits plus equipment availability. In other words, if we do not have all necessary state and federal governmental permits or if a particular mine is production constrained by available mining equipment, we do not attempt to market additional coal from such mine or mines.

Typically, transportation costs play a significant role in dictating where certain coals can be marketed. Western coal is less costly to produce and thus has seen its market share expand in recent years. However, transportation costs make it cost prohibitive to market such coal in the NE, Mid-Atlantic and SE, where eastern coals dominate.

3. **Your testimony takes issue with the Forest Service Roadless Rule and indicates its implementation "could sterilize over 40% of the coal production in Colorado and Utah." Please elaborate on why the National Mining Association and Arch Coal believe units of the National Forest System are appropriate places for coal production.**

**Response:** The Forest Service has a stated policy regarding minerals on Forest Service Lands, which states:



*"...foster and encourage private enterprise in the development of economically sound and stable industries, and in the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs.' Within this context, the national forests and grasslands have an essential role in contributing to an adequate and stable supply of mineral and energy resources while continuing to sustain the land's productivity for other uses and its capability to support biodiversity goals."*

This policy is as important today as it was the day it was written. Coal and mineral resources from National Forest Service lands are vital to supplying electricity at a reasonable price and in an environmentally sound manner. The mineral policy also states that the Forest Service "require reclamation plans for all proposed surface-disturbing activities to return the land to productive uses consistent with the ecological capability of the area and in accordance with land management goals." This policy is consistent with state and federal regulations and statutes governing coal mining activities.

### Utah

The Utah Geological Survey published a document in 1999 titled: "The Available Coal Resources For Nine 7.5-Munite Quadrangles in the Northern Wasatch Plateau Coalfield, Carbon and Emery Counties, Utah." This document covers the coal fields located primarily in the Manti LaSal National Forest. In this document, the Utah Geological Survey notes "Coal is vital to Utah's economy since it fuels about 95 percent of the electricity generated in the state. In addition, Utah coal is a major overseas export commodity, accounting for more than \$100 million in 1996 exports sales. Demand for Utah coal has grown nearly 100 percent during the past 15 years. In 1996, about 90 percent of the coal produced in Utah originated from the Wasatch Plateau coalfield [located almost entirely in the Manti LaSal National Forest]. From the beginning of mining in the 1870s through the end of 1996, over 400 million tons of coal were removed from the Wasatch Plateau coalfield. Most of this coal (351 million tons) came from the northern half of the Wasatch Plateau coalfield corresponding to the study area of this report.

This report clearly documents the long history of coal mining in the Manti LaSal National Forest of Utah, and the importance of this coal production to the State of Utah.

### Wyoming

Coal leasing on the Thunder Basin National Grasslands (under the jurisdiction of the National Forest Service) in Wyoming began in the 1960's. The original purpose of much of the coal leasing was due to chronic energy shortages. The coal was originally leased not necessarily to be mined, but for coal gasification projects. The organic Clean Air Act, passed in 1970, created a market for low sulfur coal to be used in power plants. Today, coal production on the Thunder Basin National Grasslands produces in excess of 10% of the nation's coal needs.

4. **Please provide information on the impact on the U.S. Treasury on your proposals relating to modifying the advance royalty provisions.**

**Response:** Neither the witness nor the National Mining Association have financial information regarding the potential impact of the proposal on the U.S. Treasury relating to modifying the advance royalty provisions.

Mr. GIBBONS. Thank you, Mr. O'Connor.

Mr. Sims, welcome to the Committee. We look forward to your testimony. The floor is yours.

**STATEMENT OF EARL SIMS, PRESIDENT, SIMS CONSULTING,  
ON BEHALF OF THE INDEPENDENT PETROLEUM ASSOCIATION  
OF AMERICA**

Mr. SIMS. Thank you very much. My name is Earl Sims. I am president of Sims Consulting, a Houston-based firm that I formed to help independent producers with public issues, particularly in the offshore.

Today I am representing Forest Oil and Mariner Energy and testifying on behalf of the Independent Petroleum Association of America.

Increasingly, independent producers—from family owned enterprises in a single state to publicly traded companies with international operations—are bringing offshore and onshore reserves to the market.

I appreciate the opportunity to share with this Committee recommendations from that independent community—for increasing supply of oil and gas from offshore and onshore lands within the next 5 years.

My remarks today will address the issue we face on two broad themes: providing land access and providing access to capital through royalty incentive policies.

Let's begin with access. First, we wholeheartedly support the executive order the President signed Friday, requiring agencies to include in their regulatory actions a statement of the proposal's energy impact. Including what we call energy accountability in further decisionmaking will promote sounder energy policies.

Second, Congress needs to assure adequate funding for the Department of the Interior's offshore and onshore oil and gas programs. Increases contained in the President 2002 budget is a good first step.

A long-term solution may be to adopt the proposal from Congresswoman Cubin, which is to use part of the royalty stream to fund DOI's programs/ offices that are responsible for production.

Turning to the offshore, the MMS's next 5 year OCS leasing plan, covering the years 2002 to 2007, which we consider to be our blueprint for the future, is a good starting point.

Beyond providing the important annual sales in the western and central Gulf, we need to find ways to obtain affected state buy-in for targeted exploration in top geological plays contained in off-limit areas.

Next, Sale 181, scheduled in a nonmoratorium area in the eastern Gulf, is an important step to take this December. And take it we must, with all the tracts, on time, and with good terms and stipulations that will encourage development and production.

Make no mistake, this sale is very important to independent producers.

Finally, in the offshore arena, IPAA agrees with the administration's recommendations in its energy policy that it is time to reexamine the current energy siting regime, like coastal zone management policies, to determine if changes are needed.

Turning to onshore land access, a good first step is the timely completion of a land inventory with a description of the impediments to access and development.

Chairwoman Cubin, the IPAA applauds you, along with Chairman Skeen, for leading this effort in the House for this requirement. And we are pleased to see that the administration energy policy includes the recommendation to accelerate this effort.

Finally, the onshore permitting process should be improved and properly funded. IPAA supports the provision of S. 388, which expands state involvement and establishes time frames for reviewing permits. IPAA supports the executive order signed by the President on Friday, requiring the expedition of energy-related approvals in an environmentally sound manner. The next step is to review the stipulation process.

Turning to the royalty theme, IPAA believes royalty incentive policies can be a powerful tool in generating capital investments in exploration and production projects on Federal lands.

My written statement offers a number of royalty incentive ideas, including:

- The renewal of deepwater royalty relief policies that were in place until last November,
- The application of relief volumes on a lease basis rather than a field basis for all deepwater leases,
- Expansion of royalty-incentive policies to nondeepwater, but high-cost situations, such as deep wells, subsalt prospects, and highly deviated wells, as well as marginal production, and
- Consideration of similar royalty incentives for onshore production.

The IPAA supports the administration's energy policy recommendation that Interior consider economic incentives for environmentally sound offshore oil and gas development for specific areas that would otherwise be uneconomic.

We encourage the administration to expand its consideration to include onshore production. We also agree the administration royalty incentive should provide a fair return to the public. Price triggers are one way to accomplish this.

In conclusion, providing access to the resource base and attracting capital are critical for increasing domestic production. It is time that the nation take its energy supply issues seriously and develop a sound future policy.

Thank you for allowing me to appear before you today.

[The prepared statement of Mr. Sims follows:]

**Statement of Earl R. Sims, on Behalf of the Independent Petroleum Association of America**

Madam Chairwoman, members of the committee, my name is Earl Sims, president of Houston-based Sims Consulting, a recently established firm that represents independents on offshore issues and advises them of the political risks of operating in the Outer Continental Shelf (OCS). Today, I am representing Forest Oil Corporation and Mariner Energy, Inc. and am here on behalf of the Independent Petroleum Association of America (IPAA) and all of its members that operate in the OCS and onshore Federal lands. I am the immediate past vice Chair of the IPAA Offshore Committee and the current Chairman of the IPAA Offshore Access Taskforce. Until late last year, I chaired the industry's OCS Sale 181 Work Group.

Forest Oil Corporation is engaged in the acquisition, exploration, development, production and marketing of natural gas and crude oil in North America and selected international locations. Forest's principal reserves and producing properties

are located in the United States in the Gulf of Mexico, Louisiana, Texas, Cook Inlet, Alaska and in Canada in Alberta and the Northwest Territories.

Mariner Energy, Inc. is a Houston-based oil and natural gas exploration and production company with principal operations in the Gulf of Mexico and along the U.S. Gulf Coast. The company is majority owned by an affiliate of Enron North America Corp. which, along with a group of Mariner employees, provided equity financing for a management-led buyout in 1996. Mariner has been an active explorer in the Gulf Coast area since the mid-1980s (initially as Trafalgar House Oil and Gas USA Inc. and then as Hardy Oil & Gas USA) and has successfully grown its production and reserve base through the drill bit. Mariner is one of the most experienced independent operators in the Deepwater Gulf of Mexico, having operated nine field developments in the Deepwater Gulf since 1995.

IPAA represents thousands of independent petroleum and natural gas producers that drill 85 percent of the wells drilled in the United States. Independent producers of both oil and natural gas have grown in their importance, and are a key component of a national energy policy. Independent producers produce 40 percent of the oil—60 percent in the lower 48 states onshore—and produce 65 percent of the natural gas.

The presence of independents in the offshore is rapidly increasing. Not only do independents now hold 80 percent of all acreage under lease on the OCS, but as a group, independents have amassed as much acreage in the deepwater as have the majors. And, they participated in half the wells drilled in the deep Gulf in 2000. In total, it has been estimated that independents hold more than 40 percent of the active leases in the deepwater Gulf.

The March 2001 sale in the central Gulf of Mexico further demonstrated the substantial presence of independents in the offshore. With high bids from 90 companies totaling over \$505 million—up from around \$300 million a year ago—industry has clearly stepped up its activity level in response to today's marketplace. At sale 178, of the 90 companies bidding, 77 were independents (86 percent).

Today's hearing focuses on actions that Congress may take that significantly increase the supply of energy resources from Federal land (including the OCS) within the next five years. This testimony will focus on such recommendations for both onshore and offshore Federal lands. On two previous occasions, IPAA has submitted for the record written testimony documenting the critical role oil and natural gas reserves lying beneath Federal onshore and offshore lands will play in meeting the nation's energy needs. And it seems that the Public agrees. A recent USA Today poll indicated that 63 percent of those surveyed support drilling for natural gas on Federal lands. The Administration's National Energy Policy, unveiled on May 17, highlights the need to examine the potential for regulated increase in the oil and natural gas development on Federal lands as part of increasing energy supplies. We agree with President Bush that we can increase energy supply and protect the environment. We can accomplish both goals to ensure this country has access to its oil and natural gas resources lying beneath government controlled lands.

Today, I will discuss the steps Congress can and should take now to increase production tomorrow. Indeed, if some of these steps had been taken yesterday, our nation's energy situation would be far less uncertain today. For reference purposes, the two previous testimonies submitted by IPAA are dated April 25 and May 14, 2001.

#### THE CONGRESSIONAL ROLE

The predominant areas where Congress and the Administration play a major role in promoting or inhibiting domestic oil and natural gas production are: providing access to the natural resource base and providing access to essential capital.

##### I. ACCESS AND PERMITTING CONSTRAINTS

A national energy policy must recognize the importance of accessing the natural resource base. In 1999, the National Petroleum Council (NPC) in transmitting its natural gas study, "Meeting the Challenges of the Nation's Growing Natural Gas Demand", concluded:

The estimated natural gas resource base is adequate to meet this increasing demand for many decades. However, realizing the full potential for natural gas use in the United States will require focus and action on certain critical factors.

Much of the nation's natural gas underlies government-controlled land both offshore and onshore. These resources can be developed in an environmentally sound and sensitive manner. The Department of Energy recently released a comprehensive report, Environmental Benefits of Advanced Oil and Gas Exploration and

Production Technology, demonstrating that the technology is available. And, it is being employed, when exploration is allowed.

Without policy changes, many of which can be initiated by Congress, the nation may not be able to meet its needs. The NPC study projects demand increasing by over 30 percent over the next decade. This will require not only finding and developing resources to meet this higher demand, but also to replace the current depleting resources. While many analysts are focusing on how much more natural gas demand will grow, it is equally important to recognize what is happening to existing supply. All natural gas wells begin to deplete as soon as they start producing. However, as our technology has improved, we now are able to identify probable reservoirs more effectively. This allows us to find and more efficiently produce smaller fields.

Unlike petroleum, natural gas supply is dependent on North American resources with 80 to 85 percent coming from the United States. However, much of this domestic supply is most cost effectively accessible from government controlled lands. The current restrictions affecting access to these lands differ depending on the area, but all must be altered to meet future demand.

#### *Offshore—Western and Central Gulf of Mexico*

These portions of the Gulf of Mexico have proven to be a world-class area for natural gas as well as petroleum production, accounting for over 25 percent of domestic natural gas production. Production comes from the continental shelf, the deepwater, and the emerging ultra-deepwater. The NPC study projects that future production increases in these areas are essential to meet projected demand.

A Minerals Management Service (MMS) report on Future Natural Gas Supply from the OCS, estimates the future natural gas production from the shelf and slope of the Gulf of Mexico in a high case peaking at 6.7 trillion cubic feet (TCF) in 2010 followed by a decline. However, recently published MMS data indicates much lower expected natural gas from the Gulf of Mexico. Using new data, the high case estimation could peak in 2002 at about 5.22 TCF.

The Subcommittee on Natural Gas on the U.S. Outer Continental Shelf of the OCS Policy Committee recently reported, “Based on this projection, it can be concluded that unless exploration and development scenarios in the Gulf of Mexico changes dramatically, the production from the Gulf of Mexico may not be able to meet the expected share of natural gas supply to meet the expected future natural gas demand of the U.S.” Later in this testimony, I will discuss what IPAA believes needs to occur to reach the expected 8.0 TCF of natural gas annual production from the Gulf of Mexico (National Petroleum Council’s estimate for 2010) and, as well, to increase oil production.

#### *Offshore—Eastern Gulf of Mexico, Atlantic Ocean, and California*

The substantial domestic natural gas reserves in these three areas is unavailable because of Congressional or Administrative moratoria. President Clinton extended these moratoria until 2012 saying, “First, it is clear we must save these shores from oil drilling.” This is a flawed argument ignoring the state of current technology; it results in these moratoria preventing natural gas development as well as oil. In fact, both the Eastern Gulf and the Atlantic reserves are viewed primarily as gas reserve areas, not oil. Too often, these policies seem to be predicated on the events that occurred 30 years ago. Federal moratoria policy needs to be reviewed and revised to reflect advances in the industry’s technology. Based on the MMS’ 2000 resource assessment, the MMS determined that offshore moratoria forgo conventionally recoverable 16 billion barrels of oil and 62 trillion cubic feet of natural gas. Of course these estimates are based on little or no exploration and could be much more significant if exploration is allowed. In the western and central Gulf of Mexico, estimates have proven to be much greater after exploration.

#### *Onshore - Rockies*

Onshore, the NPC Natural Gas study estimates that development of over 137 TCF of natural gas under government-controlled land in the Rocky Mountains is restricted or prohibited. A recent study by the Energy Information Administration concludes that about 108 TCF are under restriction. Regardless of the exact number, the amount is significant. A Congressionally-mandated inventory of these resources is underway. While an important first step, it is equally important to recognize that access to these resources is limited by constraints other than explicit moratoria. These constraints that often result in “de facto” moratoria vary widely. Examples include Monument and wilderness designations, Forest Service “roadless” policy, and prohibitions in the Lewis and Clark National Forest.

At the same time the permitting process to explore and develop resources often works to effectively prohibit access. These constraints range from Federal agencies

delaying permits while revising environmental impact statements to habitat management plans overlaying one another thereby prohibiting activity to unreasonable permit requirements that prevent production. There is no single solution to these constraints. What is required is a commitment to assure that government actions are developed with a full recognition of the consequences to natural gas and other energy supplies. IPAA believes that all Federal decisions—new regulations, regulatory guidance, Environmental Impact Statements, Federal land management plans—should identify, at the outset, the implications of the action on energy supply and these implications should be clear to the decision maker. Such an approach does not alter the mandates of the underlying law that is compelling the Federal action, but it would likely result in developing options that would minimize the adverse energy consequences.

*IPAA's Priority Short-Term Recommendation for Increasing Access to Production from the OCS and Onshore Federal Lands:*

Energy Accountability. If there is one immediate action the Congress and/or the Administration can take that will have a dramatic affect on increasing oil and gas production in the short-term, it is mandating energy accountability. If all Federal agencies associated with decisions affecting oil and gas development are held accountable for how their decisions impact national energy supply, production will increase.

Such a requirement is contained in the Administration's National Energy Policy:

"Issue an Executive Order directing all Federal agencies to include in any regulatory action that could significantly and adversely affect energy supplies a detailed statement on the energy impact of the proposed action.

A similar provision is contained in S. 388, the National Energy Security Act of 2001. Independents all agree that this type of requirement should be implemented immediately to bring balance in the land use decision making.

*IPAA's Short-Term Recommendations for Increasing Access to Production from the OCS:*

*1. Sale 181*

IPAA and its members companies have long considered Sale 181 to be a high priority issue. It represents an important component of our future in the offshore. Scheduled for December 2001, it would be the first eastern Gulf of Mexico Lease Sale since 1988, and for some our members that confine their activities to the Gulf of Mexico, the first opportunity to bid outside the central and western Gulf of Mexico ever.

The Sale 181 area is estimated to hold about 7.8 TCF of natural gas and perhaps 1.9 billion barrels of oil. The natural gas resources could be used to meet the nation's growing natural gas demand estimated to increase by 30 percent from today's level to nearly 30 TCF/yr by the year 2010. It is noteworthy that the NPC natural gas study cited earlier, assumes Sale 181 occurs on time, with all tracts offered, and that development proceeds without delay. The NPC study projects that Sale 181 could result in adding 400 billion cubic feet (BCF) per year in new gas production—production that would be lost if the Sale were not held or restrictions inhibited exploration and production.

Back in the early to mid-1990's the MMS engaged in a comprehensive consultation with Alabama and Florida as well as other coastal states, about leasing in the eastern Gulf of Mexico. Both States expressed concerns about leasing and both requested that leasing not occur within certain distances to their states—15 miles in the case of Alabama and 100 miles in the case of Florida. Sale 181 was crafted to meet both of these criteria and was placed on the current 5-year schedule by the MMS. Congress subsequently ratified this decision through the appropriations process. Based on this buy-in from coastal states, industry began to prepare—accumulating seismic data, reviewing geologic trends, conducting preliminary engineering studies—in anticipation of Sale 181. Independents have spent millions of dollars with the expectation that the Sale would occur as scheduled.

Today, the debate continues as to whether the Sale should go forward. But, after ten years of consultation, it is now time to open up to leasing a relatively small area of the eastern Gulf of Mexico that was established after exhaustive consultation with coastal states.

*2. The Five-year OCS Lease Sale Schedule*

Every five years, the MMS takes on a very thorough process to draft a new five-year OCS Leasing Schedule. That process is now underway to establish a leasing program for the period 2002–2007. Industry, and other interested parties, provided

comments to the MMS during the earlier stages of the process. A draft schedule should be ready for review very soon.

IPAA vows to work with the MMS to establish a schedule that helps meet the nation's growing appetite for energy. For many of our members, those that confine their activities to the Gulf of Mexico, it has meant annual sales in the central and western Gulf of Mexico. It is essential that these annual sales continue. IPAA is encouraged by the recommendation contained in the Administration's National Energy Policy that OCS oil and gas leasing and approval of exploration and development plans on predictable schedules should continue.

As this Country drafts a national energy policy, now is no time to be timid. Yet, we know that resistance in some regions to offshore exploration and production remains a major impediment despite the obvious energy needs. We have our work cut out for us if we are to be successful at making enough offshore lands available to meet the nation's energy needs.

One possible approach interested parties should consider during development of the next five year plan, in consultation with industry and affected states, is the identification of a small number of prime natural gas plays in moratoria areas to determine if limited pilots could demonstrate how oil and gas operations could be safely conducted in new areas. Such an approach would require congressional funding for scientific, environmental, and social/human impact studies. Any piloting would require site-specific stakeholder consultations.

### *3. Coastal Zone Management Issues*

Coastal zone management (CZM) matters are increasingly important to independents operating in the Offshore. These matters play a direct role in land access for the offshore. CZM issues have not historically been seen as a priority issue for independents operating in the western and central Gulf of Mexico, as states have not attempted to obstruct offshore activities under the Coastal Zone Management Act (CZMA). With an increased interest in the eastern Gulf of Mexico, independents' interest in CZM is heightened. It is one thing to have a lease sale; it is quite another to be allowed to explore, develop and produce from that lease once it is purchased.

A coastal state with a Federally-approved coastal zone management plan is empowered to block offshore exploration and production plans, if the state can allege that the Federal lessee's activity will have some effect on resources in the coastal zone. If the lessee's activity will have an effect, the activity must be consistent with the state's coastal zone management plan.

The coastal zone itself generally extends only 3 miles offshore, but extends 9 miles in the Gulf of Mexico off Texas and Florida. The effects test, however, can be used to extend the state's reach great distances from shore. The Interior Department itself determines before issuing leases that the projects it expects lessees to undertake will be consistent with the plans of any affected states. But states can change their minds after the leases are issued.

A Federal lessee offshore must certify that both its exploration plan and production plan are fully consistent with the coastal zone plans of affected states. If a state disagrees, the lessee faces considerable delay in an appeal before the Secretary of Commerce.

Chief risks to lessees in current CZMA implementation are:

- Compliance costs caused by unexpected interpretations of vague policies in state CZM plans,
- Delay costs caused by lengthy appeals process before Department of Commerce,
- Risk of losing lease rights without compensation when state changes its mind on what its plan requires.

Congress should encourage a review of the CZMA and its consistency provisions. The Administration's National Energy Policy recommends that the President direct the Secretaries of Commerce and Interior to re-examine the current Federal legal and policy regime (statutes, regulations, and Executive Orders) to determine if changes are needed regarding energy-related activities and the siting of energy facilities in the coastal zone and on the OCS. The review should include:

- A review of the Coastal Zone Management Act, particularly as amended in 1990,
- Implementing regulations, especially those finalized late in 2000 by the National Oceanic and Atmospheric Administration on consistency,
- State implementation programs, and
- Process issues, particularly as the process is used to delay projects.

### *4. Congressional Funding*

IPAA recommends that the Congress adequately fund the MMS to ensure that its mission is not compromised during this critical period in which the Nation aggres-



sively seeks new energy resources to meet growing demand. Specifically, IPAA recommends:

- Support the Administration's Fiscal Year 2002 budget request increasing the MMS budget by \$14.7 million to meet increased workload brought about by offshore program services and to implement royalty in-kind.
- Fully fund the MMS and other related agencies in future years to ensure they have the resources available to increase gas and oil supplies from the OCS.
- Require that appropriated funds be directed to education and outreach regarding the benefits the OCS program provides the Nation.

Funding is always difficult during budget reductions and tax cuts. However, investing in the offshore program provides taxpayers a great return on their investment. In Fiscal Year 2000 alone, the MMS collected and distributed about \$7.8 billion in mineral leasing revenues from Federal and American Indian lands. Madam Chairwoman, IPAA applauds your proposal for using part of the onshore oil and gas royalty streams to fund those BLM offices responsible for generating production on which royalty payments are based. The vast majority of royalty payments come from offshore production and, similar to your proposal for the onshore, we recommend that a part of the offshore royalty stream should be directed to offshore programs that will promote increased production, especially natural gas.

For example, IPAA supports a collaborative effort for research, development, and transfer of technologies used in the production of natural gas, so long as there are not additional charges or costs such as increased royalties, taxes or surcharges. Other uses of the onshore and offshore royalty stream, including taking the stream in-kind, could include low-income programs and environmental projects.

*IPAA's Short-Term Recommendations for Increasing Access to Production from Onshore Federal Lands:*

*1. Congressional Funding*

Like President Bush's Fiscal Year 2002 budget request for the offshore program, IPAA supports the President's proposed increases for the onshore Federal oil and gas program. Specific items include:

- A \$7.1 million increase to support improvements in the land use planning and accelerate the multi-year process of updating management plans. This is a good first step. The entire planning process needs to be reviewed, including the funding process.
- An \$11.8 million increase for oil and gas programs, including energy resources surveys, Alaska North Slope oil and gas exploration, coal-bed methane permits, and oil and gas inspections.
- A \$3.0 million dollar increase for Bureau of Land Management (BLM) to work with U. S. Geological Service (USGS), the U. S. Forest Service (USFS), and the Department of Energy to conduct an inventory of public lands and describe the impediments and restrictions to access and development. Madam Chairwoman, you, along with Chairman Skeen, led the effort in the House for getting this included in the Energy Policy and Conservation Act (EPCA), which was signed into law late last year. We agree with the Administration's National Energy Policy that this inventory required under EPCA should be accelerated.
- A \$2.0 million dollar increase to accelerate leasing by 15 percent and to process an additional 1,000 to 2,000 drilling permits in the most promising areas.

Similar to your proposal of using the royalty stream to fund BLM offices managing the production generating this royalty streams, IPAA also supports a provision contained in the Administration's National Energy Policy to direct royalties from ANWR to conservation efforts and eliminating the maintenance and improvements backlog on Federal lands. If proceeds from ANWR do not become available in the foreseeable future, IPAA would advocate that Congress fund other sources of funding to eliminate this backlog.

*Permitting Process*

There are costly delays with every aspect on the onshore Federal permitting process. In fact, there are a number of examples of approvals that are never granted resulting in reserves never being developed. The National Energy Security Act of 2001, S.388 reforms the permitting process in a subsection entitled Improvements to Federal Oil and Gas Lease Management.

This section contains a number of very important reforms. It allows a state, if willing, to conduct a number of non-environmental oil and gas approvals on behalf of the Federal government. Our experience has been that states can perform oil and gas activities at a much lower cost and in much more timely fashion than the Federal government. For decisions remaining with the Federal government, the bill establishes reasonable timeframes for processing different documents related to oil

and gas development. Additionally, it provides adequate funding for environmental documents. Timing is capital and if there are never-ending delays, this capital will be directed overseas or to private lands.

If Congress cannot pass such reform in the short-term, it should encourage the Administration to determine which of these reforms can be implemented administratively. In fact, if approval processes are improved, production will occur sooner resulting in more revenues to the treasury. The following are two examples of this:

- Approve Pending Drilling Permits. It is our understanding that hundreds of drilling permit are pending before the government. If these were approved, production would increase.
- Approve Balanced Planning Documents. If pending planning documents, like the one in Otero County, New Mexico, were approved, production will increase. The Otero County document should allow for development and, if it did, up to 1 trillion cubic feet of gas could be delivered to market from one planning area.

IPAA agrees with two-related recommendations contained in the Administration's National Energy Policy:

- An executive order to rationalize permitting for energy production in an environmentally sound manner by directing Federal agencies to expedite permits and other Federal actions necessary for energy-related projects.
- Review public lands withdrawals and lease stipulations, with full public consultation, especially with the people in the region, to consider modification where appropriate.

### 3. Other Administrative Actions

The government should not implement cost recovery regulations that would place unnecessary costs on every facet of the oil and gas program. These costs will further discourage small independent producers from developing onshore Federal lands and are inappropriate given the billions of dollars the oil and gas industry pays each year to the Federal government in the form of royalties.

Additionally, all regulation rewrite efforts that were mandated under Vice President Gore's "Plain English" Initiative should be terminated. The proposals issued for onshore oil and gas regulations under this Initiative proposed significant policy changes and would result in more uncertainty. Specifically, smaller independent producers are concerned about the proposed increase of bonding amounts. Bonds are rarely called for the purpose of reclamation. The vast majority of good operators on Federal land should not be punished for the bad behavior of the few. Enforcement is the key.

### *Royalty In-Kind*

IPAA has been a long-time supporter of RIK programs. By giving more tools to the Federal government to maximize return to the American taxpayer when taking in kind, the program can be expanded. When royalty in-kind is expanded, more certainty is provided to the government and the oil and gas lessees; thereby making offshore and onshore Federal lands more attractive for development. IPAA support the RIK provisions contained in S. 388. As well, we support funding and providing MMS needed RIK authorities in their Fiscal Year 2002 appropriations.

## II. PROVIDING ACCESS TO ESSENTIAL CAPITAL

Because oil and natural gas exploration and production are capital intensive and high-risk operations that must compete for capital against more lucrative investment choices, much of its capital comes from its cash flow. The Federal tax code and royalty policies play a critical role in determining how much capital will be retained. The Administration and Congress need to enact provisions designed to (1) encourage new production, (2) maintain existing production, and (3) put a "safety net" under the most vulnerable domestic production—marginal wells.

However, given that this Subcommittee has jurisdiction over royalty policies, not the tax code, I will not discuss IPAA's tax proposals. Rather, I will address the area of royalty policies.

### *IPAA's Recommendations for Increasing Access to Capital for the OCS:*

#### 1. Deepwater Royalty Relief

The Deep Water Royalty Relief Act of 1995 (Act) provided for automatic royalty relief for all new oil and gas leases issued from 1995 through 2000 in waters deeper than 200 meters in order to stimulate exploration and production of natural gas and oil in the deeper waters of the central and western Gulf of Mexico. The portion of the Act that provided this automatic relief for new leases expired in November 2000.

The MMS has now put in place regulations that would leave to its discretion the use of any upfront royalty relief for future Gulf of Mexico lease sales. IPAA is

concerned that, although the new MMS royalty incentives put into place for water depths greater than 800 meters, subsalt, and deep gas drilling are a good first step, they fall short of truly accelerating the rate of development and production of natural gas and oil in the Gulf of Mexico. Additionally, the MMS is not offering any relief for water depths between 200 and 800 meters.

To this end, IPAA supports the reauthorization of the original automatic royalty suspension volumes as contained in the expired provision of the 1995 Act. These terms led to a boom in natural gas and oil activities in the deep waters of the Gulf of Mexico in the five short years they were in place. At the most recent central Gulf of Mexico Lease Sale 178, where no royalty relief was offered for water depths of 200 to 800 meters, bidding activity fell sharply compared to that previously experienced with royalty relief incentives. We believe if the Act would have been reauthorized, there would have been substantially more interest in these water depths and in ultra-deepwaters.

Would such a reauthorization of the Act cost the American taxpayer revenues? Simply put—no. Third party modeling demonstrates that a reauthorization of the act would have provided additional, not less, revenues to the American taxpayer. Increased production would occur, far outweighing the temporary loss of royalty. We should remember that prices will not always be this high and we need to encourage aggressive leasing now, to meet our production needs for the future.

We agree with Senator Murkowski's recommendation that under the auspices of a National Energy Policy Taskforce that the Secretaries of the Interior and Energy form a Gulf of Mexico Leasing Incentives Review Team to determine what level of incentives for all water depths are appropriate in order to ensure that we optimize the domestic supply of natural gas and oil from offshore areas that are not subject to current leasing moratoria. In particular, the team should further examine the field size distribution of the Gulf of Mexico resource base and the international competitiveness of the Gulf. Recommendations, as a result of this review, should be made in the context of the importance of the development of the natural gas and oil resources of the Gulf of Mexico to the Nation's future energy and economic needs. These recommendations should be implemented prior to the August 2001 western Gulf of Mexico lease sale.

## *2. Deepwater Leases Issued prior to November 2000*

During Sale 178, the MMS adopted an important approach to stimulate activity in the 800 meter plus water depths—royalty incentives were offered on a lease-basis. For deepwater lease issued prior to sale 178, the MMS only offered royalty incentives on a field-basis. If the MMS would retroactively offer such relief on a lease-basis, this would greatly stimulate production from the deepwaters. Too many leases issued during the term of the Deepwater Royalty Relief act were found to be ineligible for royalty relief because of the existing policy of relief to be offered on a field-basis (vs. lease-basis) or the MMS' interpretation of the rules implementing this policy.

## *3. High Risk Exploration on the Shelf*

In addition to the deepwaters, independents are quite interested in the significant natural gas and oil reserves that could be developed by deep drilling, drilling into subsalt structures, and drilling highly deviated wells. IPAA recommends royalty incentives be offered for (1) wells below 15,000 where there is no current production AND (2) extend royalty relief as embodied in Central GOM Sale 178 for new and existing leases for drilling of sub-salt prospects or prospect located in abnormal pressure conditions AND (3) for drilling highly deviated wells off existing platforms which might not otherwise have been attempted. In other words, these incentives would apply to expensive, high risk plays on new and existing leases. Such relief would, of course, be phased out at higher prices.

During Sale 178, the MMS took some important first steps. It offered a royalty incentive for new leases whereby natural gas is discovered for drilling in excess of 15,000 feet for water depths of 0 to 199 meters. Similar relief is needed for existing leases where production has not yet been established.

With regard to subsalt, the MMS recognized the high risk nature of exploring such a play in the OCS by offering for new leases a 2 year extension of the 5 year term should a well be drilled. What are truly needed are more incentives to encourage drilling.

## *4. Marginal Production on the Shelf*

Independent producers report that there are significant resources still remaining on the Shelf that would be developed if royalty incentives were available. Marginal properties and/or fields are being left behind. IPAA understands that DOE had initiated modeling of different royalty incentives to stimulate production from marginal

fields. This modeling effort should be completed and, if appropriate, royalty incentives implemented.

*IPAA's Recommendations for Increasing Access to Capital for the Onshore:*

*1. High Risk Exploration Onshore*

Like in the offshore, independents are interested in the significant natural gas and oil reserves that could be developed by onshore deep drilling. Royalty incentives should apply to expensive, high risk plays on new and existing onshore Federal leases. Such relief would, of course, be phased out at higher prices.

*2. Marginal Production Onshore*

It has always been understood that much of the production lying beneath onshore Federal lands is marginal. This is why the Bureau of Land Management continues to offer royalty relief for stripper oil wells (e.g., wells that produce less than 15 barrels per day) under certain prices. A similar program should be implemented for marginal natural gas wells.

*3. The National Energy Security Act of 2001, S. 388*

The National Energy Security Act of 2001, S.388 contains a provision entitled Royalty Investment in America. This provision allows lessees to forgo Federal royalty payments during periods of low energy prices and instead make capital investments in energy production. During low prices this type of provision will reduce the likelihood of dramatic decreases in exploration, such as those during the 1998–99 downturn. This applies to both onshore and offshore production.

*4. The Administration's National Energy Policy*

The National Energy Policy acknowledges the contribution the Deepwater Royalty Relief Act made to increasing supply. It recommends that the President

...direct the Secretary of Interior to consider economic incentives for environmentally sound offshore oil and gas development where warranted by specific circumstances: explore opportunities for royalty reductions, consistent with ensuring a fair return to the public where warranted for enhanced oil and gas recovery; for reduction of risk associated with production in frontier areas or deep gas for formations; and for development for small fields that would otherwise be uneconomic.

IPAA supports this review and encourages the Administration to have this review include the above incentive proposals for both offshore and onshore Federal production.

Royalty incentives, in conjunction with new tax policies, must be developed to encourage renewed exploration and production needed to meet future demand, particularly for natural gas. The NPC gas study projects future demand growth for natural gas and identifies the challenges facing the development of adequate supply. For example, the study concludes that the wells drilled in the United States must effectively double in the next fifteen years to meet the demand increase. Capital expenditures for domestic exploration and production must increase by approximately \$10 billion/year—roughly a third more than today. Generating this additional capital will be a compelling task for the industry. As the NPC study states:

While much of the required capital will come from reinvested cash flow, capital from outside the industry is essential to continued growth. To achieve this level of capital investment, industry must be able to compete with other investment opportunities. This poses a challenge to all sectors of the industry, many of which have historically delivered returns lower than the average reported for Standard and Poors 500 companies.

In fact, as the past year has shown, capital markets have not shifted to supporting the energy sector. For the industry to meet future capital demands—and meet the challenges of supplying the nation's energy—it will need to increase both its reinvestment of cash flow and the use of outside capital. The role of royalty incentives and the tax code will be significant in determining whether additional capital will be available to invest in new exploration and production in order to meet the \$10 billion annual target.

**THERE'S NO SHORT-TERM FIX—RECOVERY WILL TAKE TIME**

It will take time for any realistic future energy policy to achieve results.. There is no simple solution. The popular call for OPEC to “open the spigots” failed to recognize that the low oil prices of 1998–99 reduced capital investment from the upstream industry all over the world. Only Saudi Arabia had any significant excess production capacity and no one knew just how much or whether the oil was of a quality that it could be refined in most refineries. The collateral damage of low oil

prices on the natural gas industry is affecting gas supply today and will until the industry recovers. The producing industry lost 65,000 jobs in 1998–99. While about 40 percent of those losses have been recovered, they are not the same skilled workers. If measured by experience level, the employment recovery is far below the numbers. Less obvious, but equally significant, during the low price crisis equipment was cannibalized by operating and support industries who were decimated. It will take time to develop the infrastructure again to deploy new drilling rigs and provide the skilled services that are necessary to rejuvenate the industry.

#### CONCLUSION

Providing access to the resource base will be critical and requires making some new policy choices with regard to the onshore and offshore Federal lands. Access has and can occur while we accelerate the protection and improvement of the environment, and increase our nation's energy security. A critical first step is to require agencies to measure and document the impact of their decisions on the development of energy resources.

Overall, attracting capital to fund domestic production under these circumstances will be a continuing challenge. This industry will be competing against other industries offering higher returns for lower risks or even against lower cost foreign energy investment options. The slower the flow of capital, the longer it will take to rebuild and expand the domestic industry.

These two issues are the ones that are particularly dependent on Federal actions, and should be the immediate focus of this Congress and the Administration.

Energy production—particularly petroleum and natural gas—is an essential component that must be included and addressed at once. Independent producers will be a key factor, and the industry stands ready to accomplish our national goals, if policies reflect that reality.

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Mr. GIBBONS. Thank you, Mr. Sims.

Mr. Fry, welcome to the Committee. Again, the floor is yours. We look forward to hearing you.

#### STATEMENT OF TOM FRY, PRESIDENT, NATIONAL OCEAN INDUSTRIES ASSOCIATION

Mr. FRY. Mr. Chairman, it is always a pleasure to be with you and this Committee. I would like to ask that my written remarks be made a part of the record.

Mr. GIBBONS. Without objection.

Mr. FRY. Thank you.

Mr. Chairman, I am here today representing the more than 300 members of the National Ocean Industries Association. This is an organization that represents all facets of the offshore oil and gas business, from producing, to drilling, engineering, transportation, telecommunications, finance, law, and insurance. Everybody who works in offshore tends to be a member of the National Ocean Industries Association.

Today I would like to address, though, a bigger picture—our national energy needs.

Secretary Pena asked the National Petroleum Council to look into natural gas supplies over the next 20 years. They did so and finished their report about 2 years ago.

They determined that we were going to need an additional one-third natural gas over the next 10 to 12 years in order to fuel this economy. Now, the first 2 years of that report are now under our belt.

It turns out, we used more than was even projected. But allowing for dips in the economy, other things to happen, I think the report thus far has proven to be right on track.

The question then becomes, where will this natural gas come from? About a third of all the natural gas that is produced in this country comes from the offshore. As you look at all the new power plants that are being built in this country, over 90 percent are going to be fueled by the clean-burning natural gas.

Where is this gas going to come from? It has either got to come from the offshore, the onshore, but certainly, it has to come from this hemisphere. We do not import natural gas from overseas, with the exception of small amounts of natural gas liquids. It is important that we look for domestic supplies of natural gas.

Now, I would like to agree with what I think Mr. Kind and Mr. Tauzin both said: We have to look everywhere in terms of where we will find our energy for the future. We are going to look to the offshore. We are going to look to the onshore. We are going to have to look to coal. We are going to have to look to conservation. We are going to have to look to geothermal. We are going to have to look to renewables.

All of those are going to have to be a part of the mix as our economy continues to grow and continues to need the energy to fuel the economy.

As I look at the offshore program, I note that over 85 percent of all Federal lands offshore are now under either congressional or presidential moratoria. We only really look in the eastern and western Gulf of Mexico.

I recognize that the President campaigned and made a promise to recognize existing moratoria. But I think as we look at the long-term needs of this country, relative to oil and gas and oil and gas development, we need to start planning for the long-term range future.

And while I am not here today to recommend to you that we repeal current, existing moratoria, certainly we need to have access to those areas that are not under moratoria—the 181 eastern Gulf of Mexico area, which is more than 100 miles off the shoreline of Florida.

But we also need to look to areas currently in moratoria to start doing some looks to see what is there. The work that was done 20 years ago developed the current estimates of how much oil and natural gas may exist in the Federal offshore, but that is old technology, old information. We need to update that information.

The Minerals Management Service needs to be given the ability over the next portion of the 5-year plan to start developing the kind of information and inventory of what kind of energy resources are in our offshore.

Lastly, I would ask that, along with the other things that have been suggested by my fellow panelists, that we also begin a pilot project on e-commerce. One of the things that can speed up the process of leasing in the offshore is to have the ability for people to communicate through the Internet, to file permits through the Internet, provide information back and forth through the Internet. And a pilot project along that line would be most helpful for the industry and I think for the Minerals Management Service in the year 2002.

With that, I would like to thank you, Mr. Chairman, for giving us the opportunity to testify, and we look forward to your questions.

[The prepared statement of Mr. Fry follows:]

**Statement of Tom Fry, President, National Ocean Industries Association**

My name is Tom Fry and I am the President of the National Ocean Industries Association, or NOIA. NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of hydrocarbon resources on the nation's Outer Continental Shelf. The NOIA membership comprises more than 300 companies engaged in numerous business activities ranging from producing to drilling, engineering to marine and air transport, offshore construction to equipment manufacture and supply, telecommunications to finance and insurance.

I am delighted to have the opportunity to discuss some of the possible short-term solutions available to the American people to increase our domestic energy supply from public lands, specifically the important choices that we face with regard to offshore energy exploration and production from the submerged public lands of the Federal Outer Continental Shelf (OCS). In light of the tightened energy markets, volatile commodity prices, and the tragic situation in California, this topic clearly demands our urgent attention. Furthermore, a frank discussion of our current energy situation is particularly timely because I believe that the nation has arrived at a pivotal point with respect to how we address these issues.

Pivotal in this sense: in the next few months our elected leaders will be asked to make some important choices. If the right decisions are made, the United States could be embarking on an unprecedented era of innovation and growth. If the wrong decisions are made, we could be walking down a path of uncertainty, constriction, and economic tumult. The choices that this committee and other of our national leaders will make in the coming months will determine whether our future will be a time of growth and prosperity, or a time of constriction and uncertainty.

I have been called here to address short-term solutions to these problems, and I will. But when I discuss "short term", I am thinking in terms of years as opposed to weeks. I have no immediate answers to California's quandaries, but I will offer some suggestions as to how we as a nation can avoid the missteps that could create similar crises in other regions of the country.

*Background*

At present, the United States imports considerably more than half of the oil that we require to support our quality of life and our economy. As demand escalates, we will likely continue to grow more dependent on foreign oil. While it is unlikely that our nation could ever operate independently of the volatile world oil markets, an increase in production would go far toward stabilizing domestic prices, and increasing our ability to counterweight OPEC's price manipulations. The United States has oil—a great deal, in fact. In recent times, however, we have chosen to rely increasingly on overseas production, treating our domestic hydrocarbon production as if it were a shameful vice to be hidden and avoided. Of course, energy production is not a vice, and we certainly cannot afford to avoid or ignore it. It is now clear that an increase in domestic oil production is needed if we are ever to attain some degree of flexibility with which to cope with the issues that have confounded consumers across the country in recent years.

With respect to natural gas, an increase in domestic production is not only desirable to cushion us from volatile markets; it is absolutely necessary if we are to meet even our most basic needs. According to the Secretary of Interior's OCS Policy Committee's Subcommittee on Natural Gas, in 1998, the United States consumed 21 trillion cubic feet (TCF) of natural gas, but produced only 18.7 TCF. Imported Canadian natural gas provided the balance of supply.

Recently the U.S. Department of Energy, the National Petroleum Council and others have predicted that the U.S. demand for natural gas will increase to 35 TCF in little more than a decade. While we continue to import a great deal of gas from Canada, our neighbors to the north are running at full tilt in order to meet their own climbing domestic needs. Here is an important point: since natural gas is imported through pipelines, it is not currently feasible to meet our skyrocketing demands with natural gas from overseas. We must increase our domestic production to meet this demand. The American people have demonstrated their preference for clean-burning natural gas to generate their electricity. Over 90 percent of our planned electrical generation capacity in this country will be natural gas-fired. It

is clear that we are moving rapidly toward a much greater reliance on natural gas. This is not a bad direction for our nation. Increasing our utilization of natural gas will enhance our quality of life. It is our most readily available source of clean energy. We should use more. However, if we head in the direction of greater natural gas reliance, while simultaneously choking off our supply; we are heading for tragedy. The policy of increasing our demand while decreasing our access to supply is a recipe for disaster. We must make swift and direct steps that will increase our domestic production in order to preserve our strong economy and high standard of living.

The offshore energy industry is working tirelessly to increase production. More than one-fourth of the oil and one-third of the natural gas produced in the United States is harvested from the Gulf of Mexico. NOIA's members are currently working at maximum capacity to bring America the energy it needs. We will do our part, but we can't do it alone. You, our congressional leaders, as well as the President and the Executive Branch agencies, face some important choices that will determine whether we as a nation are able to meet these pressing demands.

#### *The 5-Year Plan*

The first decision that must be addressed is the Minerals Management Service's 5-Year Plan for Oil and Natural Gas Leasing on the OCS, which the MMS is currently in the process of compiling for the years 2002 through 2007. This plan determines which of our submerged Federal lands will be available for leasing, and which will be off limits to mineral exploration. Areas included in the plan are considered for leasing, but need not be leased. Areas not included in the plan, however, cannot be leased.

The choices made in the formation of this plan will impact our economy and our standard of living for years to come. It is important to underscore here that the 5-Year Plan will dictate what energy resources we have at our disposal well into the future. For many offshore operations, the cycle time from the moment a tract is leased to the time first oil or gas production occurs can average between 2 to 5 years, though in many deepwater regions, the time required sometimes exceeds 10 years. It is important to understand therefore, that the 5-Year Plan will determine what energy resources we will have at our disposal not only in the next two years, but also in the year 2012 and beyond.

NOIA asks that the MMS be allowed to include areas currently under moratoria in the 5-Year Plan in order to determine the resource potential of the Federal OCS. Basic assessment activities such as socioeconomic studies, geological and geophysical studies, and environmental impact assessments that are typically done on areas included in the 5-Year Plan, should be done on these areas, even though leasing is not currently an option because of executive moratoria. Failing to engage in these basic assessments would be to continue to conduct the energy debate in a vacuum, ignoring the entire spectrum of our choices and alternatives until it is too late.

As it now stands, we have little knowledge of what our hydrocarbon resource base comprises. Excepting what we know of the central and western Gulf of Mexico, and certain areas off the coasts of California and Alaska, we simply do not have any adequate knowledge of what resources we are sitting on, and whether or not they are recoverable economically and environmentally. Not all areas are suitable for development. However, before we can have an informed discussion, it is imperative that we carefully examine all areas likely to contain hydrocarbons that can be found and harvested in a manner consistent with our nation's highest environmental standards by including them in the 5-Year Plan. Any other course of action would rob the MMS, and the nation, of the flexibility we require in order to meet our rapidly changing energy needs.

Currently 85 percent of the lower 48 state's coastal lands are off limits to hydrocarbon resource development. Although the MMS continues to issue a resource assessment every year that estimates the amount of hydrocarbons available in these areas, the agency is basing these determinations on decades-old information. In light of the technological leaps that the industry has made in the past few years with seismic exploration and deepwater drilling ability, to name but two, the current MMS assessments based on data from the 1980s in most cases, are grossly inaccurate. If we do not include these areas in the 5-Year Plan and allow for basic work to be done, we cannot have a reasonable debate about a national energy policy, because we will not have all, or even most, of the facts before us.

The most important lesson to be drawn from the energy crisis in California is that we must not allow ourselves to be painted into a corner. Our policymakers must allow themselves the full flexibility to deal with changes in our energy supply including the machinations of OPEC countries, a volatile business cycle, aging infrastructure, and a tight labor market.



If the MMS is not given the authority to consider the full range of options in the upcoming 5-Year plan, then we will be painting ourselves into a corner. And I fear that such a decision will leave us without the energy security and reliability required for prosperity and growth.

#### *Lease Sale 181*

Another vital step that we must take to increase energy production is ensuring that upcoming Eastern Gulf Lease Sale 181 occurs as planned and on schedule.

At a time when 90 percent of our planned electrical generation capacity will be fired by natural gas, the estimated 7.8 trillion cubic feet of natural gas in the Sale 181 region is vital to our national security and our economic prosperity. That is enough clean-burning natural gas to supply 4.6 million households for 20 years—and if our experience in the central Gulf is any indication, 7.8 trillion cubic feet is a very conservative estimate of the resource potential of the area. (Again, as I noted earlier, the current resource estimates of the Sale 181 region's potential are based on very limited exploration work done in the mid-1980s.)

Lease Sale 181 is a key component of our energy future because it is a region with an already existing infrastructure that can be utilized rapidly and with a minimum of turnaround time to bring our country the energy we need. That the Eastern Gulf is also nestled neatly in one of the most rapidly growing population centers in the United States only underscores the sale's importance. The streamlined development of the Sale 181 area's resources is what will prevent Florida from becoming our next California-style energy crisis.

#### *Coastal Zone Management*

Another important issue that I would ask Congress to address, which could have even more immediate implications for the stability of our domestic energy supply is the Coastal Zone Management Act of 1972 (CZMA), and its subsequent implementing regulations. The CZMA is an excellent example of good legislation that has gone awry as it has been implemented over the years. The act was passed with the laudable intention of creating a national program that would encourage states to manage and balance competing uses of, and impacts to, coastal resources. However, anti-development interests within states have used the law to stall or halt offshore development by taking advantage of loosely worded passages within the statute and regulations that enmesh offshore lessees in a never-ending loop of permit approvals and appeals.

A recent example of the law's potential for misuse occurred when Florida officials signaled their intention to use the CZMA's Federal consistency provisions to oppose the use of Floating Storage, Production, and Offloading (FPSO) systems in the central and western planning areas of the Gulf of Mexico—regions that are far removed from Florida's coastal waters. NOIA believes that it is vital that FPSOs are approved for use in the Gulf, as they hold great potential to improve the economics and efficiency of the deepwater operations that are behind the continued dynamism of the region. NOIA is asking legislators to review the CZMA and to remove the aspects of the law that obfuscate its original intent—paying specific attention to the approval processes that currently have no finality or reasonable timeline in place.

#### *Streamlining the Minerals Management Service*

Another issue that relates to expedited permit processes—and therefore to a more rapid increase in energy supplies—is the MMS's proposed “e-Government” initiative. The hip, “new economy” name of this effort disguises a regulatory initiative that could have real value for government officials, industry operators, and energy consumers. In essence, the e-Government program would allow the industry to submit permit applications over the Internet, stream safety and geophysical data to a secure central server at MMS. This would allow for immediate permit confirmation, more reliable and accurate record keeping, and a greatly streamlined working relationship with the MMS. In an industry where consumer responsiveness is so important, where time is money, and where good data equals sound decisions, NOIA strongly supports the e-Government initiative at MMS and asks that the appropriators ensure that the agency gets the funding it needs to pilot such an effort.

#### *Conclusion*

In closing, I would like to comment on a very positive step that was recently taken by the Vice President's Energy Policy Development Group, and that is the recommendation that the President create a governmental unit of energy policy oversight. This White House-level oversight body will ensure that new regulations and policies will be carefully examined for the potential impacts to our energy supply and demand. The office would be similar to the White House's Council of Environmental Quality whose mandate is to review regulatory impacts to the environment.

NOIA believes that such an office would guard against the enactment of regulations that, while well intentioned, have an overall negative impact on the stability of our energy supply or, conversely, on our energy demand.

I have touched on only a handful of the choices that our leaders must face. But the course that is chosen will have a lasting impact on the reliability and abundance of our domestic energy supply and therefore, on our nation's economic future and the sustained health of our standard of living.

On behalf of the ocean industries, I ask our nation's leaders to choose wisely. Their public trust obliges them to plan carefully now to secure a bright future for the United States.

Thank you very much for your time and attention.

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Mr. GIBBONS. Thank you very much, Mr. Fry.

And let me ask one real quick question of you, because just now, in your oral testimony, you indicated that we are looking for oil and gas in the western and eastern portion of the Gulf of Mexico.

Mr. FRY. Excuse me. Western and central, Mr. Chairman.

Mr. GIBBONS. I just wanted to clarify that it is the central portion.

Mr. FRY. Thank you.

I wish we were looking for it in the eastern.

Mr. GIBBONS. There are a lot of people who wish you were looking for it in the eastern.

Let me pose a question within the time limits I have—we are going to limit our members to 5 minutes—to all of you and then maybe get some feedback, if I could, from you.

And the question that I want to ask—and I want to give all of you a minute to think about it, so I am going to ask this question first, and I am going to follow it up with a couple of other questions, and then give you time to think about it.

And I want to know, from your standpoint, what three actions could the Federal Government do to increase energy production from government land during the next 5 years. Just give me your top 3 actions that this government could do that would increase energy production from public lands in the next 5 years.

Now, let me ask also, because I think this question will be just a little bit easier, all of you have in one way or another addressed the problem of the delays in the permitting process, principally due to inadequate funding for staffing, et cetera.

Let me ask this question to all of you and get your visceral reaction to it. Would you support a portion of the Federal share of the royalties that are taken from oil and gas today being directed to the Minerals Management Service or the permitting process to expedite this effort of getting more permits more quickly accomplished than we have seen in the past or what has been your experience in the past?

And I will start with Mr. Rubin and just go right down the line.

Mr. RUBIN. Thank you. Yes, the three actions that can be taken to increase production:

First, I would start with expediting the permitting and land management planning process in the western U.S. There are a lot of places where there are permits piled up, where people are ready to drill wells. We need to get those permits out.

In addition to the permitting problem, we have to make sure that we have enough rigs and capital to drill those wells. But the permitting issue would help significantly.

I would also add that it is important to keep Lease Sale 181 in the eastern Gulf of Mexico on track, and to keep all tracts in the sale, because some of the tracts that can be brought on the quickest are those in the shallowest areas.

And I would also add that additional leasing should be conducted in the NPR-A in Alaska, where just yesterday, as I mentioned, there were several discoveries that were announced, some fairly exciting discoveries.

So those are the three areas.

As far as supporting royalties being used to expedite the permitting process, I don't see why that should not be done. I think it is up to the Congress, of course, to figure out how to pay for it. But we do think it is very important to increase the resources committed to the permitting process.

Mr. GIBBONS. Thank you.

Mr. O'Connor, your answers to the two questions.

Mr. O'CONNOR. Yes, sir. I identified three items in my testimony, dealing legislatively with the coal bed methane conflicts issue. Secondly, providing some additional degree of flexibility and local involvement in the roadless issue. And third, additional funding for more expedited Federal coal leasing analysis.

With your permission, I would like to throw in a fourth that I did not identify, but which is of really overriding and overreaching importance, and that is, it is absolutely critical to this country that we have more expedited permitting and construction of transmission lines, particularly in the western United States, in order to be able to provide a delivery system for electrical needs.

On the question about whether or not we would be willing to consider seeing some share of the Federal share or some portion of the Federal share to help with the funding of more expedited permitting and leasing, you know, it is appropriate to consider that. We would not oppose it. And we think there would be an enormous return on that investment.

Mr. GIBBONS. Thank you.

Mr. Sims?

Mr. SIMS. The several items I would identify would be, first, the successful implementation of the executive order regarding energy impact analysis on regulatory matters. We think that would, over the near term and long term, bring much better balance into play in terms of regulatory actions as they affect energy supply.

Second, I would agree with Mark Rubin, my good friend from the API, that Sale 181 is a high priority and should go forward. That is a high priority for independents in the near term. And we believe that with the 7.8 trillion cubic feet of gas and 1.9 billion barrels of oil estimate, that it is a very good opportunity that we shouldn't miss.

And finally, we believe that royalty incentives in the offshore and onshore would be good to help stimulate that kind of capital deployment into these kinds of activities.

Earlier, there was a citing that production had increased during the Clinton administration. And I don't know those numbers exactly, but one of the big successes over the last 5 years was the deepwater royalty relief program that led to an increase in activity

in deepwater. And we believe that kind of stimulus and incentive should continue going forward and be helpful.

Mr. GIBBONS. Thank you, Mr. Sims.

Mr. Fry?

Mr. FRY. First off, I hesitate almost to get into what are the three most important, because I mentioned, Mr. Chairman, I think that everything we do is going to be important to deal with this problem.

However, I will suggest that I think Sale 181, which was a sale that was proposed by the Clinton administration, be a sale that goes forward in its entirety.

The second area is area of coastal zone management. We have lots of opportunities to develop natural gas in the offshore. But the Coastal Zone Management Act, because of some deficiencies in terms of timing in the act, make it almost impossible to finally bring production on-line in some offshore areas.

Thirdly, it has already been mentioned, the area of royalty relief. We have seen that royalty relief, given properly and in proper ways, will increase activity that wouldn't normally occur.

So I think those three things would be items that would be high on my list, recognizing that I think we are going to have to do everything.

In terms of sharing the Federal royalties, there is currently a program within the Minerals Management Service where some of the fees that are collected go to supporting some of those programs.

I think those are appropriate when set up properly and managed properly, and we would certainly support continuation of those. And I think it is proper to look past those at other possibilities, Mr. Chairman.

Mr. GIBBONS. Thank you, Mr. Fry.

Mr. Kind?

Mr. KIND. Thank you, Mr. Chairman. Just a few questions.

It is an interesting proposal in regard to the royalty issue, but obviously, you still have to deal with the appropriators. We found that in dealing with CARA, where a lot of the offshore royalties were going to go into some good land conservation programs. We ran into a huge fight at the appropriation level with our appropriators, who kind of like to control these funds and decide how best to use them.

But there is another problem with the royalty aspect, and we have seen this over the last half a year to a year or so, and that is the numerous cases of litigation that have gone to trial now, even government audits showing that there have been some problems in getting the true market value of the royalties that are being sent back to the American taxpayer.

In fact, a recent jury verdict in Alabama, I think, against I think it was BP, recently showed that—the argument was that reasonable people can disagree in regard to what an accurate royalty payment should be in that, but the evidence there showed that there was certainly some undermining of data and information being used.

So if we are going to be relying on royalty payments, I think we need to address that issue as well, which is a growing concern with a lot of people here in Congress.

One of the questions I have for you gentlemen today is in regard to existing oil capacity and the danger of corrosive pipes that we are seeing more and more so, especially up in the North Slope.

We have had numerous stories of corroding pipes leaking and that affecting the tundra up there. This is with existing oil fields and production that is going on right now, and the whole argument about being able to go into new public lands, for instance, in an environmentally safe manner when existing facilities right now are having problems and are experiencing severe leaking problems.

And I am wondering if you would address that issue, first of all.

Mr. Rubin, want to start with you?

Mr. RUBIN. Regarding the corrosion issues on the North Slope, the companies that operate up there spend of millions of dollars every year on corrosion protection, on working to maintain their facilities. The corrosion problems exist mainly with produced water piping systems.

And while the problems have to be addressed, they have to be corrected, and the companies are spending a great deal of money on those, it is important to note that those leaks that are occurring are mainly leaks of produced water, not hydrocarbons. And that is something that is helpful.

Mr. KIND. Mr. Rubin, let me just ask, as far as the environmental impact of that, though, I think a lot of this water is salt-water that is being used. Does that also not have the environmental impact with the—

Mr. RUBIN. No, it does have an environmental impact, and it is important that we have to remediate those sites.

One of the things that helped the recent spill was that the produced water mixed with the snow that was on the ground, and that reduced the salinity of the water that impacted the tundra. That is important.

No doubt, we have to do the best job we can of protecting the tundra on the North Slope, of protecting the environment.

And in fact, the companies that operate on the North Slope have spent more money than any other area of the world for spill protection, for spill response. They have the best spill response facilities in the entire world on the North Slope of Alaska.

I would add one comment regarding your comment regarding royalties. We have long advocated greater use of royalty in-kind so that we can get past many of these arguments of how oil and natural gas should be valued.

There have been successful pilots conducted in Wyoming and in the Gulf of Mexico that show that royalty in-kind does work to the benefit of the Federal Government. And we think that expanding the use of royalty in-kind, we will get past these arguments that you are talking about.

Mr. KIND. Mr. Sims, do you have any additional comments? Because I think there is a public perception problem here. The American people, by and large, are not completely convinced that we have the technology to be able to do this in an environmentally safe way. Even Governor Jeb Bush isn't convinced that we can do this in an environmentally responsible way, given the potential effects on the west coast of Florida.

So, Mr. Sims, if you have any—

Mr. SIMS. I would begin by amending my previous answer to address the question of tying a portion of the royalty stream to MMS funding. Yes, the IPAA would support that, for the record.

Regarding pipeline or flow-line corrosion on the North Slope, I just don't have the experience there. Most of our members operate in the lower 48, in the offshore.

I could speak to the importance of our safety and environmental practices offshore. Independents, like the larger companies, participate in what is called a SEMP program on the offshore that tracks our performance and establishes guidelines for performance. And we think we have a very good track record offshore as well as onshore.

But my firsthand knowledge of North Slope, I just don't have it.

Mr. KIND. Mr. Chairman, with my remaining time, I would like to submit for the record, for purposes of this hearing, a few articles from the Anchorage Daily News: one that was published on April 17 of this year, "Pipeline Leak's a Doozy," talking about some of the problems of the leaks on the North Slope; as well as an article that appeared on April 22 of this year, "Corrosion Is a Constant Enemy," a very insightful and detailed article; and then finally one that appeared on May 22 of this year in the Anchorage Daily News, "Phillips Finds NPR-A Oil," discovery of three oil and gas fields on the North Slope inside the newly opened National Petroleum Reserve in Alaska.

And if preliminary estimates prove correct, it is the largest oil and gas find in the last decade. This was land that apparently was leased under the Clinton administration.

So I would like to submit those three articles for the record, Mr. Chairman.

Mr. GIBBONS. Without objection.

[The articles referred to follow:]

#### **Pipeline leak's a doozy**

KUPARUK: CRUDE AND SALTWATER SOAK TUNDRA IN YEAR'S BIGGEST SPILL.

Anchorage Daily News

By Ben Spiess Anchorage Daily News

(Published April 17, 2001)

In what may be one of the largest spills ever on the North Slope, 92,400 gallons of saltwater and crude oil leaked from a pipeline at the Kuparuk oil field Sunday night.

The mixture, which was more than 97 percent saltwater, leaked from a 10-inch pipeline at a temperature of more than 100 degrees. The spill saturated nearly an acre of tundra, said Ed Meggert, head of oil spill response with the state Department of Environmental Conservation in Fairbanks.

No exact cause has been determined, but Meggert said "it looks like erosion or corrosion to the pipe is the cause."

This is the fourth major spill on the North Slope this winter and the second due to erosion or corrosion.

By midday Monday, Phillips, which operates the Kuparuk oil field, North America's second largest, said it had cleaned up most of the spill.

Corrosion from water and erosion from abrasive material such as sand is a growing problem on the North Slope. As Kuparuk and Prudhoe Bay age, the companies are grappling with internal pipe corrosion from water running through lines and external corrosion from water seeping between pipe insulation and hot steel pipe walls, where it eats at the metal.

The accident timing is bad for Alaska's big oil companies—Phillips, BP and Exxon Mobil—and state leaders who are trying to put a positive spin on the oil industry's environmental record in an effort to open the Arctic National Wildlife Refuge to

drilling. The refuge sits about 90 miles east of existing oil fields and, according to government geologists, may hold the largest undeveloped oil reserves in the nation.

Workers discovered the spill at 10:45 p.m. Sunday when a drop in pipeline pressure set off an alarm in Kuparuk's central processing facility. Within 12 minutes the pipe was shut down, said Phillips spokeswoman Dawn Patience. It is unknown how long the water and oil spilled before the leak was discovered.

The pipe carries what is known as "produced water." For more than a decade, the oil companies have injected saltwater deep into oil fields to boost reservoir pressure and enhance oil flow. As a result, large amounts of water come out of the underground reservoir along with oil and gas. The mixture runs to the processing facility where the gas and most crude oil are stripped off. Then, operators send the water, along with some crude, back to the production pad and re-inject it to keep reservoir pressure high.

The leak occurred in a line that returns the water and trace oil to Kuparuk production pad 1B. The leak happened at a road culvert close to where the pipeline leaves the processing facility's gravel pad, Patience said.

At the time of the spill the weather was 9 degrees Fahrenheit.

While Meggert said that the oil content in the water was low, about 1 percent, the huge spill size means that independent of the saltwater, nearly 1,000 gallons of crude hit the tundra. That crude spill would be one of the 10 largest spills on the North Slope in the past five years, according to state statistics. The high temperature as it left the pipe may mean the mixture penetrated into the ground.

Meggert said the saltwater may be more damaging to the tundra than oil.

"It's just as toxic as diesel," he said. "The plants that normally grow die. The crude will only coat but the saltwater penetrates."

By 1 p.m. Monday, Patience said, Phillips and its contractors had cleaned up more than 92,000 gallons of fluid. Much of that may have been snow and ice melted by the hot crude and water mixture.

Meggert said that in the coming days the spill area will likely be diked with sandbags and flooded with freshwater and, possibly, a chemical agent to flush the salt and crude from the tundra.

Meanwhile, the cause of the spill was under investigation.

A particular problem in the oil fields is water seeping between thick insulation and the hot transportation pipes. High temperatures and water make a perfect climate for corrosion.

Phillips and BP, which operates the neighboring Prudhoe Bay field, use an array of techniques including X-rays, chemical corrosion prevention and infrared monitoring to detect points of pipeline weakness.

At Kuparuk, Patience said, Phillips spends about \$24 million a year on corrosion control. Yet problems persist.

On March 6, more than 3,200 gallons of drilling lubricant spewed across the tundra at Prudhoe Bay after grit carved a hole inside a pipe.

In October 1998, an oil-processing building at Prudhoe Bay exploded after natural gas leaked from an eroded pipe.

In June 1999, a pipeline ruptured at a Prudhoe Bay production pad due to corrosion, according to state officials.

Reporter Ben Spiess can be reached at [bspiess@adn.com](mailto:bspiess@adn.com).

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### Phillips finds NPR-A oil

THE THREE PROSPECTS MAY BE THE LARGEST FOUND IN A DECADE

Anchorage Daily News

By Ben Spiess

(Published May 22, 2001)

Phillips Alaska Inc. announced Monday it discovered three oil and gas fields on the North Slope inside the newly opened National Petroleum Reserve-Alaska.

The Clinton administration opened the environmentally sensitive reserve amid a storm of controversy in 1998. Monday, the expanse of tundra and lakes yielded its first oil and gas prospects: Rendezvous, Lookout and Mooses Tooth.

Phillips Alaska president Kevin Meyers declined to say how much oil and gas the fields may produce, but he described the combined reserves of the three prospects as "in the ballpark of Alpine"—a 429 million-barrel oil field 25 miles northeast. If the fields prove that big, the three would be among the largest onshore oil discoveries in the United States in a decade.

Meyers said Monday that the drilling results are preliminary but that “we believe all three have the potential to be economic.” Phillips owns 78 percent of the prospects. Houston-based Anadarko owns 22 percent.

He said the companies will continue to assess their drilling from last winter and likely drill more wells next winter before deciding how to develop the new fields. At the earliest, the fields would begin production in three years, he said.

The discoveries are small relative to fields like 13 billion-barrel Prudhoe Bay or 2.8 billion-barrel Kuparuk, more than 50 miles east. The discovery of those giant fields three decades ago sparked an exploration frenzy on the North Slope and drew comparisons between Alaska tundra and Saudi sands. Thirty years of exploration has found no other multibillion-barrel giants. But in the past 10 years a string of large, promising prospects have been discovered, adding almost a billion barrels of oil to the North Slope reserves.

Coming amid a simmering national energy crisis and a debate over opening the Arctic National Wildlife Refuge to oil companies, some people may see the new discoveries as confirmation of the North Slope’s long-term potential to produce oil and gas.

After Phillips’ announcement, Fran Cherry, Alaska director of the Federal Bureau of Land Management, said the agency plans to hold a second petroleum reserve lease sale in the vicinity of the new discoveries in June 2002. Cherry said the BLM is also considering opening a new swath of land west of the existing lease area in 2004.

Phillips’ announcement and the pledge for more North Slope lease sales drew loud applause at Anchorage Chamber of Commerce luncheon, where Meyers announced the discoveries.

BLM estimates the swath of the petroleum reserve leased two years ago may hold 1.24 billion barrels of oil that can be produced, a fraction of the estimated 10 billion barrels in ANWR’s coastal plain.

ANWR packs controversy. But some people say the petroleum reserve is also a valuable environment. The oil-rich coastal fringe of the reserve is mostly a spongy spread of lakes and grass and is habitat for tens of thousands of nesting birds, including two threatened species.

“Its wildlife values for bird life are unexcelled. It may well be the most important area on the Slope for birds,” said Mike Frank, an attorney with environmental law firm Trustees for Alaska. Trustees challenged the 1999 reserve lease sale, asserting that the environmental review was inadequate and failed to follow required procedures for leasing wetlands. The lawsuit is pending in Federal district court in Washington, D.C.

But unlike ANWR, which was largely set aside for its wildlife and wilderness values, President Warren Harding designated the reserve expressly for its oil potential in 1923.

Oil companies explored the reserve in the 1960s and 1970s but had little luck. A lease sale in 1986 drew no bidders. But Arco Alaska Inc.’s 1996 Alpine discovery on the eastern edge of the reserve fired beliefs that similar fields lay to the west inside the reserve. In 1998, amid opposition from environmentalists, the Clinton administration agreed to reopen the area to leasing.

In the past two winters, BP and Phillips have drilled eight exploration wells in the reserve. BP has not announced the results of its two exploration wells.

Phillips’ Meyers said Monday that five of the company’s six wells hit commercial quantities of oil or gas in the three discoveries.

A test well at the Rendezvous site produced 1,550 barrels a day and 26.5 million cubic feet of natural gas.

“It’s a sign that this area is going to be a producer long-term for the state,” said Ken Boyd, a geologist and former director of the state Division of Oil and Gas.

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### **Corrosion is constant enemy**

KUPARUK: OIL COMPANY, STATE MONITORS TRY TO KEEP UP WITH AGING PIPELINES.

Anchorage Daily News

By Ben Spiess

(Published April 22, 2001)

Just past 11 p.m. last Sunday, Phillips Alaska’s Kuparuk field operations manager, Bill Patterson, got the call an oil executive dreads: The field had a spill.



A pipeline had ruptured, spilling a hot mixture of salt water and crude onto the tundra. At 92,400 gallons, the spill may be the largest ever to hit the North Slope's fragile tundra.

The next day Patterson flew to Kuparuk, which sits west of Prudhoe Bay and is the Slope's second-largest oil field. Within 24 hours, most of the water and crude had been recovered. But the damage had been done. Some crude still coats vegetation. Salt, which may be more damaging than oil, covers the ground.

The cause was an ongoing problem for oil executives like Patterson: corrosion. Water seeped between insulation and pipe at a weld joint and ate away the steel.

Every year hundreds of spills hit the ground on the North Slope. Most are less than 10 gallons. Corrosion accounts for only a few, usually five to 10 a year. But they tend to be big, averaging 4,261 gallons, according to state statistics.

Over the past 15 years, corrosion and abrasion in the Slope's 2,000 miles of oil, water and natural gas pipelines have worsened from occasional problems to constant headaches for BP and Phillips, the two companies that run the fields. Both companies spend tens of millions of dollars to X-ray pipes, run infrared tests and pump chemicals to control corrosion rates. Spill rates have fallen and in some cases corrosion rates eased. But problems persist.

This winter, there have been four large spills, two from corrosion or abrasion.

"We recognize this as a serious problem," Patterson said. "Over the past several years there has been a major effort to get on top of this."

All agree the problem is serious—so serious it was under negotiation during BP's takeover of Arco last year. And the timing of the Kuparuk spill is bad, as the industry is trying to put the best face on its operations to help open the nearby Arctic National Wildlife Refuge to exploration.

However, Kuparuk-type spills are not likely to afflict new development in ANWR—at least not right away.

Corrosion and abrasion are symptoms of aging oil fields, like Prudhoe, which started up 24 years ago, and 20-year-old Kuparuk. As oil production has fallen at the fields, the companies pumped huge amounts of seawater underground to boost oil flow. Now vast volumes of water come out of the ground with the crude. The oil companies have built a network of pipes and pumps to gather, inject, separate and transport the water.

The water is not benign. It has a mild acid that eats at the pipes and must be constantly combated.

At risk is not only the tundra but also worker safety and the industry's reputation as an environmentally friendly operator in the Arctic.

State environmental regulators say the industry appears to be making a good effort to control the problem.

But the section of pipe where last week's spill happened had never been inspected for the type of external corrosion that caused the spill, Patterson said.

Regulators also note that corrosion and abrasion problems grow as the fields age. And unlike with big pipes like the 800-mile trans-Alaska oil pipeline, state environmental regulators have little power to ensure the safety of the thousands of miles of lines inside the fields. They also lack the manpower to monitor all lines.

"If we had more presence up there, maybe these problems would come to light sooner," said Ed Meggert, state spill coordinator in Fairbanks. "The companies have been pouring a lot of money into it. Is it enough? I don't know."

Observers note that as oil flow falls, the managers are under pressure to spend less money. Like an old car, however, the fields are giving less performance but are demanding more money in maintenance. The motive to cut costs could run counter to protecting the tundra, said Richard Fineberg, a Fairbanks economist who follows the oil industry.

"The idea is to hold maintenance costs just below the cost of cleaning up a spill," Fineberg said.

Since 1996, BP's corrosion control budget at Prudhoe has fallen 14 percent, to \$37 million this year.

BP's corrosion manager, Richard Woollam, agreed there is pressure to control costs at the aging field but "that is secondary to controlling corrosion."

The falling budget is caused by efficiencies, such as mixing expensive corrosion control chemicals at Prudhoe instead of incurring shipping costs to the Slope, he said.

Woollam says the corrosion program is successful. The company is injecting more chemical inhibitors, and Prudhoe pipeline corrosion rates have fallen. Overall, there is a decreased number of corrosion-related repairs.

Still, when corrosion and erosion happen, the results can be ugly.

In March 1997, almost 5,000 gallons of crude spilled as Arco workers repeatedly tried and failed to increase pressure in an oil line in the eastern part of Prudhoe

Bay. Later they discovered a rupture caused by corrosion in the pipe, said Meggert, the DEC official.

"We contemplated criminal charges for that," he said.

In October 1998, sand and grit cut a small hole in a pipe at a Prudhoe production site, known as Z-Pad. Natural gas leaked inside a Z-Pad building. Only minutes after a worker left the area, the building exploded.

At Kuparuk, water running through the pipes is less acidic and corrosion has typically been a smaller problem than at Prudhoe Bay.

But in an interview last year, Kuparuk field manager Tom Wellman said that then-operator Arco got a wake-up call in July 1997. At a weld joint, meltwater seeped through insulation and settled against a hot oil transportation line.

The water ate at the steel. Eventually, the pipe ruptured, spraying 2,000 gallons of oil over the tundra.

Since then, workers have checked about 67,000 weld joints. The corrosion budget has climbed 71 percent since 1996 to \$24 million.

Wellman said that although pressure to control costs is constant, prevention is cheaper than spill cleanup and repair.

"We can't afford to let these lines get to that point. It's not good business to have these lines fall apart," Wellman said.

But the spill last week points to continuing problems.

The leak happened where a pipe runs through a culvert, where it is difficult to check pipe integrity. Kuparuk operations manager Patterson said the pipe section had never been checked for that type of corrosion, though it was scheduled for inspection later this year. Phillips and BP have been working on new technology, similar to X-ray, to examine such hard-to-reach pipes.

"This is a hole in the program," Meggert said. At 10:45 p.m. Sunday, the pipe split. The crack was 30 inches long and 3 inches wide.

"Looks like a smiley face," Meggert said.

Though the oil fields sit on state land, most pipelines in the oil fields are private property. State officials have no direct regulatory oversight and cannot set maintenance schedules or require inspections.

"The real problem here is a lack of regulatory structure," said Jenna App, an attorney with Trustees for Alaska, an Anchorage environmental law firm that has sued the oil industry. "There is no way to enforce safety. Spills keep happening."

Recognizing the lack of oversight, the state used negotiations over BP's takeover of Atlantic Richfield Co. to win cooperation from the industry to address the problem. BP agreed to pay \$500,000 a year for 10 years to help fund state corrosion experts and increased monitoring.

Meanwhile, the state relies on the industry to take care of the public interest.

Susan Harvey, head of oil spill response planning for the state, said that for now no new regulations are planned.

"If they have more spills, that's the next step, to regulate them more," Harvey said.

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Mr. GIBBONS. Mr. Flake?

Mr. FLAKE. Yes, thank you.

A question for Mr. Sims. Forgive me if this was covered during testimony.

When natural gas prices were up, obviously there was more exploration and activity going on. Are there now some inactive or abandoned resources that could be easily revived to step up production in an expedited fashion?

Mr. SIMS. In terms of existing fields that are ready for production, excess capacity, you know, occasionally, when we get to an energy shortage situation, people say that what we need to do is turn on the spigot. We don't really have a spigot, in terms of excess capacity that we can bring into the system in the very near term.

Prices for both natural gas and crude oil are attractive from a historical perspective. And I am just now aware of any resources, reserves in the ground, that are ready for production that we are not already actively producing.

Mr. FLAKE. Mr. O'Connor, the geothermal plants obviously require very little dedicated land—well, relatively—can be installed fairly quickly. Is that a solution that could come fairly quickly or not?

The permitting process is difficult, I realize, but as far as actually producing, what potential is there for an expedited fashion there?

Mr. O'CONNOR. I am not a representative of the geothermal industry, so I am going to have to beg off on that. I have to confess, I don't know that much about that industry.

Mr. FLAKE. Okay.

Mr. O'CONNOR. I am here on behalf of the coal mining and the National Mining Association, and whatever I would say would expose my ignorance.

[Laughter.]

Mr. FLAKE. Mr. Rubin, could you attack that a little better?

Mr. RUBIN. The geothermal resources?

Mr. FLAKE. Yes.

Mr. RUBIN. I am really not familiar enough with geothermal resources to be able to give you a really valid answer.

Mr. FLAKE. Mr. Sims?

Mr. SIMS. If it is possible, I know less than Mr. O'Connor.

[Laughter.]

Mr. FLAKE. Okay. Well, great.

Mr. Fry, unless you want to tackle that one—

Mr. FRY. I just know that geothermal projects are just as hard to permit as anything else.

[Laughter.]

Mr. FLAKE. We actually went through that in another hearing, and, yes, we did learn that the permitting process is no faster. But installation, I am told, is a little quicker. And actually, time from permitting to production can be faster.

I was just wondering if any of you saw that as a solution that could be moved to more quickly. But we will save that for another panel, I guess.

Thank you.

Mr. GIBBONS. Thank you, Mr. Flake.

Mr. Inslee?

Mr. INSLEE. Thank you.

I would like to ask Mr. Sims and Mr. Rubin, in June 1999, as a result of some mistakes by some folks in your industry, three young men were incinerated in Bellingham, Washington.

And since then, the U.S. Senate has passed a bill overwhelmingly for pipeline safety, to improve our pipeline safety.

And I just ask Mr. Sims and Mr. Rubin, have you urged the Republican leadership and Mr. Young to move that bill through the House expeditiously? If you can just me a clear answer, I would appreciate it.

Mr. RUBIN. We have supported passage of pipeline legislation. Unfortunately, I am not familiar with the various bills that you are describing. And we have others in API who deal with those issues. So I can't speak to the specific bills, but we do support moving forward with pipeline legislation.

Mr. INSLEE. Mr. Sims?

Mr. SIMS. I am not familiar with that legislation either. I am representing truly the upstream part of the business, the exploration and production. Our members are not generally engaged in the transportation part of the oil and natural gas business.

Mr. INSLEE. Well, let me ask, sir, that you do become engaged in that debate because, mysteriously, I hear from industry that you support pipeline safety, but nothing ever passes here, any meaningful measure. And we would appreciate your support of the Senate bill or my bill or Mr. Oberstar's bill.

It is not just a safety issue; it is a reliability issue. We can't have a reliable source if the pipelines explode. And that is one of the problems with the El Paso line.

We appreciate your interest that.

I want to note on this issue of drilling in public lands that I think that this hearing is a perfect metaphor for the Bush administration energy plan, which intends to drill in some of our most pristine areas, in that the shades are drawn to keep light out of the hearing room.

[Laughter.]

But you have, by my count, 73 light bulbs burning fossil fuel to light the room that could be lit by God himself through the window.

And I think it is a perfect metaphor of what is wrong with this policy, both in its shortsightedness in conservation and its failure to recognize new technologies that are going to be coming on-line.

I want to note that the Department of Energy of itself concluded over a 3-year study that by doing things like opening the blinds, we can save 25 to 45 percent of all of the energy needs that the country will need over the next 10 years—through conservation and efficiencies.

And yet, this administration has failed in any meaningful way to move forward on either alternative renewable sources of fuel, which happen to not be the ones, at least at the moment, that your industries are involved in, or to help Americans move forward to have conservation technologies available to them.

And I think it is a major, major failing of this policy. And instead, at the same time that this administration has failed to try to improve the efficiencies of our vehicles by one-tenth of one gallon per mile, they want to open up these pristine areas, which I can tell you people in my district have a very, very strong feeling about.

And I think it is a major, major mistake.

I also believe it is mistake for your industry, which I want to note is an extremely important industry and extremely useful. We appreciate your personal commitments to providing energy for my constituents.

But it has failed, as far as I can tell, to support meaning conservation efforts, for instance, in our automobile fleet.

So I guess I just ask Mr. Sims and Mr. Rubin, have your associations supported improving CAFE standards?

Mr. RUBIN. You know, we don't represent the auto industry, and so we don't spend a lot of time working the CAFE issue.

We do, however, recognize the importance of conservation as part of the solution to energy problems. Especially when you are talking about short-term solutions, conservation is one of the most

important things that can be done to deal with the current problems. In fact, if you will go to our Web site, you will see a number of recommendations on how drivers can use less gasoline.

Mr. INSLEE. So is that a yes or a no? Do you support improving our CAFE standards, your association?

Mr. RUBIN. We support conservation efforts. We are not taking a position on CAFE because it is really not our industry; it is the auto industry that has to deal with the CAFE issue.

Mr. INSLEE. You see, that is what I don't understand. We have an energy crisis in our country. You are intimately involved in the energy industry, and you come before us and don't make a recommendation one way or another on CAFE standards?

I don't understand that. Why not?

Mr. RUBIN. Congressman, we presume to be experts on the oil industry. We do not presume to be experts on the auto industry, which is why we are not taking that position.

Mr. INSLEE. Mr. Sims I think wanted to answer as well.

Mr. SIMS. I will. I am involved in the upstream part of the business, the supply part of it. And I wouldn't disagree, Mr. Inslee, that we don't talk a lot about conservation because we mostly talk about what we know, and we know a lot about supply.

I, quite frankly, don't know if the IPAA has a position on CAFE standards. That is not a part of the business we are actively involved in.

But I wouldn't disagree that perhaps we as an industry should be more balanced in terms of addressing both sides of the equation. And that would be something important for us going forward.

Mr. INSLEE. Thank you.

Mr. GIBBONS. Thank you, Mr. Inslee.

Let me say that this is my fifth year on this Committee, 4 years under which the Clinton administration, and not one penny was ever invested by their administration in venetian blind research to lighten the rooms.

[Laughter.]

Nor did they come up with an energy policy.

Mr. INSLEE. We give that advice free, Mr. Chairman.

Mr. GIBBONS. Right, right.

Mr. Rehberg?

Mr. REHBERG. Thank you, Mr. Chairman.

I get downright giddy when you finally get to me.

[Laughter.]

I am not sure on the Full Committee I will ever live long enough to get ask a question.

[Laughter.]

Thank you to the panel and for all you are trying to do to help us out of this situation.

I want to ask you some specific questions.

First of all, were any of you involved in the Vice President's task force? Did you provide information to the administration, as far as your resources?

Mr. RUBIN. Yes, we provided information to the administration, just as we provide information to Members of Congress on both sides.

Mr. REHBERG. Okay. I just wondered if they asked you specifically.

I see that you all are nodding your heads.

I guess the question I would ask is, specifically, could you make available to me or the Committee the kind of information that will show how close many of the projects that your individual companies are working on are to actually being ready to be either drilled or dug? Is that possible?

The reason I ask that question is, Mr. Sims, you had mentioned that you didn't know of anything that wasn't in the pipeline yet. And one of the projects that I am familiar with in Montana is up northwest of Chouteau, Montana. I think it is Startech Energy.

Seven years ago, the EIS was done on their lease proposal. Most recently, Bureau of Land Management has said that they have to now go back and do a supplemental to that EIS. The company tells us that they are 8 months from production.

So I guess what I am interested in, can you provide information to us, both in the coal arena and the natural gas or oil arena, that can tell us how far away, within the next 12 months, there are projects that can be put into the pipeline?

And I will start with you, Mr. Sims.

Mr. SIMS. Yes, I would be willing to provide that.

Mr. REHBERG. You have that kind of information?

[The information referred to follows:]

Independent Petroleum Association of America

In the Administration's fiscal year 2002 budget request, the BLM admitted to a backlog of about 2500 drilling permits for oil and gas projects on onshore federal lands. IPAA believes this number remains to be about the same today. Therefore, Mr. Rehberg, if these backlogged projects were approved, significant oil and gas resources could be put into the pipeline in a very timely fashion.

Mr. REHBERG. Mr. O'Connor?

Mr. O'CONNOR. The information of the National Mining Association submitted to the energy task force was more public policy in orientation, and so they didn't focus in, in terms of specific projects and specific time frames. But we will be delighted to provide you some information.

[The information referred to follows:]

## **ENERGY POLICY - PRINCIPLES FOR ACTION**

### **NATIONAL MINING ASSOCIATION**

Reliable affordable energy is necessary for both economic growth and national security. All domestic energy resources - coal, natural gas, petroleum, nuclear (uranium) and renewables - will be required and each is essential to meeting the nation's future energy needs. Use of domestic energy resources must increase while we simultaneously develop, produce and use energy more efficiently and cost effectively while we maintain and improve the quality of our environment.

Energy policy must be based on several underlying principles: economic efficiency and support for market based policies; advancing energy technology; use of additional regulations only if based on sound science and relative risk assessments; and, expanded use of incentives to promote investment in technology and infrastructure. Policy must be able to recognize and react to the rapidly changing energy requirements of our society and to advances in technology. As recent events clearly illustrate, energy policy must address both energy supply and energy demand.

### **Energy Policy and Coal.**

The need for a dynamic energy policy is underscored by rapid electrification of our economy. Affordable and reliable electricity has supported much of the economic expansion of the past several years and affordable and reliable electricity is necessary to support the economy of the future.

Coal is electricity. Over one-half of the nation's electricity requirements are met with coal-fired power. Coal is the nation's largest and most affordable domestic resource. Coal must be a major factor in the future as demand for electricity continues to increase at a rapid pace.

**Coal generating capacity and coal use must increase to support a growing demand for electricity; efficiency and environmental performance must continue to improve.**

The nation's electric generating fleet is not sufficient to meet current, let alone future, demands for electricity. Barriers to construction of generation and transmission infrastructure must be removed, regulatory certainty with respect to criteria pollutants is necessary and incentives to increase environmental performance and power generation efficiency are necessary to spur investment to ensure that additional capacity is built and existing capacity upgraded. Fuel diversity, and affordability are essential for economic growth. Coal must be used in existing plants and much of the new capacity must be advanced clean coal technology.

- The Administration should support legislative and regulatory actions that provide a measure of burden sharing to improve operational and environmental performance of the existing coal-based fleet and incentivize construction of a number of commercial applications of advanced clean coal technologies.
- Future regulation of criteria and hazardous air pollutants from coal based electricity generation, if warranted by sound economic and scientific considerations, should be implemented under a well defined and integrated strategy to optimize control and minimize costs. The Administration should take immediate steps to harmonize air quality regulations currently pending at EPA.
- Climate policy is an integral part of energy policy. Command and control regimes to control or reduce greenhouse gas emissions should not be part of the policy. Policies should encourage aggressive voluntary actions to reduce emissions, development of new technologies and accelerated research in sequestration. The United States' climate policy must recognize the global nature of the issue and support responsible international agreements that focus on technology transfer and on energy efficient economic development throughout the world.

### **Investments in Coal Production Capacity Must Be Facilitated**

Coal output is approaching 1.1 billion tons annually. Production is forecast to increase by 250 million over the next decade to meet demand. Unnecessary barriers to coal reserves must be removed and income tax policies should encourage, not discourage, investments in expanding capacity, while continuing to incentivize the highest safety and environmental standards in the world.

Mr. REHBERG. I am thinking, in the coal arena, the Otter Creek as an example of the Bureau of Land Management sitting on their duffs. We have been waiting for them to make an agreement to fulfill a deal that they made when they said we couldn't have the New World mine north of Yellowstone Park.

We are still sitting around, waiting for it. That process ought to be far enough along that it could be put into the pipeline somewhere, hopefully within the next 12 months.

How about you, Mr. Rubin?

Mr. RUBIN. Yes, we can certainly provide more detailed information on permitting backlogs and other things that would—

Mr. REHBERG. I am not sure if the Committee is interested, but I am certainly am, because we are really one of the states that, in fact, are a net producer of energy, and yet we are going through the same crisis everyone else is. We are seeing our price go up.

[The information referred to follows:]

**IPAMS**

Independent Petroleum Association of Mountain States

**Improving the APD Approval Process**Prepared by IPAMS' Legal, Legislative and Regulatory Committee**Introduction**

The Independent Petroleum Association of Mountain States (IPAMS) is the regional trade association representing independent petroleum producers in thirteen states in the Rocky Mountain west. Independent producers range from sole proprietorships to publicly traded companies and account for forty percent (40%) of oil and sixty-five percent (65%) of natural gas produced in America.

Many IPAMS members produce oil and natural gas on federal lands. Consistently, IPAMS members comment about delays in getting permits to drill from the federal government. The inconsistent manner in which permits are issued makes it difficult for producers to plan and budget capital outlays and schedule support services. These delays cause disruptions in the supply of energy to the consumer.

**Background**

Responding to member concerns, IPAMS' Legal, Legislative and Regulatory Committee authorized a study of processing times for applications for permits to drill (APD), rights-of-way (ROW) and Sundry Notices in BLM offices throughout the IPAMS region. The purpose of the study was to prepare a document to be used as a tool to remove impediments in the APD approval process. As a bipartisan steppingstone to meaningful reforms, this study follows a report prepared by the Clinton Administration in 1996 discussing and highlighting areas that impede the approval process.

In 1996, at the instruction of then President Clinton, an APD Task Force was formed to study the APD approval process in response to industry concerns that BLM was not approving APDs in a timely manner. The resolutions proposed by the APD task force in 1996 were never acted upon and, as a result, the issues identified by the task force continue to impede the



domestic supply of oil and natural gas. IPAMS' Legal, Legislative and Regulatory Committee developed this document to draw further attention to these continuing problems and recommend meaningful solutions. Improving the approval process will expedite the production of oil and natural gas on federal lands without sacrificing existing environmental protections. Moreover, following the recommendations of the 1996 Task Force and those contained in this document will decrease the costs to produce the resource, ultimately rewarding the consumer with a sustainable supply of affordable energy to meet future demand.

IPAMS staff worked closely with BLM personnel to obtain the information from the BLM's Automated Fluid Minerals Support System (AFMSS). IPAMS received the AFMSS data for 2,669 approved APDs for the time period January 1, 2001 until September 1, 2001. The data requested from the BLM included the following: (1) BLM office; (2) the well identification information; (3) date the APD was filed;<sup>1</sup> (4) date of approval; and (5) any remarks by the individual field office regarding the reason for a delay in approving the permit.

#### Statistical Results

Overall, the analysis of the data indicates that

BLM takes longer to process APDs than the timeframe

contained in Onshore Order No. 1. The range of approval

times for the entire data set of approved APDs ranged

from 34 to 197 days. On average, BLM offices take 84

days to approve an APD. Significantly, most field offices provide no information in the form of

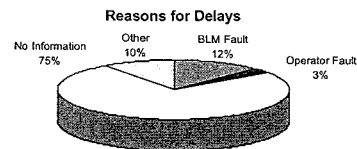
remarks regarding delays for individual APDs. Because this information is not provided, it is

<u>Statistical Summary</u>	
Average For Data Set	84.09
Median (Days)	76.00
Maximum (Days)	197
Minimum (Days)	34
Std. Dev (Days)	36.61
Total Number of Permits	2669

<sup>1</sup> This is the date when actually filed and not when the APD is considered administratively complete by BLM. It was presumed for our analysis that information regarding the completeness of an APD would be contained in the comments and therefore, indicating whether incomplete APDs were an problem.

difficult to ascertain whether delays are caused by BLM, industry, or third-party contractors (e.g. archeologists, biologists, etc.).

However, some offices provided good detail remarking on the causes for delays and describing the action necessary to move on to the next step. Although the offices providing good



detail also exhibit high average approval times, the procedures employed by that office might contribute to improving the overall process for approving permits.

### **Discussion**

Currently, BLM offices are unable to process the APDs within the timeframes set forth in Onshore Order No. 1. Some offices have internal reporting procedures in place to document the processing of APDs while others appear to have no reporting mechanism available to outside sources. The information received from BLM does not pinpoint specific reasons for delays. However, the lack of information for approximately seventy-five percent (75%) of APDs suggests closer oversight of BLM field office procedures and developing a system of accountability to ensure compliance with Onshore Order No. 1. Further, the inconsistent reporting across field offices erodes meaningful oversight of the permit approval process.

The government needs to set forth mandatory internal procedures for field offices to determine if its policies are being carried out on the ground. Procedures can include monthly statistical reports on the number pending permits and the reasons why these projects are being delayed. A simple reporting mechanism will allow the administration to monitor the

implementation of its policies and the flexibility to quickly address problems before they arise to a systemic level.

In the past, Washington has remained “hands off” toward the field offices. In such a large organization as the federal government, this

type of policy is more problematic than

productive. Such discretion on such a widespread

basis will conclude with too many interpretations.

Therefore, centralized policy implementation and

oversight would be more efficient.

Another potential solution is to have state

offices provide oversight of the approval process

for APDs through the establishment of teams

working under the state fluid minerals director.

The APD oversight team can oversee all projects

in field offices that extend beyond a preset

number of days (e.g. the timeframe set forth in

Onshore Order No. 1).

#### Summary by BLM Office

BLM Office	Number of Approved Permits	Average Approval Time
Buffalo	728	92.84
Canon City	7	118.71
Carlsbad	303	92.01
Casper	10	99.20
Craig	17	82.82
Dickinson	16	88.63
Durango	17	66.65
Farmington	258	84.97
Grand Jct.	44	84.20
Great Falls	41	77.49
Greenriver	31	81.94
Hobbs	116	87.19
Kemmerer	36	75.44
Lander	55	77.93
Meeker	72	98.83
Miles City	7	89.00
Moab	21	99.38
Newcastle	11	116.38
Pinedale	254	85.78
Rawlins	84	53.42
Rio Puerco	41	66.85
Roswell	30	58.57
Tulsa	52	78.33
Vernal	398	70.20
Worland	20	42.40

#### Conclusion

IPAMS LL&R Committee believes this document highlights specific areas in the Rocky

Mountain West that need immediately examination and analysis. A cursory examination can

result in the implementation of uniform practices and procedures allowing APDs to be processed

in a timely manner. The data analyzed in this document illustrates that BLM practices and

procedures allow too much discretion in field offices operations. Individuality and independence

may have its place in field office operations, however, without a minimum of standardized

reporting and accountability,

these field offices are allowed

to implement individualized

procedures with impunity.

Clear direction with specific

instructions on reporting and

justifying delays beyond

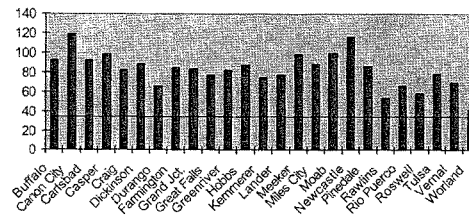
Onshore Order No. 1 should be

the minimum requirement of field offices. Accountability or performance standards should also

be put in place to encourage the development of domestic energy resources.

The independent producers have a difficult time acquiring federal leases on public lands only to encounter further delays and red tape to produce energy for the nation. Without close scrutiny, examination and oversight of the APD approval process, the delays in the production of energy translate in to disrupted energy supplies and higher energy prices tomorrow.

Average Days for Approval vs. Onshore Order No. 1



### Recommendations

IPAMS LL&R Committee recommends the following to improve APD processing times:

- Implement the recommendations of the APD Task Force in 1997 as a bipartisan steppingstone to further reforms.
- Reexamine Onshore Order No. 1
  - Strict timeframes to approve APDs.
  - Reexamine Procedures for Incomplete APDs.
- Eliminate redundant steps in the approval process
  - Example: Arch reports require approval by the BLM archeologist but there is no requirement in the regulations. This single step can cut a substantial amount of time by eliminating the communication delays between the SHPO's office and BLM.
- Develop a system of oversight on the APD approval process.
  - Require field office to report to Washington and state directors as to why any APD is pending beyond the timeframe contained in Onshore Order No. 1
  - Establish performance criteria for each office.
    - Require personnel to spend a certain percentage of their time processing APDs.
  - Form a state Oil and Gas Team to Oversee all Delayed Projects
    - Form a team of knowledgeable personnel in state offices to troubleshoot delayed projects.
- Conduct personnel inventory of each field office.
  - Determine the number of staff members knowledgeable in oil and gas.
  - Shift knowledgeable resources among field offices.
  - Determine the future needs knowledgeable personnel.

Mr. REHBERG. So it isn't just California. Montana is feeling the effects as well.

And we think it is time to pass the point trying to point fingers and blame particular parties. With all do respect to some of the people in Congress, we think this is nonpartisan issue, and we ought to be solving it from an nonpartisan standpoint.

That, of course, is easy for me, as a freshman, because I don't have anybody to point fingers at.

[Laughter.]

Let me ask the next question. I am having a hearing up on the Missouri River next week, having to do with the national monument that the last administration designated within the State of Montana. And I know of an existing oil and gas leases within that property.

Can you tell me of other existing oil and gas leases that are either producing or not producing that are within designated monument areas that perhaps could be readdressed quickly, at least within the next 12 months?

Mr. Rubin?

Mr. RUBIN. Yes, I don't have the details on all the monuments handy. But certainly there is production, for example, in the area of Canyon of the Ancients, I believe, the monument in Colorado. And there are a couple of other monuments that have existing production.

Mr. REHBERG. Have they been within Federal boundaries already, or were they added to the monument designation?

Mr. RUBIN. The production was on government lands, I believe, in the case of Colorado.

I am not sure I completely understand the question.

Mr. REHBERG. There is a different management procedure or protocol once it becomes a monument.

Mr. RUBIN. Yes.

Mr. REHBERG. Were those within an existing protective status of Montana, we had a wild and scenic designation which moved to a monument designation. It changes the management, the Bureau of Land Management.

And I guess my question is, does it change the potential for that property?

Mr. RUBIN. Certainly. It is my understanding that it significantly changes the potential especially for things like in-fill drilling to enhance the production of those fields.

Mr. REHBERG. Mr. Sims, if I could ask you to finish that question, then, the same question.

Are you familiar or aware of oil and gas potential on leases that are within designated monument areas that the President most recently added?

Mr. SIMS. I am not familiar with any of the details of that. We would be glad to track that down from the independent producer segment of the industry and see what we can provide you on that.

There is no doubt that my own remarks about the availability of near-term supply, I was referring to reserves in the ground that are waiting to produce. There are a number of projects that are being held up through different kinds of permitting delays and that

kind of thing that could be brought on in the fairly near term if we could break that logjam.

We will provide you with something.

Mr. REHBERG. Mr. Chairman, if I might just ask one quick question, and this is, that brought to mind, that in a former life, I was a lobbyist for the real estate industry. And we always wanted to have subdivision and plotting review.

And we found that oftentimes the supply of lots outstripped the ability of our state regulators to review. And it was our fault as legislators ultimately to make a determination, which was subjective or objective.

Do you honestly believe the Bureau of Land Management has the potential to increase employment fast enough to do an adequate job to follow the law or are we, you know, barking into the wind here? Or even that we can get these out faster, but under what circumstances could they get them out faster, because of either objectivity or subjectivity of the review procedure.

Mr. SIMS. I know the association would support increased funding to the Bureau of Land Management as well as MMS in order to get some of this backlog of permitting handled in an expeditious way. That would be very important to us.

Mr. REHBERG. And do you think they can, in fact, find—

Mr. SIMS. I think they can, given the resources, given the tools to do the job. I think they, going forward, ought to be able to look at these things in a more timely fashion.

Mr. REHBERG. Thank you, Mr. Chairman.

Mr. GIBBONS. Thank you, Mr. Rehberg.

Mr. Carson?

Mr. CARSON. Mr. Sims, if I could ask you a quick question.

One of the glaring omissions, I thought, in the Bush energy report, which generally I was quite sympathetic to, coming from Oklahoma, where I know you spent some of your early years in the business, is there is no discussion at all of incentives for domestic production of oil and gas.

Our focus is on the use of public lands and opening up the Rockies or the OCS or other areas like that for more production, but having talked to many of your members who are in my state, public lands is usually far at the bottom of their list when they talk about what we need in energy policy.

Instead, it is the clever use of the tax code to encourage the maintenance of stripper wells, for example, when you have tremendous swings in the oil and gas economy.

My question to you is, do you think we can have a coherent energy policy? As important as many of the Bush recommendations are, to your industry, that you mentioned produces about 60 percent in the lower 48 onshore, can we have a coherent energy policy that doesn't do things that encourage domestic production onshore on the lower 48?

Mr. SIMS. My response would be, in the Bush energy plan, there is a call for review of royalty incentive programs—

Mr. CARSON. Right.

Mr. SIMS. —for the offshore, that we would welcome that opportunity to look at that.

Regarding other incentives, I know the association is looking at the strategy that came out last week and hasn't come to any firm conclusions on the pluses and minuses of it.

But I do know that the association does support changes in the tax code that would provide for some incentives.

And the three that come to mind—I am no expert here, but the three that come to mind include expensing G&G expenses, AMT reform, as well as tax credits for marginal well production, which would be very important in the State of Oklahoma.

I am a graduate from the University of Tulsa; I know Oklahoma production well.

Mr. CARSON. Thank you.

Mr. Rubin, you had shaken your head earlier when Mr. Rehberg asked whether you had some influence on the Vice President's report. You provided them with some input, what the API's perspective was.

Was there any input from the API about the use of the tax code, outside of the royalty issue, that was in the Bush report, to encourage domestic production?

Mr. RUBIN. Yes, API supports, for the most part, the same tax incentives supported by IPAA, expensing of geological and geophysical and other types of tax treatment that would help the industry in our efforts.

Mr. CARSON. The question to both you and Mr. Sims, then, is, how important are those as part of a larger energy policy?

As I mentioned, talking to a lot of people in the oil and gas industry, both now in Congress and being from the State of Oklahoma, where it is the No. 2 industry, that is the very definition of an energy policy to most people in the oil and gas industry that I have talked to Oklahoma and Texas.

Public lands are no doubt important. That is an essential part; I agree with you on that. I am a supporter of those issues.

But the omission of it, far from being tertiary to discussion, seems to be quite glaring. I mean, I would like your opinion about, can we have a real energy policy in this country that doesn't deal with protecting domestic production from vicissitudes of the oil and gas economy?

Mr. RUBIN. You know, we would certainly prefer to see those types of tax issues addressed. We are hopeful that there will be continuing opportunities, as Congress considers legislation, to address those issues.

Mr. CARSON. Mr. Sims?

Mr. SIMS. We would certainly agree.

Tax issues have been a high priority for IPAA, more particularly last year, and they continue to be so.

Whether or not they have to be included in this particular package or not is something that is still being sorted out at the association.

Mr. CARSON. Understood.

And if I could ask a question to Mr. O'Connor on the issue of coal. In this discussion, especially in the Bush energy report, and in the larger debate about energy, about the role of coal in economy, obviously, as Mr. Fry mentioned, 90 percent of the new plants



are coming on board—and the Bush plan calls for about 1,500 new power plants to be built in the next 20 years—are gas-fired.

Can you give me any projections, or does your industry have projections about what the demand for coal is going to be over the next 20 years?

We hear much about oil, the demand for oil going up by 30 percent, natural gas 45 percent, electricity by 50 percent. But largely, we are going to be moving to a more gas-fired world and away from the coal-fired world.

Can you discuss what the long-term demands for coal are going to be?

Mr. O'CONNOR. Certainly.

As part of that answer, let me say that, as this country inventories its presently identified, proven and economically recoverable fossil fuel reserves, we can see that somewhere between 85 and 90 percent of all of the reserves are coal. This country is amazingly blessed with an enormous amount of presently recoverable coal reserves that are located in more than 20 states in this country.

Depending upon the market economics, this is an industry that has the capability of dramatic increase. To put it in a different perspective, coal production has tripled in the last 20 years in this country. I might add that during this time that coal production has tripled, emissions have been reduced by a third. And so, despite popular misconceptions to the contrary, we are an increasingly clean industry.

I think there is no doubt but that a substantial portion, probably a substantial majority, of the new generation in this country that we will see over the course of the next 20 years, is going to be gas-fired.

The real question is, what are going to be the costs and what is going to be the availability of additional gas production? To the extent that it is available at economic costs, it is going to take a very significant amount.

The Energy Information Administration has projected recently that we will see, in all likelihood, between now and 2020, a 20 percent increase in coal production in this country. Whether or not it will be that much, whether or not it will double, is really dependent on market economics, as coal competes with other fuels for its logical place in the electrical generation marketplace.

One of the big differences between coal versus natural gas, among many, is that natural gas goes into a number of different markets, whether it is for heating purposes in homes and businesses, whether it is for synthetic use in fertilizer or whether it is for electrical generation.

Electrical generation has been a really expanding opportunity for the gas business. Coal almost exclusively in this country goes to electrical generation.

Mr. CARSON. Right.

Thank you, Mr. Chairman.

Mr. GIBBONS. Thank you, Mr. Carson.

It is interesting to note that the one community in California which is not suffering from blackouts is the city of Los Angeles. And it does so because it has coal-fired electrical plants, in which the supply of coal has not been interrupted, compared to the supply

of gas to the new generation facilities, which will not be able to come on-line to prevent the blackouts.

It is an issue of which this Committee does have great concern, and was part of the reason why we are here today talking about short-term energy supplies, how do we get those supplies from the areas where they are being produced to the demand-side area.

One of the things that struck me as interesting is when you look at the map or the outer continental shelf areas around the Gulf of Mexico and the Atlantic coast—of course, the Pacific coast is off-limits—Florida's increased projection of its demand increase for natural gas is like double or triple over the next 10 or 15 years.

How are we going to be able to supply even one state, like the State of Florida, with its natural gas increased demands, unless we look at areas like 181 and go forward with those lease sales?

The issue that I see there is that Florida, even though it recognizes a tremendous increase in its demand for natural gas, refuses to permit exploration, drilling and other areas of exploration for the supply of those natural resources, 181 happening to be right down the border of Alabama. It is not in Florida until you get beyond the 100-mile range, and then does sort of an eastern loop and cuts in there.

But we put off-limits so much area of Florida when Florida itself is becoming an enormous demand.

What are your solutions to states like Florida? What would you suggest to Florida and to east coast states who have a demand for fossil fuel resources, yet they are unwilling to look at their own backyard, so to speak, for a supply of those?

What would be your recommendation?

Mr. RUBIN. Certainly, the 181 area that you mentioned, the resource estimate for natural gas, for example, in 181 is that—if you equate that to home residential electricity use, there is enough natural gas just in the area of that lease sale to provide all of the electricity needs of all of Florida's homes for about 13 years. So there is a great deal of natural gas that could be used for electricity generation.

If you look at other areas, certainly Canada has been far less opposed to developing the resources off its eastern coast than we have. And they found significant volumes of natural gas that are being shipped to the U.S. for use in the Northeast.

Ultimately, we believe that we have the track record in our operations in the Gulf of Mexico that shows that we can operate responsibly. And ultimately, we would hope that that would be viewed favorably by the public and that some of these other areas would be opened to us.

And there would be significant resources, especially of natural gas some of these areas, for electricity.

Mr. GIBBONS. The Canadian field of natural gas that you mentioned, does that extend down the Northeastern Atlantic coast into some of the Northeastern States?

Mr. RUBIN. It is my understanding that, yes, the geology does come down farther south, off U.S. waters. And there may be significant natural gas potential there as well.

Mr. GIBBONS. But those areas are currently off-limits?

Mr. RUBIN. Yes, sir.

Mr. FRY. Mr. Chairman, some of those areas we looked at 20 years ago, as I mentioned in my earlier testimony, with old, old technology. And that is why we have to really get an inventory of what is out there.

The OCS Lands Act, which established how we shall do business in the offshore, said it should be a balanced program; it should balance regionally, that all states and all regions should participate in this program. We have gotten away from that.

Mr. GIBBONS. So you recommend a complete revision of the estimates under MMS studies that are outdated?

Mr. FRY. I would like to see those updated so that we have a better idea of what is there, so that we can really make informed choices about areas where it may be appropriate to have future development, as we look to try to fuel this economy in the future.

Mr. GIBBONS. In my final question here that I want to ask, I want to talk about royalty in-kind, and open it up to anybody for discussion out there. I know that it has been mentioned by Mr. Rubin, but royalty in-kind is truly a responsible way to deal with the royalty issues.

And since you brought up the issue that royalty in-kind is the truth serum of the valuation of oil and gas production, are there any states out there that do accept royalty in-kind? How are they putting it together? And how this should this government, the Federal Government, look at royalty in-kind issues?

Mr. RUBIN. The State of Texas takes some of its royalties in-kind, I believe. I am not familiar with all of the programs out there. I believe the State of Alaska also takes some of its royalties in-kind. And I believe that Alberta in Canada, they also take royalties in-kind.

And everywhere it has been used, it has been relatively successful. I think the MMS's own pilot programs have also been very successful.

And we can certainly rely on the data that has been developed at the Wyoming pilot and the data that is being developed in the offshore pilots, to point to that success as well.

Mr. GIBBONS. Mr. Sims?

Mr. SIMS. Well, I would just add that I am not familiar with all other states and how they have conducted RIK.

We certainly support RIK programs because it takes the big, long debate of valuation out of the formula. And we think it would help both sides go forward without the question of evaluation taken in-kind.

Mr. GIBBONS. Thank you.

And, Mr. Inslee, do you have any—

Mr. INSLEE. I do, Mr. Chairman, if you allow a few minutes.

I want to ask Mr. Sims, my understanding is there has been a substantial increase in the number of drilling operations now going on in the last 2 years, something like there were 400 rigs in operation a couple years ago and now there is pushing 1,000. Is that about right?

Mr. SIMS. I don't know the numbers, but there has been a substantial increase both onshore and offshore, responding to market forces.

Mr. INSLEE. Well, that is what I wanted to ask you about.

The reason there weren't 1,000 rigs 2 years ago was not because the environmental laws were bad 2 years ago; it was because the price wasn't good enough, right?

Mr. SIMS. We do respond to price. Price is something we pay a lot of attention to.

Mr. INSLEE. I want to make sure I understand.

Two years ago, the impediment, the thing that was choking, preventing people from going out and drilling more wells, was not environmental regulations, it was the fact that price was not high enough. Now the price is high enough, and they are now drilling. Isn't that right?

Mr. SIMS. It is certainly true that price is a big driver. In terms of overall activity, there are other factors at play, including restrictions that we have talked about today. They aren't exclusively, but price is a big factor in our level of activity.

Mr. INSLEE. Well, I appreciate you saying that. In fact, you kind of agree with Mr. Gene Edwards, the senior vice president of Valero Energy of San Antonio, who said, "Our margins are not wide enough to justify building new refineries. When we need to expand, we do it at existing sites."

The reason I say that, I think there is substantial evidence that the price is what is going to drive additional exploration, not rolling back environmental standards.

One more point, and then I will finish.

As you know, there is substantial concern about price gouging in the wholesale electrical markets in the western United States. I am going to read to you, and I am going to ask Mr. O'Connor a question, if I may, from the San Francisco Chronicle, this Sunday.

It starts out:

Large power companies have driven up electricity prices in California by throttling their generators up and down to create artificial shortages, according to dozens of interviews with regulators, lawyers, and energy industry workers.

According to the accounts of three plant operators, company X's—and I won't embarrass them with their name here—company X's operations schedulers on the energy trading floor ordered them to repeatedly decrease then increase output at the 1,046-megawatt plant X. This happened as many as four or five times an hour.

Each time the units were ramped down and the electricity production fell, plant employees watched on a control room computer screen as spot market energy prices rose. Then came the phone call to ramp the units back up.

"They were telling us what to do, and we would do it," said one of the men, who only agreed to speak on condition he not be identified because they feared being fired.

"Afterwards, we would just sit there and watch the market change."

Now, Mr. O'Connor, I understand you are not involved in that specific level of the industry, but if that kind of thing is going on, would you agree that it would be important, by some jurisdiction, to have some price mitigation strategy to prevent these incredible price spikes, which, as you realize, have gone up 1,000 percent since last year on the spot market at times, at least at the same

time, or I would think before, we open up national monuments to drilling for new sources?

Would you generally agree, if some of those things were going on?

Mr. O'CONNOR. You are absolutely correct in your first assumption that I am not familiar with that specific circumstance, so I am not going to even—

Mr. INSLEE. I understand that.

Mr. O'CONNOR. I am not even going to try to get close to that.

But let me start your answer with this more general proposition. We have heard a lot of rhetoric in the course of the last few years, and particularly in the last 6 or 8 months, that we haven't seen new power plants built in this country. And it really raises the question, well, how did this country get along for the last 10 years while new power plants not being built because electrical demand was increasing in this country?

Well, the answer was that the power plants that existed 10, 15 years ago were running at about low 60's percentile capacity factors, which means that they were running—you know, power plants can't run 100 percent of the time, 365 days a year. There are outages and there are also, in the spring and fall time periods, those are shoulder months in which demand for electricity isn't as great as they are in the heat of the summer and the dead of the winter.

What we saw over the course of the last 10 to 15 years is that these capacity factors generally in this country have increased from about 60 percent up to the low 70's, 73, 74 percent.

How far can these plants increase without just absolutely hitting a wall? They can't go to 100 percent.

From time to time, there may be a few plants that can get into the high 80's. But generally, we are reaching a point where plants, as a general proposition, are running close to their maximum capacity factors.

There are still some more that can be squeezed out of individual different plants, but we have been able to avoid much of the problem in the last 10 or 15 years because of this increase in capacity factor utilization. We are not indefinitely going to be able to do that in the future.

Now, are individual utility power plant operators curtailing production at different times? Absolutely so.

Is part of the reason for that the absolute need for maintenance and repairs? Absolutely so.

Are there individual decision being made by individual plant operators on a day-to-day basis for market reasons to cut back or to accelerate production? You will, honestly, have to ask those people what their rationale for doing this is.

But I will tell you that our industry is not in favor of price controls. It is not our industry, but we think that it creates major market disruptions that will actually exacerbate over the long term the electrical needs of this country.

Mr. INSLEE. Can I ask just one more question, Mr. Chairman, if you would allow me? Thank you.

I understand, I think, your answer. You don't have individual knowledge of what is going on in the circumstances.

But if through investigations we find that, in fact, this isn't a maintenance issue, it is consciously withholding power from a generator sometimes on an hourly basis in order to drive the price up and maximize profits and have an induced shortage, if you will, and if we find out that that is a significant problem on the west coast, would you agree with me that we ought to solve that problem before we are drilling in a national monument, the Hanford Reach up in Washington, for instance?

Mr. O'CONNOR. I think the answer to that, in generics, is you need to look to see if that utility is acting in concert with other utilities in order to restrain the market in a manner that is inconsistent and probably in violation of the antitrust laws, in which case enforcement action needs to be taken. Or does it have such market dominance that it has monopolistic power, in which case, regulatory measures need to be examined.

But operating in a market situation where an individual utility does not have market dominance will create exacerbated problems by trying to regulate their prices over these periods of time, because while it may grant some short-term relief, it will create an enormous disincentive for the construction of additional generation or expansion of existing generation.

Mr. INSLEE. Mr. O'Connor, your answer is one I don't agree with, but it is entirely clear, and I thank you.

[Laughter.]

Mr. O'CONNOR. Thank you, sir.

Mr. GIBBONS. Thank you, Mr. Inslee.

And I will say that there is only one type of generating facility that cannot ramp up and down and that would be a coal-fired facility, compared to hydroelectric facilities which can control the flow of energy to the generating capacity, which is like in your State of Washington, and natural gas, which would be the other type of ability to control the combustion cycle for that.

But coal-fired power plants cannot control that kind of—

Mr. INSLEE. Mr. Chair, there are four questions Mr. Rahall would love to propound to Mr. O'Connor. Would he be amenable to taking—

Mr. GIBBONS. The Chair is going to announce, and I will do it today, do it now, that written questions submitted by members of the Committee will also be open and submitted—

Mr. INSLEE. Thank you.

Mr. GIBBONS. —to the witnesses. And we would like to ask that the record remain open.

Mr. Otter, do you have any questions that you want to ask?

Mr. OTTER. Yes. Thank you very much, Mr. Chairman. And my apologies to the panelists for my having to absence myself from here, but I had another pressing issue to deal with.

I believe that I truly pay a great deal of disrespect to the panel when I ask you to come here, and I come and give a statement and then I just leave and not even listen to what you say.

So, I think that is terribly disrespectful, and I apologize to the extent that that has happened here this morning, because I think what you do have to say should be important to us. Otherwise, we ought to have the courage enough not to ask you to come.

One of the things—and I am not sure you all are prepared to answer this right now—but one of the things that I have found, which has a tendency to put an awful lot of light on the energy shortage, which does or does not exist.

Quite frankly, I do believe that it exists. And I believe that it has been caused. And I believe that it has been caused by over government regulation and not enough dependence on the private sector instead of too much, because all the situations that you have talked about, whether it is ramping up and down in order to fluctuate the spot market—I do not know of a power plant that isn't indeed licensed by the government.

And the government already has the control to withdraw that license, should those kind of activities take place. So we don't need more government, as far as I am concerned, involved.

But one of the things that I would like to shed an awful lot of light on, unlike the previous representative's question, I think prices of energy were way too high last year and the year before. And I believe, so do an awful lot of the consumers, especially in the State of Idaho that are on fixed income, and especially those producers in the State of Idaho that their third highest cost ingredient in the last 10 years has become energy.

It takes 27,000 Btus, for instance, to make a pound of french fries.

And the cost of energy going up continues to cause havoc in the marketplace for our product, especially when you have to compete with Australia, Argentina, and other places that can produce the same product with a much cheaper source of energy because they don't have the government control to the extent that we do.

But one of the things that I would like to know, whether it is coal, whether it is oil, or whether it is gas, I would like to know the cost per 1,000 cubic feet, per unit of measurement. Maybe 1,000 Btus is the best.

What is the government cost per 1,000 Btu measurement?

For instance, in the Idaho right now, we know that, between regulations and taxes, when we pay \$1.68 for a gallon of 88 octane gasoline, we know that between taxes and regulation, that our costs are almost \$1.

And if you don't have that answer today, I would be more than happy to receive that answer from you. Do any of you happen to have that answer today?

Mr. RUBIN. No, sir.

Mr. OTTER. Mr. Rubin, is that an attainable figure? Can we obtain that from the petroleum industry?

Mr. RUBIN. I don't know how easily obtainable it is. In a lot of cases, the regulatory burdens are so great that we are not able to drill. So I guess that would drive the cost of the regulation to infinity.

Mr. OTTER. Doesn't that, in fact, constrict the market and limit the supply? And as a result, supply and demand, isn't that going to make the price go up?

Mr. RUBIN. Absolutely.

Mr. OTTER. So that can be a contributing factor?

Mr. RUBIN. Absolutely.

Mr. OTTER. Okay.

And the reason I bring that up is because we did a little research in the fast food business here a few years ago and found out that a Big Mac, as it was going up in price, had 258 taxes and regulations on it; 258.

So I suspect, as regulated as the energy industry is, it is going to be even more.

Mr. O'Connor, how do we stop future conflicts between the coal methane bed and the drilling? How do we stop those kinds of conflicts?

Mr. O'CONNOR. I will address that question. First of all, may I respond to your earlier question with regard to the layer of taxes and other fees?

On a national average, first of all, the delivered price of coal into power plants, on a national average, has been about \$1.25 to \$1.30 per million Btus. That has generally been anywhere from a third to a fourth of the price of delivered gas or oil into power plants on a delivered basis.

On a more specific level though, and particularly since we are talking here about Federal lands, I will address the Federal lands component exclusively.

Looking at the Powder River basin, which I alluded to earlier, Campbell County, if it were its own country, Campbell County, Wyoming, would be the fourth largest coal-producing country in the world, with the United States being number two. So let's look at just it, since it is such an enormous resource area.

When coal in 1999 was selling on a spot market basis for about \$4.25 or \$4.30 a ton, if one broke that component into taxes and other fees—and I will address those in just a moment—plus fixed costs, plus all the variable costs of depletion and what minimal profit there was, if you looked at the fixed costs—the employment, the costs of explosives, costs of reclamation, those sorts of unavoidable fixed costs—the taxes and royalties combined were almost as great as the fixed costs themselves.

What are those made up of: 12.5 percent royalty to the Federal Government (by the way, I am not here to argue pro or con; I am just identifying them) 12.5 percent royalty to the Federal Government; 10.5 percent state severance and ad valorem property taxes; a \$.35 a ton abandoned mine lands fee; a black lung fee—that is amazing because this is surface coal; it doesn't create any of these impacts—but a black lung tax of up to \$.55 ton; and then various other more indirect taxes.

And as I said, that came to almost the direct costs of our operations.

Let me turn now to the second question: How do we deal prospectively with these issues of conflict in coal bed arenas? And I will do it in two parts.

One is, the problem has occurred because historically—and this is not an indictment of any administration or of any party because for 35 years this has been the rule by BLM up until the last year or so.

When leases were issued, there was no mechanism to do anything. BLM, to its credit, is now, starting in the year 2000, has started looking at when leases are issued in the future to impose



some stipulations and trying to impose through regulatory means mechanisms to address this.

So as we look into the long-term future, this issue can be dealt with administratively through regulations, through stipulations in leases as leases are issued.

But the crying problem here is what do you do with those leases that have already been issued and, much more acutely, the parties are already in conflict? The leases are issued. You can't enact regulations to try to retroactively go back and do something, unless there was a statutory mechanism to do it.

And the legislation introduced by Congresswoman Cubin, H.R. 1710, quite simply would do this—and I am going to over-generalize in the interests of simplicity—say, first of all: Parties, go away and try to negotiate your differences out between yourselves, coal and coal bed methane operator.

If you can, great. Bring it back and give it to us.

But if you can't, and despite your best efforts, you are not able to, then a panel of experts—one selected by the coal company, one selected by the coal bed operator, one selected by the Interior Department, for example, under the jurisdiction and supervision of a Federal court in that district—will look at, first, the issue of who creates the greatest financial value to the Federal and state government.

And that party that does that will be given the right of possession, but will also be given the obligation to pay fair market value to the party that is giving up its right of possession.

And that fair market value will be determined on a case-by-case basis by that panel of experts.

Mr. OTTER. Mr. O'Connor, excuse me. If I were the landlord, and I rent my land to two different people, one to grow potatoes on, the other to grow hay on, neither of which can exist with the other, why isn't it the landlord's problem instead of the lessors or the lessees problem?

Mr. O'CONNOR. A spectacularly good question.

[Laughter.]

I absolutely agree with you.

Very honestly, you know, the Bureau of Land Management historically has said, basically: It doesn't make any difference if we created the problem; it is your obligation to figure your way out of this.

Mr. OTTER. When was the last time we did this? When was the last time we committed this kind of thing?

Mr. O'CONNOR. Case in point, 1998, our company paid \$158 million for a Federal coal lease, and we found out later that we were going to have to pay many, many millions of dollars to a coal bed operator.

Mr. OTTER. I guess my question goes to, are we still involved in this, in this lease practice?

Mr. O'CONNOR. Yes.

Mr. OTTER. Thank you.

I would just like to ask Mr. Rubin one more question.

Would your company be interested in your landlords having a working interest, even if your landlord was the Federal

Government? A working interest rather than a royalty? Would your industry, I mean?

Mr. RUBIN. That is not an issue that I think we have ever even thought about, at least certainly not when I have been around.

As a working interest owner, depending on the size of the working interest, that working interest owner has a say in the development.

Look, I mean, any company will look at any terms offered and decide whether it is appropriate for that company to go forward, so I couldn't preclude anything.

But I will tell you, it is not something that we have talked about or thought about.

Mr. OTTER. Thank you, Mr. Chairman.

Mr. GIBBONS. Thank you, Mr. Otter.

Gentlemen, it is obvious that we have kept you here for the requisite 2 hours—

[Laughter.]

—and even then a little bit more.

We certainly appreciate the courtesy of your cooperation and your presence, as well as the testimony you have provided.

As I mentioned earlier, the staff or the Committee may have written questions that it will submit to you, and we would ask that you do respond to the Committee with an answer to those questions in writing.

This has been an hearing which has obviously brought us new information, information which we certainly appreciate learning. We are actively interested in finding a solution, and even short-term solutions to the energy problems that this nation in the beginning of the 21st century.

Your presence here has helped us greatly, and we appreciate your recommendations.

With that, there being no other questions from the Committee, we would again say thank you and call this hearing to an end.

[Whereupon, at 12:07 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

1. Statement for the record from The Geothermal Energy Association

2. A letter from William F. Whitsitt, President, Domestic Petroleum Council, submitted for the record follows:]

## NEAR TERM POTENTIAL FOR GEOTHERMAL ENERGY

The National energy crisis is most immediate and severe in California and the far West. This region has a wealth of renewable resources, including geothermal energy. Geothermal energy has significant potential to contribute to alleviating the energy supply crisis in the West, and the Department of Energy's programs could assist with realizing this potential. With proper support, hundreds of Megawatts of geothermal electricity could be brought on line fairly quickly, and thousands of megawatts could be added in a matter of a few years.

We estimate that electricity production from many existing power plants could be improved through better technology and operational changes. Existing plants could provide perhaps 2030% more power—adding 400600MW—if there was a significant short-term investment in these improvements. Also, efforts to supply treated wastewater to The Geysers need to be continued on a priority basis to achieve projected increases in generating capacity.

In fairly short order, new geothermal capacity could be on-line in the West. A thousand megawatts or more of additional capacity lies in or immediately near existing facilities. Because there is some knowledge of the subsurface resource, and some infrastructure already in-place, these sites could be developed as fast as markets and permitting allow. (This does not include substantial undeveloped geothermal resources in Mexico that lies close to the California border.)

Further, USGS has estimated that as much as 20,000 MW of additional geothermal electric power resources could be developed in the West. This level of development would presume sustained strong markets, or financial incentives like the production tax credit, and continued development of technology that DOE's research and development efforts support. Based upon our review of experts in the field, this level of power development may be possible over the next decade with appropriate federal and state support.

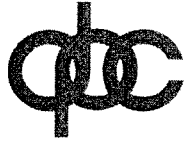
Of course, this is only electric power resource development. Today, there is also a significant direct use industry throughout the West that uses geothermal heat in schools, homes, farms, and industrial processes. Dr. John Lund of the Oregon Institute of Technology has estimated that an equal amount of energy could be harnessed through direct use applications in buildings, commercial operations and industrial processes. Of course, Dr. Lund also assumes that both federal and state governments continue to support expanded use of geothermal resources.

Combined, geothermal power and direct-use energy has enormous potential for the Western United States. Together, these estimates represent energy equivalent to roughly 20% of total current U.S. energy needs. And, with continued advances in technology, the ultimate potential for geothermal energy will continue to expand far beyond this range.

Keys to achieving the potential of geothermal energy are: 1) extension of the production tax credit to new geothermal facilities and incremental capacity additions at existing power plants, 2) priority processing by federal and state agencies of leases and permits for new geothermal development and expansions at existing facilities (consistent with the substantive requirements of the law) and, 3) a strong DOE geothermal research and development program that works closely with industry.

The Geothermal Energy Association  
209 Pennsylvania Ave SE  
Washington, D.C. 20003  
Phone: 202-454-5261; Fax: 202-454-5265

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DOMESTIC PETROLEUM COUNCIL

May 29, 2001

The Honorable Barbara Cubin  
Chairman  
Subcommittee on Energy and Mineral Resources  
Committee on Resources  
1626 Longworth House Office Building  
Washington, DC 20515-6201

Re: Submission for the Record  
May 22, 2001 Oversight Hearing on  
Short Term Solutions for Increasing Energy Supply from the Public Lands

Dear Mrs. Cubin:

The final U.S. Forest Service Transportation Administrative Policy that was announced on January 12 of this year may have serious adverse energy supply implications and should be re-examined with that possibility in mind.

The Domestic Petroleum Council, representing 22 of the largest independent natural gas and oil exploration and production companies in the United States, has made that request to Forest Service Chief Dale Bosworth in the attached letter that also summarizes our concerns about the policy.

We hope that the Subcommittee on Energy and Mineral Resources, in its oversight role, will monitor the Transportation Policy, any review of its energy effects and any modification steps the Forest Service may take to prevent even unintended energy consequences.

We also request that this letter and its attachment be made a part of the record of your May 22 hearing on "Short Term Solutions for Increasing Energy Supply from the Public Lands".

Thank you.

Sincerely,

William F. Whitsitt  
President



DOMESTIC PETROLEUM COUNCIL

May 29, 2001

Dale Bosworth  
Chief  
U.S. Forest Service  
14th & Independence Avenue, SW  
PO Box 96090  
Washington, DC 20090

By fax: 202 205 1765  
Original mailed

Re: Forest Development Transportation System Rule  
Forest Transportation System Administrative Policy

Dear Chief Bosworth:

This is to call to your attention potentially serious energy supply implications of the combination of the two above actions finalized by publication in the Federal Register on January 12, 2001, and to request that they be reviewed before being allowed to take full effect so that energy supply-related changes can be considered.

The Domestic Petroleum Council is making this request now as a result of growing concern that energy implications of these actions were not fully taken into account in their development and drafting. This is especially important to the 22 largest independent natural gas and oil exploration and production companies of the DPC since they lead the way in adding crucial energy reserves, primarily natural gas, for our nation's consumers.

This request also follows release of the President's national energy policy recommendations and resulting executive orders that focus on the need for federal agencies and employees to fully account for energy implications of rules and regulations and to facilitate permitting of energy projects, of course while doing so in accordance with environmental and other requirements. Unfortunately, the Forest Transportation Rule and Policy do not appear to conform to the spirit of the recommendations and executive orders, which were issued after the two actions were finalized. However, especially since the final Policy could be refined without opening a formal rulemaking process, we believe a review in the context of our current energy situation makes sense and could lead to modifications to avoid even unintentional adverse energy consequences.

More specifically, the final announcements of the two actions and the current challenges facing our industry lead to the following specific concerns:

- Although both the final Rule and Policy publications make passing reference to at least interim access prevention for mineral exploration and production, no analysis is provided. In fact, the final National Forest System Road Management Strategy Environmental Assessment and Civil Rights Impact Analysis (dated January 2001) states:

...Figures are not available regarding the type, amount, or value of minerals that could not be extracted as a result of the limitation on road construction in inventoried roadless or contiguous unroaded areas... (p.53)

The assumption appears to be that no information on effects allowed a conclusion that there would be no significant energy implications.

- The Policy requires an Environmental Impact Statement for construction and/or reconstruction of roads in inventoried roadless and unmapped contiguous roadless areas and a roads analysis for projects approved after July 12, 2001. Although apparently existing gas and oil leases would be exempted, both requirements could apply to even short extensions of existing roads or roads necessary to extend important natural gas and/or oil fields, and are unprecedented.

Exploration of a temporary nature, access to State or private property, and reconstruction of existing roads that did not pass the significant environmental impact threshold, did not require an EIS prior to these actions. Whether an EIS was required was left to the discretion of the local Forest Supervisor, and preparation of them was the exception rather than the norm. Over the life of the Rule and Policy, the time delay and costs of completing Environmental Impact Statements alone (which users will pay under Forest Service proposed cost recovery regulations) could exceed the \$100 million threshold of the Unfunded Mandates Reform Act of 1995.

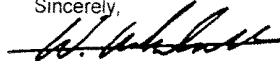
- Inclusion of temporary roads is unnecessary. Apparently a principal issue facing the Forest Service, and cited as a reason for the Policy as put into effect, is the inability to maintain or, when appropriate, close and reclaim roads. A 1998 study by the Forest Service showed there is a \$8.4 billion backlog in deferred maintenance, road construction, and maintenance on the more than 360,000 miles in the Forest Transportation System. While we understand the concerns that arise from such data, temporary roads are "roads authorized by contract, permit, lease or other written authorization ...not intended be part of the forest transportation system and not necessary for long-term resource management."

As defined, temporary roads are those roads constructed, maintained, and decommissioned -- in accordance with Forest Service rules and directives -- by the private sector. They should not be viewed as part of the 360,000-mile maintenance backlog. Such roads should continue to be authorized and regulated as in the past, since they are, as the final Policy publication states, "...managed by the project or activities under which they are authorized and decommissioned at the conclusion of the authorized activity."

The Domestic Petroleum Council looks forward to working with you and your team to ensure that we are able to meet our energy needs while protecting our environment. We hope you will agree to review the actions we have cited with those complementary objectives in mind.

Thank you.

Sincerely,



William F. Whitsitt  
President