POWERING DOWN: ARE GOVERNMENT REGULATIONS IMPEDING SMALL ENERGY PRODUCERS AND HARMING ENERGY SECURITY?

HEARING

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS, OVERSIGHT AND REGULATIONS

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

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POWERING DOWN: ARE GOVERNMENT REGULATIONS IMPEDING SMALL ENERGY PRODUCERS AND HARMING ENERGY SECURITY?

THURSDAY, MARCH 8, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON INVESTIGATIONS,
OVERSIGHT AND REGULATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10 a.m., in room 2360, Rayburn House Office Building. Hon. Mike Coffman (chairman of the subcommittee) presiding.

Present: Representatives Coffman, Tipton, West.

Chairman COFFMAN. The hearing is called to order.

I appreciate the witnesses for appearing today.

The point of today's hearing is to hear directly from small oil and gas producers regarding the barriers the federal government has enacted and the frustrations they face in producing oil and gas on federal lands. I doubt that there is a member on this Committee who does not receive a call from a constituent every day regarding high energy prices, the poor state of the economy, the lack of jobs, or the federal government's enormously high budget deficit.

President Obama claims that the solutions to these problems are complex and that there are no easy answers or solutions. However, I believe we will hear today there are things the government can do to address all of these concerns in party by producing more energy at home. Expanding domestic energy production will bring more oil and gas to market, helping ease rising gas prices. Expanding domestic energy production will create jobs both with the firms drilling for oil and gas and those that support these activities.

Finally, expanding domestic energy production will bring new revenue to the federal government without raising taxes through the payments of rents and royalties on lands leased and those put into production. The ability to produce more domestic energy exists. Unfortunately, what is non-existent is the will on the part of this administration to utilize the oil and natural gas we have.

In the past few years, the number of new federal lands available for oil and gas production has dropped significantly along with approval of permits to drill. While the administration likes to claim oil production has increased under its watch, the U.S. Energy Information Agency has found that overall production is below previous estimates and are projected to fall further. Addressing these declines has been a priority of this Congress and a number of legis-

lative proposals have been introduced and voted out of the House to open up America's energy potential and expand business opportunities for small firms. Unfortunately, these are still awaiting action in the U.S. Senate.

At the same time, an oil or gas lease is worthless unless the company can obtain a permit to drill. This is why I have introduced legislation that would require BLM to annually inventory and report the 200 nonproducing lands with permits to drill pending that have the highest potential for oil and gas development and requires the BLM to issue these permits within 180 days of issuing its report. I will agree with the president that expanding domestic production of energy is no panacea to our nation's ills, but it offers part of the solution. And a solution that releases the entrepreneurial spirit of small businesses is preferable to policies that impose excessive regulations and new taxes on the very small firms we all look at to help rescue us from our current predicament.

Chairman COFFMAN. Let me go over the hearing rules just for a second. If Committee members have an opening statement prepared, I ask that they be submitted for the record. I would like to take a moment to explain the timing lights for you. You will each have five minutes to deliver your testimony. The light will start out as green. When you have one minute remaining the light will turn yellow. Finally, it will turn red at the end of your five minutes. So I ask that you try to keep to the time limit but I will be a little lenient as you finish. And keep in mind we can put your written statements in the record as well. So you are free to talk in a more informal manner.

STATEMENTS OF TIM BARBER, ENVIRONMENTAL/FEDERAL REGULATORY SUPERVISOR, YATES PETROLEUM CORPORATION; DAVE EWING, PRESIDENT, EWING EXPLORATION COMPANY; KIM RODELL, SENIOR PROJECT MANAGER, BANKO PETROLEUM; MARK SQUILLACE, PROFESSOR OF LAW AND DIRECTOR OF THE NATIONAL RESOURCES LAW CENTER AT THE UNIVERSITY OF COLORADO LAW SCHOOL

Chairman COFFMAN. Let me introduce first Tim Barber from Yates Petroleum Corporation. Our first witness today is Tim Barber of Yates Petroleum Corporation. Yates Petroleum is a 425-employee oil and gas production company with operations in New Mexico, Wyoming, and Colorado. Mr. Barber works in the company's Gillette, Wyoming office where he currently serves as manager of regulatory affairs. Mr. Barber, you may deliver your testimony.

STATEMENT OF TIM BARBER

Mr. BARBER. Good morning, Mr. Chairman and members. Thank you for the introduction.

My comments here today are based on direct experience with Wyoming BLM and I think there are two foundational problems with how BLM is conducting itself that I believe you are interested in.

Number one, BLM and Interior are daily adding unneeded and duplicated regulation through policymaking, guidance documents, instructional memorandum, and individual staff interpretation,

none of which go through a rulemaking process or are approved by Congress but are treated as if they were actual rule or regulation. I call this entrepreneurial regulation.

Number two, BLM is not following its foundational actual rule and actual law that it is required to. Ironically, the reason many times that they give for not following the foundational regulation is that they are too busy working on number one.

Let me provide some specifics. Onshore number one spells out an orderly process for the approval of APDs, which we may know as application for permit to drill that binds BLM and the applicant to processing timelines. The onshore order process should not take any more than 90 to 120 days for BLM to approve an APD. At the BLM office in Buffalo, Wyoming, applicants regularly wait two years after their application, and some applications have been in that field office for five and six years awaiting approval. Some of the lengthier APDs have been hostage to the Resource Management Plan Amendment Process, which has delayed the working of those APDs.

The Buffalo BLM office was interestingly funded with additional monies by Congress to be able to be capable of approving 3,000 APDS per year. I have included in your packet a BLM spreadsheet of their APDs that they have approved this fiscal year. They have approved only 80 wells since October 1, 2011, and during the period between December 7, 2011, and February 29, 2012, though over 940 drilling permits were awaiting approval, no APDs were approved.

Included in your handout information is an overview of the timelines that are in the actual regulation for your review. When an affected party has a problem with a BLM decision, their only path available to pursue an appeal is to go through a process called a State Director Review, and that is provided for in Onshore Order No. 1. State Director Review decisions are required by regulation to be issued in 10 days. In Wyoming, these appeal decisions are taking nine months or more.

BLM's duplicated and conflicting efforts are very concerning to me. Some examples are BLM's working currently on a policy for hydraulic fracturing for federal mineral wells. States all over the place, like Wyoming, already have an agency that regulates all wells, not just federal mineral wells. There is no need for BLM to embark on this effort. In Wyoming, BLM has recently come up with an instructional memorandum on the use of drilling pits for federal mineral wells. Same situation exists here. There is a state agency that has regulation in place that covers all wells. There is no need for BLM to add another layer of regulation.

On a local level, BLM officers are coming up with their own preferences on things like how to build roads, reclamation of closed locations, requirements for well control, and even how to apply for a drilling permit, even though actual regulation already exists for each of these situations. The net effect of these non-rule regulations is that the agency accomplishes less at a higher cost to the agency, a higher cost to the taxpayers, and the regulated community. Longer APD processing times, arbitrary decisions not based on actual regulation, and less viable oil and gas projects, and less potential for drilling and production are the reality.

It is my opinion that there are two primary paths to resolution here. (A) Congress should strongly consider auditing offices like the Buffalo BLM office to find out what has been accomplished with the additional budget resources that has been provided to them. And I am sorry to say that I do not think that you will like what you find. The audit process should be ongoing with weekly or monthly updates provided as to things like APD processing. I think the privilege of an increased budget should come with a responsibility of demonstrating that that budget is bearing fruit.

Secondly, Congress may want to provide direction to the agency, its director, and Interior regarding what I have called entrepreneurial regulation. The direction can come in several forms, including defunding the agency when it heads in the wrong direction. BLM's resources and strength is best focused on managing lands for multiple use, not building layers of personal interpretation dressed up to look like actual regulation.

I wish to thank you for your time and for your attention, and I would consider it a great opportunity to answer any questions that you might have for me.

Chairman COFFMAN. Thank you, Mr. Barber.

Our next witness is Dave Ewing, president of Ewing Exploration Company, a small prospecting company based in Sugar Land, Texas. Mr. Ewing has been involved in the oil exploration business for several decades working for both independent as well as major oil production companies before starting his own firm. He will testify today regarding the problems his company has experienced in developing a project in Wyoming.

Mr. Ewing, you may deliver your testimony, please.

STATEMENT OF DAVE EWING

Mr. EWING. Good morning, members of the Small Business Committee.

My experience in North America spans better than a couple of decades. I have been 60 years with emphasis on the Rocky Mountain states, Gulf Coast, and Western Canada. I am here today to discuss BLM's decisions which are causing the possible loss or probable loss of a high quality, high reserve potential oil prospect in the southwestern portion of the Bighorn Basin in Northern Wyoming.

In 2005, our company initiated an exploration program to locate drillable prospects in that southwestern Bighorn Basin, looking for folded anticlinal structures which there in that basin are critical to entrapment of oil. To date, in excess of 3 billion barrels of oil have been produced in the basin from structures and every known structure has been drilled with almost every one being productive. The only remaining area in the basin where a structure could have eluded the drill is in the area where my company is exploring. In the southwestern portion of the basin you have geologic structures formed at the same time as all the other productive structures were formed. When Yellowstone Park erupted 800,000 years ago, ash in the air moved to the east. There was a lake in the Bighorn Basin at that point in time. That ash dropped out in horizontal layers, sedimentary volcanic on top of those structures causing you not

to be able to map those structures like you had in the balance of the basin just looking at surface data.

To develop a structural picture under those flat lying sediments we first purchased 70 miles of existing seismic data and then based on that interpretation we bought over 4,500 acres of federal, state, and fee lands and of the 28, almost 3,000 acres we purchased from the BLM, they evaluated them under the old RMP using NEPA regulations.

In June 2008, we shot two new red seismic lines. They are—that is me. Okay. Could we put that map up, please? I am going to keep going.

We shot two additional red lines to develop a better structural picture. Again, to do that seismic we had to go to the BLM and get them to approve everything to do with those lines, including all the NEPA analysis that was required. In September of '09, the BLM issued to us a permit for a 6,500-foot exploratory well. The permit approval took better than a year to get but when we drilled the well we got a dry hole but got information that said we should be considering additional exploration in there.

Additional fee and state leases still not showing up on the map in green and purple. The blue leases on the right are the nominated leases that we put up for sale in 2010 November. I flew into Cheyenne the day before the sale. They pulled those parcels down; said they needed additional NEPA analysis. Amongst that blue you will see a purple lease. That is a state lease, five-year lease which is in its second year, close to being in its third year. And we are going to get five years on them. The red, the yellow, the buff to the west are leases that we bought from 2006 through '07, '08, and '09, which put us in a position to drill that first well I talked about. When we drilled the well we tried to post against that one little 160 acres in purple and it turned out that they did not issue the lease until after we drilled the well offset to the lease, which fortunately I guess you would say, it was a dry hole.

After we did that then I posted—they told us that they would post the acreage again in '12. They pulled it down a month ago in February '12. At this point they have told me that now those leases will not come up again until the earliest in 2014. That all is contingent on approval of the consolidation of the RMPs currently underway in the Bighorn Basin.

To conclude, I would just simply say there are several questions that need to be addressed by your Committee or to your Committee. One, why did the partial withdrawals occur without any regard for EEC's ongoing activities? Two, what was the BLM's motive for obstructing EEC's opportunity to acquire these leases? Three, was there a reasonable alternative available to the BLM? Four, why was the RMP consolidation undertaken in the first place? And five, why did the BLM not consider or give any consideration to the county commissioners who were part of the co-operators in the approval of the RMP consolidation? They are frightfully mad and I am through, Your Honor.

Chairman COFFMAN. Thank you very much.

Our next witness is Ms. Kim Rodell. She serves as senior project manager for Banko Petroleum, a nine-person engineering consulting firm headquartered in Englewood, Colorado. In her capacity

as senior project manager, Ms. Rodell assists small, independent oil and gas producers with federal regulatory compliance. She will be testifying regarding the inconsistent limitation and policies she and her small firms' customers experienced in complying with federal regulations.

Ms. Rodell, please deliver your testimony.

STATEMENT OF KIM RODELL

Ms. RODELL. Hello, Mr. Chairman and members.

Again, my name is Kim Rodell, and I am with Banko Petroleum. We assist companies in navigating the federal regulatory maze. The oil and natural gas development in the west is critical to our economies and our growth. These critical jobs branch out directly and indirectly in a variety of different directions from those working directly from the operators to those service companies to restaurants to retail. The growth in the economies is from people who have stable, well paying jobs, and who are willing to put money into their communities.

Independent energy companies, often comprised of 12 or less, develop 95 percent of the oil and gas wells within our country. These businesses produce 54 percent of American oil and 85 percent of American natural gas. Though oil and gas developments occur on both federal, state, and fee surface—and minerals, I apologize. However, because of the uncertainty of operating on federal lands, many of those who are willing to invest in these developments turn to the state and fee minerals, cutting out any potential royalty payments to the federal government.

We encounter a lot of challenges like everybody else. Our biggest is the inability to plan and the uncertainty as to when approvals may be issued. Along with approvals, conditions of approvals are attached to these permits and sometimes, although we may know what might be attached, these are never finalized until the final permit is issued. Conditions of approval oftentimes include timing limitations due to wildlife. These timing limitations can place very tight drilling windows on operators, sometimes as tight as 45 days.

In the Rocky Mountain region, we drill in complex geologic zones with the average well taking 90 to 120 days to drill and complete, if not longer, if the geologic structure is more complex or down hole issues are encountered.

Our biggest concern right now is the sage grouse which is a non-threatened and endangered species. This bird has been creating devastating uncertainty in the West. The protections put in place on this bird resemble those close to a true threatened and endangered species. The protections put on these hunted birds give us, you know, it does not allow us to play because there can be so many limitations along with areas that we have to avoid completely—no surface occupancy and restricted surface occupancy areas, sometimes never listed on the initial leases. The birds live in sage brush habitat throughout the West, basically everywhere where oil and natural gas development occurs.

While BLM is trying to protect both the numbers and contiguous habitat, those of us who operate understand the need for those protections; however, getting restrictive limitations with regards to the BLM and the Divisions of Wildlife make it very cumbersome. While

trying to plan a drilling schedule, small operators are more limited than their larger cousins, who sometimes have areas in different geographic areas and under different timing limitations, so they can move rigs, staff, and equipment while those smaller independents often area in one geographic area and are often restricted to wading through those timing limitations and the inability to plan in such an uncertain regulatory environment.

Again, the small operators are affected. They have invested money and time, equipment, and they are put on hold. Onshore independents employ 2.1 million people, and this figure is anticipated to rise to 2.6 by 2020. Approximately 63,000 man-hours are needed for every individual well drilled. The federal government receives $40 in royalty and leasing bonus payments to the federal government for every one dollar invested in the natural gas and oil onshore program.

Just to give you an example, I am currently working a project in a federal unit that has 37,000 acres. We have been working on an access issue for over two years now. This basically locks up 37,000 acres of mostly federal minerals and the inability for these companies to hire in these areas. After several meetings with the BLM prior to the submission of the permits, we were given one option. We did everything necessary, including with the BLM and all the agencies who were involved in the project, and approximately six months later the permit was returned unapprovable and denied.

At this point there are 37,000 acres of federal minerals locked up along with jobs and royalties. We work and live in these communities. We pay our taxes and send our children to school in these communities. We enjoy a healthy outdoor environment and are proud of the West. We also strive to ensure that future generations enjoy both the beauty and strong economies that we have experienced.

We would like to do our part to promote the production of responsible energy and build a secure energy future.

I appreciate your time and thank you.

Chairman COFFMAN. Thank you, Ms. Rodell.

Our next witness is Mark Squillace. Did I say it right?

Mr. SQUILLACE. Correct.

Chairman COFFMAN. All right. I got it right. Mr. Squillace is a professor of law and director of the National Resources Law Center at the University of Colorado Law School.

Mr. Squillace, you may now deliver your testimony, please.

STATEMENT OF MARK SQUILLACE

Mr. SQUILLACE. Thank you, Mr. Chairman. And good morning.

I am delighted to be here to offer my views about some of the opportunities and some of the obstacles that are facing small oil and gas operators on our public lands. As the chairman noted, I am a professor of law at the University of Colorado Law School. I want to emphasize, however, I appear here today on my own behalf and not on behalf of the university.

I want to note first that my written testimony emphasizes five key points. Those are that planning and environmental assessment are important to sound decision-making; that the BLM's process for

administering leasing is problematic to the extent that it protects existing leases at the expense of lessees, like small operators who might come on our public lands. In the written statement I highlight some of the innovations and best management practices that oil and gas developers have used, and some of these developments have really been spurred, I think, by some of the small operators and they deserve praise for that.

There are, however, some concerns that some of the innovations are expensive to implement and the agencies do need to be careful to make sure that companies are not undercapitalized and have the finances to complete the work on their oil and gas leases. And finally, I do want to give a shout out, if you will, to the Environmental Protection Agency for what are likely to be forthcoming air emissions regulations. I know they are somewhat controversial, but I think they are long overdue and necessary to protect public health and to protect our environment.

This morning I would like to emphasize the first two points. I am happy, of course, to answer questions about any of these five points. So let me turn first to the question about the BLM's planning and environmental assessment procedures.

I understand the concerns that have been expressed by some of the witnesses, today, and I certainly do not defend unreasonable delay on the part of the agencies in issuing permits and giving approvals. But we should understand some of the context here. I would note, for example, a recent reporter noting that there are 7,000 approved APDs that have never been drilled upon. It is also true that there are many leases, thousands of leases that have been issued by the BLM that have not been developed and there are no pending APDs on those leases. Moreover, it is important to note that environmental assessment cannot be blamed for all of the problems that we are seeing with APDs as a result of the Energy Policy Act of 2005. Many of the APDs are categorically excluded under NEPA, meaning there is no NEPA analysis that is done. The GAO did a study at the end of 2009 suggesting that many of these categorical exclusions were unlawful, and I do not want to debate the merits of the study on this but just to note that environmental assessment cannot be blamed for many of these problems.

There is another important point to emphasize here regarding drilling, which is that it is very difficult right now to get a rig because of the demand for oil and gas development, particularly oil development. There are just under 2,000 rigs operating in the United States today. My understanding is it takes at least six months to get a rig onto a site. In many cases it takes sometime longer than that.

I want to be clear that I do not think the process always works as well as it should. It is one thing to say that processes are good, and another thing to say that it works well. I am not sure it works well; in particular I have been critical of the agencies for their planning processes because I think they are far too complex. They could be simplified. I think one of the unfortunate consequences of complex planning is that it takes resources away from site specific analysis and oftentimes that site specific analysis becomes very rote. It is boilerplate; it does not really help promote better decisions. And so I think that is problematic.

Nonetheless, there are, I think, good things to be learned from the environmental assessment process, and I want to respond, I think, to the comment that Ms. Rodell made about the sage grouse which is, I think, a really critical issue and she rightly points out the controversy regarding the sage grouse. It is true that the sage grouse has not been listed under the Endangered Species Act. It is also true that in 2010 the U.S. Fish and Wildlife Service issued a ruling that said that the sage grouse listing was warranted but precluded. Kind of a technical, legal term that suggested that indeed there was evidence to list the sage grouse; it is just that there are other priorities that are of a higher priority for the agency.

And the important point here is that it is in no one's interest to see the sage grouse listed, and if we are to avoid listing of the sage grouse we have to engage in robust planning to ensure that proper controls are put into place. This is particularly true today where we have horizontal drilling and multiple well development on pads where you can move the pad around to avoid some of the conflicts that exist.

I see I am running out of time but I would like to just briefly address the second issue regarding overprotection of existing leases by the BLM. This is a huge problem, and to understand it you have to understand some things about the Mineral Leasing Act. Its purpose was to discourage speculation, to avoid monopolization of federal resources, and to assure a fair return to the government for its resources. And a lot of that has been undermined by the government's policy of allowing existing lessees to get into units. This allows them to avoid the 10-year primary term that exists under the Mineral Leasing Act. Under the law you get 10 years, and if you are not developing at the end of that 10 years, the lease is supposed to expire. The problem is you can avoid that expiration if you go into a unit.

The other, I think, significant problem here is that there are acreage limitations under the Mineral Leasing Act. No individual company can own more than 246,080 acres in a single state, and that is to avoid the monopoly problem. But if you go into a unit as a result of the Energy Policy Act of 2005 it does not count against your state limit. I think it is somewhat shocking to note that in January of 2011 there was a story in the oil and gas journal about Encana Energy Company and the fact that Encana was bragging about the fact that it holds 869,000 acres of leases in the Piceance Basin in Colorado. Now, that is more than three times the federal limit. I want to note that those are not necessarily all federal leases but the Piceance is 80 percent federally owned. And the only way they can do that is if many of these leases are in the units so that they can avoid the acreage limitations. They brag that they owned the basin, and this is one of the most productive basins in the country.

Something really needs to be done here. I would urge the Committee to get the General Accounting Office to do a study of some of the problems that exist with this practice. This really harms small operators because if those leases had terminated, they would go back into the pool and small operators would have a chance to bid on them and they would be developed. They are now languishing. They are not being developed. The article in the Oil and

Gas Journal suggested that it would take 35 years or more for Encana to develop all of its oil and gas resources. This is a real problem and I want to encourage the Committee to look at ways in which we can increase transparency, and have BLM rules that promote unitization in ways that are better for the small oil and gas operators.

I am sorry for going over my time but thanks for your indulgence.

Chairman COFFMAN. Thank you so much.

Let me ask the first question and then I am going to defer to Congressman Allen West of Florida and then we will probably, obviously since there are two of us we will do a second round if necessary.

In Colorado, and this is maybe anecdotal, but in talking to the oil and gas companies it seems that there is very limited interest in public lands at this point in time and I think across this country. And I think the movement is to fee lands. And so when we see reports of increased drilling or development in the United States it seems to be off of public lands onto fee lands. And I wonder if, number one, is that true? And number two, how do you account for that? I mean, I do not see any appetite whatsoever right now in terms of new development on public lands. Mr. Barber.

Mr. BARBER. That is a very good question, Mr. Chairman.

Certainly there is more quick opportunities and a smoother planning ability when state and fee lands minerals are pursued. In some areas like the Powder River Basin where I work, two-thirds of the minerals are owned by the federal government, so you really have to be in the federal mineral game in order to develop. One of the things that worries me is that in basins, in formations where porosity is high and minerals can flow, whether it is natural gas or oil, the federal mineral estate, because it is not being developed as quickly as the state and fee minerals can actually change ownership by moving from one leasehold area across through a well bore that is actually producing.

So if I am here in section one with a federal lease that I am waiting for a permit on and surrounding me there are privately owned or state owned minerals, those minerals under the right geologic circumstances can actually change hands. And so those minerals that could have been produced and paid royalties to the federal government and ultimately to the state are not producing. That is very concerning. I wonder if the public in the U.S. knows that potentially their minerals may be produced up somebody else's well bore.

Chairman COFFMAN. Any other comments on that? Yes, Ms. Rodell.

Ms. RODELL. I often see the overarching regulatory agencies and the uncertainties in which the smaller operators, the environment which the smaller operators are looking at and operating in definitely turns them away from operating on federal lands. And although some of these federal lands are, you know, they are 10–year terms, sometimes it takes us eight years to get to even the process of submitting some APDs. Leases can be nominated, they can be paid for, and they cannot be issued. So there are times when we are waiting for leases to be issued or we are going through some

environmental—and again I stress, the environment is important to all of us but we can have so many different layers. And currently we have got 11 federal agencies that are trying to take aim at the oil and gas companies. These oil and gas companies cannot—they cannot plan in such an uncertain environment and so they do; they move to fee and state minerals because the process takes a fraction of the time. Although, oftentimes the same parts of the operations are put in place, the permitting can take, you know, it usually can take less than 30 to 60 days.

Chairman COFFMAN. Mr. Squillace.

Mr. SQUILLACE. Yes. I do not want to dismiss certainly the points that have been made about the problems with overregulation and the difficulties that some of the companies have been having, but it is important to keep in mind that natural gas is at a historically low price right now. The general counsel for one of the major companies told me recently that they are not even looking at gas plays at this point in time because of that low price. She told me that they cannot make a profit on gas plays. And I think that is certainly having an effect on lower demand.

Again, it is not the only thing that is going on. If you look in Wyoming, most of the plays are gas plays. There is interest up in the Niobrara because those are liquid hydrocarbon plays and I think there is a lot more profit to be made in the liquid sector.

Chairman COFFMAN. Mr. Ewing.

Mr. EWING. I would like to comment on those remarks. My experience with Amoco for 15 years, I, number one, I would like to comment about the unitization. I thought that the entire time I was with Amoco. We spent millions and millions of dollars. We had a huge staff. We explored everywhere in Wyoming and other states. Whenever you find a prospect area you have to get seismic, you have to spend a lot of money putting the leases together and everything, and you get to a point where very quickly you are up to the 246,000 acres and the only way that you are going to, once you buy that acreage, the only way you are going to get it off your books and make yourself legal is to form a unit. Now, when you form that unit you are told you will drill wells by such and such a point in time, and if you do not, the unit will be terminated. So that is the manner in which people will go in. And Professor says they are bragging about how much acreage they hold. They have got obligations in every one of those units down there that you are talking about.

As far as fee versus federal, I ran smack into that. Fifty percent of the well we drilled up in the Bighorn was people down in the Houston area that I brought into the prospect, and when they were still with me, when we nominated those lands to drill a second well, when they found out that the BLM had pulled down those leases they just all called and said, sorry, we are out. So in effect I lost half of my investors at that point. And a small operator lives on what he has and the investors that he can bring in because there are not many small operators who have the production wherewithal that will allow them to go out and take all the risk of the drilling themselves. So I wanted to make that point.

I have a question myself. Will I have an opportunity to give you any testimony after the questioning is completed? I would like to.

Chairman COFFMAN. Sure. Absolutely.

Mr. SQUILLACE. Thank you.

Chairman COFFMAN. Let me do one more question and then I will defer to Congressman West for some questions. And that is on the deadlines that BLM has, and I think that Mr. Barber, you mentioned one specific deadline that was ignored. What are the most salient examples of deadlines that BLM has that they ignore and that hurt small operators?

Mr. BARBER. I am referring to this printout slide that says "APD processing: What does the regulation say?"

When an operator comes into BLM with an application for permit to drill, the first thing they have to do is provide a $6,500 application fee. Keep in mind this is an application fee. It is not refundable and it does not guarantee a processing time or a permit. BLM is required by Onshore Order No. 1 to follow these steps.

Number one, they have to post the APD for 30 days prior to a decision. I think that is typically met by most field offices. BLM has 10 days to notify the operator if the application is complete. Some offices meet that and some offices do not but it is specifically required in the regulation. BLM then has 10 days to schedule an onsite inspection. That is rarely met in the offices I work with. If deficiencies are identified, the operator has 45 days to respond to those deficiencies. Typically those are met because the operator wants to keep the project going. And then once the deficiencies are addressed, if there are any, BLM has 30 days to reach a decision. That, in my experience, is almost never met currently. And when BLM does not meet these timeframes stretches out the process.

I talked earlier about when an operator has an issue with a BLM decision they go to an appeal at a state director review and that process was set up to deliver a quick answer from the state office of BLM to the field office as to whether that field office's decision was correct or incorrect. Those are regularly now in Wyoming taking 90 days or far more, many times close to nine months. And when an operator does not get an answer on that, not only (a) are they sort of robbed of their due process, but (b) BLM keeps making that decision over and over and over and it causes actually more of those appeals to happen.

Chairman COFFMAN. Ms. Rodell.

Ms. RODELL. I agree with Mr. Barber. We understand that onsites cannot be scheduled until there is no snow on the ground, so in the West—that is my primary area of operation—sometimes we do have to wait. However, I have seen the onsite process take over a year just to schedule an onsite. In addition, with regards to the 45-day deficiency response, I recently have run into that area where you do receive an official letter from the BLM, you respond to the deficiencies. However, I had three additional e-mail deficiency responses come, all with very different deficiencies. These are not because the original deficiencies were not addressed; these were different deficiencies. And, you know, the consensus of the industry, of the oil and natural gas industry, are these are just obstructionist moves to keep these permits locked up for years.

Chairman COFFMAN. Any other comments?

Mr. West from Florida.

Mr. WEST. Thank you, Mr. Chairman, and thanks to the panel for the long distances that you traveled to be here. And this is obviously one of the most important conversations we could be having in our country right now.

Dr. Squillace, you made a comment about the 7,000 approved APDs that have not yet been drilled upon. Out of those 7,000, is it proven that all of them have resources that are there? I mean, these are not dry holes?

Mr. SQUILLACE. The point is that they have not been drilled upon at all so we do not know whether they might find something or not. I mean, I do not want to suggest that because the APDs were not drilled upon that there is necessarily a problem. The industry needs to make choices and decisions about timing of development. If the price of gas, for example, goes down and it is not profitable for them to develop at that particular point in time, it may be a perfectly rational decision not to develop that particular well even if they have an approved APD.

The point is that from the agency's perspective there is a lot of work that they are doing that essentially does not go into helping companies like these that we have heard from today get the permits that they need. And I do not know what the answer to this is. I mean, it would be nice if we could figure out a way to make sure that the agency's resources are used for those permits where development is actually going to take place. It does not always happen and maybe there is no simple solution to it, but I do want to point out that from the agency's perspective there are these sort of dislocations in terms of their allocation of resources as well.

Mr. WEST. Mr. Barber.

Mr. BARBER. Thank you, Mr. West.

I think it is important to understand that when an oil and gas operator shows up at a BLM office with an application for permit to drill that they have to be very serious about that prospect at least as they know it at that time. They might bring a 50 well project in and they would need to cut a check for over $300,000 in order to just apply for those. They conduct archaeological surveys, wildlife work, many processes to help the NEPA process move forward. What they sometimes do not know that I referred to a little bit in my testimony is what that project will look like when it comes back from BLM finally approved. And many times those projects can come back so regulated and so gutted, if you will, that it is difficult to make an economical project out of them. We also have to look at the market conditions that were referred to earlier. Things like pricing at that point in time, rig availability, et cetera.

Mr. WEST. Yes, Ms. Rodell.

Ms. RODELL. Due to the uncertainty that these smaller operators try to operate in with the overarching regulatory structure there is no planning. And sometimes a smaller operator—and these fees are $6,500—sometimse a small operator might have to put in 20 APDs hoping that they can get two through the permit process to the time when they need to look at scheduling rigs. No rig company will sign a contract with an operator that does not have an approved permit. So sometimes these operators put in multiple permit applications hoping to pull a handful of permits that have a

drilling window that they can reasonably drill in and outside of timing limitations.

Mr. WEST. Next question, and I am a pretty simple, I am sorry, Mr. Ewing.

Mr. EWING. In discussing this situation with these APDs, because of the recent bust in the price of gas, that also has had an influence on some of the attempts to go ahead and develop acreage. You know, you went from four in the last year—you went from $4 down to what, $2.25, whatever it is now. And when that shale gas play got going, many small operators, many small land people even jumped in, grabbed leases, sold those leases to small companies. Small companies ultimately found out they had bitten off way more than they could chew because of the BLM restrictions on regulations and the ultimate cost of drilling and deviating a hole outward. So a lot of the APDs that are still sitting there undoubtedly are not only related to what Mr. Barber said but are people that got stuck with a situation that was not economic any further.

Mr. WEST. Mr. Chairman, if you would be so kind if I could.

Chairman COFFMAN. Go ahead.

Mr. WEST. The second question I would like to ask and I am a very simple guy, on inauguration day in the United States of America, the average price of gasoline was $1.84. I spent 22 years in the military. When I hear people talk about there is nothing you can do about it, in the military the maximum effective range of an excuse is zero meters. So in that time from inauguration day to now where we have gasoline prices at $3.77 almost per gallon across the country, I would like to get from each one of you what is the one golden nugget thing that you think can be done from Washington, DC's perspective, from a federal perspective? Let us not talk about Iran. I mean, that will take care of itself in due time. And speculators, because we have horrible monetary policy that is devaluating our dollar as opposed to the rising cost per barrel of oil. But from your perspective in the domestic energy production side, what is the one thing that we can do to rectify this situation? Mr. Barber, starting with you.

Mr. BARBER. Thank you, Mr. West. I am a simple guy, too.

What I think happens out there, and I do not want to represent myself as an oil and gas marketer; I am not. But markets seem to respond to nervousness and our markets are nervous about oil. They are. Things happen. The price of oil goes up. Other things happen. The price of oil goes down. From my simple perspective what we need to do is put companies in a position so that they can explore for oil and gas on the leases that they have acquired so that that nervousness is reduced. I think right now with a tremendous supply of natural gas on hand, something could happen and I do not picture the price of natural gas tripling or going in half. I think there is plenty of supply out there. I think there is reasonable presumption that we can drill for more gas and acquire that. We need to be in that position on oil on liquids.

Mr. EWING. Insofar as oil is concerned, I avoid gas plays like the plague. I am not big enough to be involved in that. But the thing that needs to be done is to cut loose, get rid of some of the regulation so that people can explore for oil on these western lands. And there are still things to find but they are very difficult to find.

And I was wanting to get into this historical perspective if I could a little bit on this. In 1946, the Grazing Service was merged with the General Land Office to form the Bureau of Land Management. They did not really have any teeth to work with until the Federal Land Policy and Management Act—FLPMA that I always forget what it stands for unless I read it—came about in 1976. The State of Wyoming set up the Wyoming Loan Gas Commission in 1951 and until 1971, just after in the Nixon administration when NEPA had been authorized, they administered all of the drilling. Ninety percent of the three billion barrels of oil that has been found in the Bighorn Basin came out of fields discovered before the BLM even got in the picture. The state administered all of these lands. The state had 45 people on staff and not only did they approve any well, whether it is federal, state, or fee in the state of Wyoming, they had to do all the work. Suddenly, in '71, after the horses had gone out of the barn so to speak, the BLM comes in and immediately had to start setting up an agency with a tremendous number of people with all sorts of regulations and it happened at a time when instead of doing that it should have just gone the other direction because in the case of the Bighorn which is all I am really talking about today and I have had experience on all the basins, but that area in the southwest that I described where you have flat lying beds obscuring the structure that still may lie—we know there is some structure there; we just do not know the definition of it well enough. But there is probably some more production there. Other than that, I have no interest in looking for a structure elsewhere in the Bighorn Basin because they are all exposed on the surface. They have all been surface mapped. They have all had seismic work done on them. They have all been drilled. And 98, 99 percent of them have been productive. So what has happened is the BLM has come in and developed into a real monster after all of the major drilling in the Bighorn Basin took place. So if you look at that objectively, the rational mind would say let us make it easier with what little bit we have got left.

Now, I have given you letters from my congressmen, Pete Olson and Rob Bishop, who strongly are objecting to what the BLM did to me. I also have letters from all the commissioners in your packet, most of them in there. They are jumping up and down. They are, as I mentioned earlier, co-operators with the BLM in the RMP consolidation.

And I want to say even further, that consolidation is one of the biggest rip-offs that has taken off in the United States in years. They are doing this after all the drilling basically has been done and there is hardly any exploration still to be done. There was an 18,000 foot hole drilled right out in the flat, deepest part of the Bighorn Basin by Barrett Energy. They got 100 MCF a day. That is not a keeper. They have abandoned thousands of acres they took out there. I am probably the only company I know of other than development that some people are going around old fields just plunking little development wells they can still find. I am the only one that I know of up in that basin that is actually trying to explore for a virgin field, and I thought I had the opportunity to come up with a field that could be 5 million to 10 million barrel potential but they are just stopping me dead and actually they are putting

my company out of business in the Bighorn Basin. I operate on a low cash flow myself and I have to have outside investors. And when I lose people like I told you about a minute ago, I am going to have a terrible time now.

On top of that, because they told me those leases——

Mr. WEST. I need to move on.

Mr. EWING. Time out?

Mr. WEST. I need to move.

Mr. EWING. Keep going.

Mr. WEST. All right. Ms. Rodell.

Ms. RODELL. Unfortunately, I am not a world economist.

Mr. WEST. Me either.

Ms. RODELL. Shoot, and there are two of us in the room.

However, oil is traded as a commodity on the worldwide market. A resolution to that, I am not sure I have one. I agree with Mr. Barber that so much of this is based on fear and worldwide unrest. However, I do think that if we can responsibly produce energy domestically it might take some of the pressure off of those imports that we get from those countries that are maybe not our best friends. In addition though, we can import or we can domestically produce as much, to an extent, a whole lot of oil. However, then we get into a refining process.

So it is a much broader problem than just what can we as small producers do. The answer is I am not sure we can do anything.

Mr. SQUILLACE. So I am also not a world economist but this is an important question that we all care about as citizens and as consumers of oil and gas. And so I appreciate the opportunity to weigh in on this important issue.

I would like to point out a couple things, and I agree with much of what Ms. Rodell just said. But it is also true that domestic oil production is actually up in the United States over the past several years and consumption is down. And one would think that under basic economic rules that if the supply goes up and the consumption goes down that the price would come down. But as was pointed out, I mean, we are dealing with some global kinds of issues that are difficult to reconcile with what is happening with prices.

There is one interesting data point that I would like to share with the Committee regarding this and that is a chart—I believe it has been published by the Energy Information Administration—that shows the price of oil along with the price of natural gas. And it shows sort of a trend of the two commodities. And it is very interesting to see how they have diverged radically in the past several years. I mean, it emphasizes what Mr. Ewing said a moment ago about why he is not interested in gas plays. The price is so low you cannot do it.

And what is interesting about that divergence is that the price of natural gas is really much more controlled by domestic forces than is the price of oil. The price of oil is much more of a global kind of commodity. If we produce a lot more there is at least a danger that it will be sold internationally if that is where the better price can be had because it is more easily transportable than gas. But gas is much more problematic in terms of that. And because of all these significant shale plays, the supply of domestic gas lo-

cally has gone up fairly dramatically. And I think that is why we are seeing this significant decrease in the price.

So I do not think there is any silver bullet here to deal with the problem. The one thing I would say that is critically important is that we continue the trend towards reduced consumption. And I think one of the best things we have done in recent years was to increase the miles per gallon of our vehicle fleets. I think that is a really important step toward achieving energy and dependence. It is the one thing we really can, I think, do to affect global prices.

Mr. WEST. Thank you, Mr. Chairman. I will not have a second round.

Mr. EWING. Mr. West, I did not answer your question as a matter of fact.

Mr. WEST. I do not think the chairman is going to give me any more time.

Mr. EWING. Just give me two seconds to answer his question. There is probably not a real silver bullet but the truth is that if we were exploring up in Alaska where we will undoubtedly find some billion barrel fields. If we pushed exploration for oil in the United States, all over the United States, we would soon dispel all the nervousness that these folks have all referred to. And that nervousness is what the speculators thrive on. And I do not know what the Congress could do in terms of any regulation for the speculation but that is the name of the game as far as I am concerned. Thank you.

Chairman COFFMAN. Thank you, Mr. Ewing.

Mr. Tipton in Colorado.

Mr. TIPTON. Thank you, Mr. Chairman. I apologize to you and to our panel members for being late coming in.

Just listening to you, Ms. Rodell, when you were talking about a little bit of the international component when we are looking over into the Middle East, the threat of Iran developing a nuclear weapon, the threat obviously that concerns many of us that that place is to Israel and then to world stability in terms of oil supply. You are commenting accurately that this is a world market, the commodity for oil. Is it your estimation, given the challenges we see in the Middle East, that even if the price is driven by an international market, that it is in the best interest of the United States of America to be developing our own energy resources right here rather than relying on foreign markets to be able to delivery our oil? And part of the reason I say that is I was a little disturbed when the president, through the World Import-Export Bank guaranteed a $2 billion loan to Brazil to be able to drill off of their shores and say we want to be one of their best customers. Would it be more sensible for us to be drilling on American soil, creating American jobs and developing American energy certainty?

Ms. RODELL. I absolutely agree that domestic energy production is a huge component to not only our national security but also our jobs. As Mr. Squillace said, the natural gas production is more of a domestic commodity. I do think that there is a lot of opportunity to make that transfer, that transition from such an oil-dependent nation to start moving into different areas, i.e., natural gas, where we have trillions of cubic feet of undeveloped natural gas in this country. Unfortunately, when the divergence of the oil and gas

prices happened, not a lot of folks—you cannot drill economically. So unless oil companies would like to volunteer their time and money, you are not going to see as much natural gas production. However, I think there is a huge opportunity for us to transition a lot of our base load power to natural gas. Some of our fleets to natural gas. And eventually, maybe some of our own cars to natural gas. But every time you do that transition, you do fight higher prices. And for the average American, buying a car is expensive enough, but if you have to make a decision as to buy an oil-based car or a natural gas-based car and the price difference is $15,000, it is not a hard decision for most Americans to make.

So I do absolutely think it is important. I think we can make a huge transition. I also think we can start to ensure more of our security if we responsibly develop these resources domestically.

Mr. TIPTON. I appreciate that. And I think one thing we need to keep a focus on is American jobs. In your testimony you were talking about over in Garfield County. And this past weekend I happened to be in Rifle, Silt, and Glenwood, an area that has lower unemployment typically, but if you drive a little bit further west into Mesa County we see effectively double digit unemployment that is there. So when we are talking about creating American energy certainty for our future and our security, and all of you may want to chime in on this, when it gets down to actually being able to create jobs, good paying jobs.

And I can speak with confidence. I have dealt with and had folks that I have talked to that actually have dirt under their fingernails that love the area. They want to make sure that it is done responsibly. But what kind of a role can this positive development actually play in terms of getting America back to work?

Mr. Barber.

Mr. BARBER. Mr. Tipton, thank you. It is a great question that sets up a thought, I think. There are some that think that the market for oil will be what it will be regardless of what we produce here in these United States. And although I do not know that that is true, let us say for a moment that it is. We have an opportunity to produce federally-owned minerals that, by the way, one dollar out of every eight that is produced, the value of those minerals goes back to the federal government. So right away there is a one-eighth partner in those wells, if you will, that is the federal government. They split those royalties with the states that it is produced in; 52–48 percent I think is the split.

But if we are going to get $100 a barrel for oil, we are going to pay $100 a barrel for oil regardless of who we buy it from if that is the situation. It seems tremendously valuable to me to do it in a fashion that, first of all, one-eighth of those dollars go back to the federal government. If we buy it somewhere else none of those dollars go to the federal government. And then we can look at what does the rest of that $100 come from? Well, it comes from things like the money that goes to the local drilling company, the local roustabout crew, the local permitting company, the roustabout employees, hotels, retail. Just a vast, vast group of folks that when $9 or $10 million is spent drilling a horizontal shale well that share in those prices that are out there for those services. If we give that up, all of those monies that are paid for those services

go elsewhere. And I also worry that the other thing that can go elsewhere is the investment dollars of the companies that are willing to drill here but cannot.

Mr. TIPTON. Thank you. Mr. Chairman, were you going to have a second round? Okay.

You know, one thing I think that would be a little interesting here, and Mr. Squillace, sorry on that, that I would kind of like to have you comment on, the Colorado state legislature recently passed a resolution—it was 12–10–04—that they passed onto the Bureau—to the BLM. In the resolution, it called on the BLM to revise its current restrictive resource plan in Colorado in order to increase oil and natural gas production in Colorado. Was state legislature wrong to be able to put that sort of a resolution forward with bipartisan support?

Mr. SQUILLACE. You know, of course, the nature of the resolution is such that it is a question of degree and what is too restrictive or what is not restrictive enough I think is a matter that people can have differing opinions about. I think it is certainly true that we need to encourage domestic energy development. I am not opposed to doing that. The concern I think, and one of the concerns relating to your earlier question, is just that we not get into a situation which we have seen so often in the western United States of boom and bust kind of development cycles. We need a steady kind of process for development, and too often the exuberance of higher prices at one moment leads us to go beyond perhaps where we should go with development and that leads to a bust cycle which is, I think, more detrimental than if we are able to do these things in a steady way. So I think that is the sort of difficult balance to try to find here. How can we have sort of steady development that achieves growth in jobs, that employs people, that is good for our local economy, and for our national economy as well, without overdoing it? And that is the temptation. It is a very difficult thing. There is a lot of pressure to move towards overdevelopment, but I think if we learn from the past we will know that there are limits to how far we ought to go in this direction.

Mr. TIPTON. You know, I am concerned about that very thing as well, and when we are looking at—you are a Coloradoan as well.

Mr. SQUILLACE. Yes.

Mr. TIPTON. When we look in Colorado, federal leases dropped, which I find shocking because the president is talking about putting Americans back to work and we are not creating the opportunity. We turned down the Keystone Pipeline, 20-plus thousand jobs directly, 100,000 indirectly that we could have created here in America. We look at our state. My congressional district, we have people that are suffering right now, not only with high gas prices but just worried about being able to keep a roof over their head right now. Colorado federal leases dropped, contrary to what the president is trying to purport right now that we are increasing production, but leases dropped from 320 in 2008 to 11 in 2011.

So are we seeing restrictive policies out of this administration when it comes to some of our public lands? And again, let us underscore, we want to be able to do it responsibly. But we also want to be able to feed our children. We want our people to be able to work.

Mr. SQUILLACE. I think that is a very fair question. And we have discussed this a little bit before about how the drop in the price of natural gas has really affected interest in federal leasing. Now, it is not the only factor and I do not want to suggest to you that that is the only thing that is going on here, but there is no doubt that when natural gas drops below $3 a thousand cubic feet, there are significant economic reasons why the industry is not particularly interested in developing those leases and bidding on them. It is a very cyclical kind of thing. Natural gas in the United States is actually up significantly, largely because of some of the domestic supplies that are being found in the eastern part of the United States from the big shale plays out there.

So I am not suggesting that there is nothing to the point that you are making. I would note that I believe the director of the BLM recently testified that about a quarter of the leases that the BLM has offered in the past few years have gone without any bids on them. So parcels have been nominated by industry and they are offered for lease and they are not bid upon. And so it may just be what is happening with the market. I do not think we should read too much into the fact that the current level of leasing is down.

Mr. TIPTON. Okay. And I will be happy—we ought to certainly talk about this because I am talking to companies that are having leases held up. You know, it is up to 10 years. Well nine years, I think, is the high mark to be able to actually develop and be able to go to production, which I think greatly creates that boom and bust cycle that you are talking about because time is money when it gets down to business and development and the tremendous capital investment that it takes to be able to develop some of these resources that are out there.

I would just kind of like to open this up a little bit. I do not want to overstretch, Mr. Chairman, in terms of time here.

Chairman COFFMAN. Mr. West, do you have any additional questions?

Mr. WEST. I am good. Go ahead.

Mr. TIPTON. Great. Well, I will just kind of wrap it up.

Can you give us any examples, and this may be open to the whole panel here, where the president's domestic or foreign policies have contributed to really what we are seeing at the pump? You know, we are seeing increased costs that are going on. The president talks about an "all of the above" energy policy but it is a matter really in terms of the tax code of picking winners and losers which he abhors on one hand and embraces on the other. I think our colleagues at least on the republican side, we need to have tax reform. It needs to be flatter, fairer, and simpler, but right now we are seeing an administration policy that seems to be pretty convoluted in terms of the real impacts on the American people. Just give me some of your comments, if you would, in terms of the administration policies.

Yes, sir. Mr. Barber.

Mr. BARBER. Thank you, Mr. Tipton.

When one considers the size of the companies that are sort of represented and being discussed here, they are generally smaller production companies. And we, like someone else who sells their product on a market, we could be just like a wheat farmer. The in-

dividual wheat farmer does not get to determine what it is that they receive for their commodity. They grow it and choose to sell it or put it in a grainery and sell it maybe when markets are different.

So one of the things that maybe we do not have the ability to do in our positions is to determine what it is we get for that product because if we could I am sure we would want to get more for the price of natural gas right now. Natural gas is being—there is certainly plenty of supply and in some cases operators are out there shutting in wells to not produce at the current pricing. I think in terms of liquids there may be situations where it would be better to have a predictable price of some number that is survivable for companies but certainly that type of marketing is beyond the scope of smaller companies.

Mr. EWING. I would just like to make a comment on that. I think, as I said, I do not get involved in the gas play but I am certainly conversant with it. I watched the oil plays in Texas in similar types of environments and it turned out that many of those, the operator was the guy that owned, controlled the acreage initially and turned it to somebody was the only guy that made a lot of money on it. In the Austin Chalk plate down there you were lucky if you were getting a two-to-one return on the investment. If you had a dry hole on the way, your investors were very fortunate if they ever got their money back. What I think is going to happen in the gas play is that there is so—it is a similar type of play in that the return on investment is not very big. Yes, you can get a well every time, so from a promoter standpoint it is great. But what is going to happen is that all of these little guys that jumped in, and I mentioned a while ago they got burned, they will turn their acreage. It is all going to be bought up by the majors, at which point the majors will have the option of slowing down drilling so that they can get the price back up.

Now, why would they do that? Right now when you bring in one of those wells they look great on initial potential. But very quickly those things dive. And in order to keep the investors happy you have to start drilling another well very quickly to get another good well that will also dive. It is what I have called the black hole of drilling. I know that is putting a bad slant on it because I am not interested in it in the first place. I cannot afford it but that is what is going to happen at the point in time when the majors get sufficient control of all of those acres, they will then just gradually slow down on their drilling and the price of gas—they will get the price of gas to edge up again. Prediction.

Ms. RODELL. Thank you, Mr. Tipton. I think for most of us we are looking forward to simpler tax reform. However, I do know that the president is currently talking about removing the intangible drilling cost deduction that the oil and natural gas industry can take in addition to not allowing the deduction on depletion rates. And these are very frightening to smaller independents. These are not give-mes. These are standard manufacturing deductions that any manufacturing company would be able to get. These are costs. This is the cost of doing business. If he takes away these deductions from the oil and natural gas industry it could cause a 25 percent loss in capital reinvestment which then just basically turns

around into loss of jobs and loss of domestic energy production because smaller companies will not be able to operate under these stipulations.

In addition, we hear a lot about the billion dollars that the majors make, and although these profits may sound excessive, sometimes these are only a 6 percent rate of return for even the larger companies. So these are not—what needs to be looked at is not the overall figure because these are large international companies but what really needs to be looked at is the individual rate of return, sometimes as low as 6 percent. So some of the proposed tax reforms will and can put a lot of the smaller independents just completely out of business.

Mr. SQUILLACE. I think we can all agree that a simpler tax code would be a good thing. I doubt that many people, many Americans would disagree with that point. The devil, of course, is in the details. But I would like to focus more specifically on the relevance of your comment to energy policy. And here I hope that we can agree that we need to take the long view. Now, where our energy policy will be or where our mix of energy will be in 2050 may be a subject of disagreement, but the key point here is that we ought not try to have an energy policy just for the moment. I mean, we know that the economy is down right now, people need jobs, and in the short term we need to deal with those kinds of issues. But we also need, as a matter of planning, to think about where we want our energy policy to go. And I hope as the Congress is thinking about these broad issues about energy policy that they will look at the big picture and look at the long term and try to adopt policies that will get us where we need to be in 30, 40, and even 50 years from now. I think that is really key. And if we can reach some kind of agreement about where we need to go, I think we can see a clearer path for us to get there.

Mr. TIPTON. Thank you. And thank you, Mr. Chairman.

Chairman COFFMAN. Thank you, Mr. Tipton.

I would like to ask one more question of all of you individually and that is to the smaller producers, if you were going to look at a single regulatory burden that would make the biggest difference in terms of reform, and I know some of you just talked about deadlines and deadlines passing but yet having to pay permitting fees anyway irrespective of whether BLM does its role, but if you are going to look at one simple thing or one specific thing, what would it be? And we will start with you, Mr. Barber, and we will go to the left then.

Mr. BARBER. Thank you, Mr. Coffman.

The singular issue that I would say from my perspective that we could do is actually fortunately already in place in regulation. If we could get BLM back to the point where federal mineral wells, APDs are processed in the timeline that is called for in the regulation and is handled that way by some good BLM offices, if we could do that one single thing, that would make more APDs available for drilling and we would have better drilling prospects because they are directly following their own regulations rather than individual, personal entrepreneurial interpretation regulation.

Chairman COFFMAN. Mr. Ewing.

Mr. EWING. Mr. Coffman, my whole pitch today relative to Ewing Exploration has been applied to the Bighorn Basin so my comment is going to be related to that.

The BLM changed the rules that we were using to determine whether or not leases should be issued. They were, for the first five years, using the old RMP to do their adjudication as far as environmental NEPA examinations were concerned. Then suddenly, in 2010, when they pulled those parcels that I had on that map down from the sale, they pulled them down because a new information memorandum had been issued by Director Salazar back in the middle of 2010, well before that sale, telling his people that they had to start looking at wild lands characteristics up there in the Bighorn and throughout, I think, throughout the system. Once they did that it put them in a position to simply use the stroke of the pen they have to go ahead, and in spite of the fact that I had acquired all those acres under the old rules, in spite of the fact I drilled a well under those old rules, in spite of the fact we spent $250,000 getting new seismic under those rules and $70,000 to buy old seismic, they suddenly said you have got to operate under the new rules and we are going to pull these down. And since they will not have them up again, based on the letter I got less than two months ago, until the earliest in 2014, that will be 51 months from the time I first nominated those blue parcels for sale. And it will be after they have rejected them. They had them on the first sale and I flew into Cheyenne and found out the next day they had all been removed from the sale.

So my complaint is that they changed the rules. If we could get them to go back to the original RMP rules, which are what Congressman Olson recommended they do along with Bishop, along with the Western Energy Alliance, and just use those rules because that IM that they changed allowed them to change the way they dealt with me, was simply called to be illegal by Judge Freudenthal's decision. So everybody says let us go back and use those. They just will not do it.

Chairman COFFMAN. Ms. Rodell, if there were one thing that you could change in terms of regulatory reform for smaller operators, what would it be?

Ms. RODELL. Because the BLM offices, although they all operate under the Department of the Interior, they often operate as very individual entities. You know, I do think consolidating some of those processes in a single office within a single group might not be a bad idea and allowing the BLM representatives in the field to do their part to supply those common offices with maybe some of the information to get these approvals through in a timely manner or to write the NEPA documents that are necessary for the approvals of the rights of ways and the ABDs.

So I agree with Mr. Barber that there needs to be some timelines that need to be followed, and I think maybe a consolidation rather than individuals and individual offices might be a start to the solution.

Chairman COFFMAN. Okay. Mr. Squillace.

Mr. SQUILLACE. Sure. And again here, I think that there are no simple answers to the question. There is no simple rule change that will relieve some of the burdens. But I agree that if we can

provide more certainty to the industry, particularly the small operators, that would be a good thing and we ought to try to find ways to do that.

One issue that I focused on over the past few years is my concern about the complexity of the land use planning process, both with the Forest Service and with the BLM.

As an example, in the resource management planning process that the BLM uses, they get into sufficient detail that they are actually deciding on stipulations that belong in oil and gas leases that might be issued on particular lands. But that is not the end of the matter because then when they go through the APD process they may be imposing more restrictions and additions. It seems to me that while you can make an argument for that, we ought to simplify land use planning and avoid getting into the details when we have not studied the particular lands where the operations are going in anyway. Let us use land use planning as kind of a zoning exercise. Decide what we are going to do on particular lands and what we are not going to do on particular lands. And that creates a kind of certainty about where opportunities for the oil and gas industry are available. And then when development is going to take place we can look at it comprehensively. Hopefully we have saved some resources that are now being employed in the planning process and we can use them to help meet the deadlines that some of the folk are talking about here and then receive a quicker action and more certainty for the industry.

Mr. EWING. Can I make one more comment? One of the items, exhibits that I put in your packet up there looks like this. It is a comparison between the number of employees that the WOGCC, Wyoming Oil and Gas Commission has in Wyoming, and the employees that the BLM has. And if you look at that it tells you, I think, pretty much the story of why we are overregulated. As I pointed out earlier, I think before Mr. Tipton came in, the WOGCC had 44 employees. The BLM has 898 employees adjudicating just the BLM lands in the state of Wyoming, not all of those lands that the state deals with. The annual budget for the WOGCC is $2,640,000. The budget for the BLM is estimated to be $54 million a year. I mean, what you all have to start to do if you are going to change the way this exploration goes on BLM lands, you have got to get into their budget and cut their funding and cut them down to size because we do not need all of their help. All they do is hold back exploration; they do not help it proceed forward.

Mr. WEST. Mr. Ewing, that is what we call up here a jobs program.

Chairman COFFMAN. Mr. Tipton, any other comments?

Well, I want to thank you all so much for your testimony today and I think, Mr. Ewing, you raised the question about submitting additional testimony. And you and the other witnesses, all of the witnesses will have 14 legislative days to submit additional comments and materials into the record.

Thank you very much for your testimony today.

[Whereupon, at 11:35 a.m., the Subcommittee was adjourned.]

Testimony of Tim Barber, Yates Petroleum Corporation
House Committee on Small Business
Subcommittee on Investigations, Oversight and Regulations

Powering Down: Are Government Regulations Impeding Small Energy Producers and Harming Energy Security?

March 8, 2012

Good Morning Mr. Chairman and Members, my name is Tim Barber. I am employed by Yates Petroleum, managing the regulatory department in the Gillette, Wyoming office. Yates Petroleum is a privately held independent oil and gas producer with offices in New Mexico, Colorado and Wyoming employing approximately 425 people. My comments focus on my experiences with the Wyoming BLM.

There are two foundational problems with how BLM is currently conducting itself that I believe merits attention and accountability.

1. BLM (and Interior), are daily adding unneeded and duplicated regulation through policy making, guidance documents, instructional memorandum and individual staff interpretation – none of which go through a rulemaking process or are approved by Congress *but are treated as if they were actual law or rule*. I call this "entrepreneurial regulation."

2. BLM is not following the foundational rule and law it is required to. Ironically the reason given for not meeting its responsibilities in foundational regulation is sometimes that they don't have time to because they have to work on the items in #1.

Let me provide some specifics:

a. Onshore Order #1 spells out an orderly process for approval of APDs (Application for Permit to Drill), that binds BLM and the Applicant to processing timelines. The Onshore Order #1 process should take not more than 90 to 120 days for BLM to approve an APD. At the BLM office in Buffalo Wyoming, applicants regularly wait 2 years after application to receive their permits, and some applications have been in to this field office for 5 and 6 years awaiting approval. Some of the lengthier waits have been caused by the

Resource Management Plan Amendment process, which has delayed the working of the APDs for years and it appears it will result in projects so restricted that they may not be viable.

The Buffalo BLM office was funded with additional monies by Congress to be capable of approving 3000 APDs per year. I have included in your packet a BLM spreadsheet of their APD approvals to date this fiscal year. They have approved only 80 wells since October 1, 2011 and approved no APDs from December 7, 2011 until February 29, 2012 though over 940 drilling applications are awaiting their approval.

Included in the handout information is an overview of the timelines in the actual regulation for your review.

b. When an affected Party has a concern with a Decision reached by BLM the only appeal path available is to pursue a "State Director Review" as provided for in Onshore Order #1. State Director Review appeal decisions are required by regulation to be provided to the appealing party in 10 days. In Wyoming these appeal Decisions are taking 9 months or more – and justification for the failure to meet the timelines is that they are working on building and complying with the things I discussed in number 1.

c. BLM's duplicated and conflicting efforts are very concerning.

1. BLM is currently working on a policy for Hydraulic Fracturing for federal mineral wells. States (like Wyoming) already have an agency that regulates all wells, with current regulations in place. There is no need for BLM to embark on this effort.

2. In Wyoming, BLM has recently come up with an Instructional Memorandum on the use of Drilling Pits for Federal Mineral wells. BLM already has actual foundational regulation that covers the use of Drilling Pits and the State of Wyoming (like other producing states) already has regulation in place that covers all wells. There is no need for BLM to add another layer of regulation.

3. On a local level, BLM offices are coming up with their own preferences on things like road building, reclamation of closed locations, equipment requirements for well control and even on how to apply for a drilling permit even though actual regulation already exists covering each of these.

The net effect of these non-rule regulations is that the Agency accomplishes less at a higher cost both to the Agency, the taxpayers and the regulated community. Longer APD processing times, arbitrary decisions not based on actual regulation, less viable oil and gas projects and less drilling and production potential are the clear results.

It is my opinion that there are at least two primary paths forward to solution here.

a. Congress should strongly consider conducting an audit of BLM offices, like Buffalo , to find out what has been accomplished with the additional budget resources provided to them (I don't think you will like what you will see). This audit process should be ongoing, with weekly or monthly updates provided as to things like APD processing. The privilege of increased budget should come with the responsibility of demonstrating that the increased budget bore the desired fruit.

b. Congress may want to consider providing direction to the Agency, its Director and Interior regarding what I have called "entrepreneurial regulation". This direction can come in several forms, including de-funding the agency when it heads in the wrong direction, and tying funding to results such as APD approvals. BLM's resources and strength is best focused on managing lands for multiple use, not building layers of personal interpretation dressed up to look like actual regulation.

I wish to thank each of you for your time and attention, and would consider it a great opportunity to answer any questions you may have for me.

Ewing Exploration Company

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Good morning, Chairman Coffman and Members of the House Small Business Committee. My name is David Ewing and I am President of Ewing Exploration Company (EEC), a small prospect-generating company incorporated in the state of Texas in 1981. My experience in North America spans 60 years with emphasis on the Rocky Mountain States, the Gulf Coast, and western Canada.

I=m here today to discuss BLM decisions causing the probable loss of a high quality, high reserve potential oil prospect in the southwestern portion of the Bighorn Basin in northern Wyoming. I=m referring to the Baird Peak Prospect located 40 miles due south of Cody and 45 miles northwest of Thermopolis on the eastern flank of the Absaroka Range.

- In 2005, EEC initiated an exploration program to locate drillable prospects in a basin where folded anticlinal structures are critical to the entrapment of oil. To date in excess of three billion barrels of oil have been produced in the Bighorn Basin from structures which have been mapped using surface outcrop data. Every known structure has been drilled with almost every one being productive. The only remaining area in the basin where a structure could have eluded the drill is in the area where EEC is exploring. Here, flat lying sedimentary deposits lie on top of and obscure underlying structures.

- To develop a structural picture under these flat lying sediments, we purchased 70 miles of existing seismic data, and tied it into the available well control.

- Based upon the interpretation of this data, we acquired 4,467 acres of BLM, State, and Fee leases between 2005 and 2010. The 2,870 acres purchased from the BLM were evaluated using Standard NEPA Regulations.

- In June 2008, two new seismic lines were shot to further refine the structure map, and the BLM again used existing NEPA Regulations to evaluate and approve this program.

- In September, 2009, the BLM issued a drilling permit for a 6,500 foot well. The permit approval again involved detailed environmental NEPA analysis. Although the well was a dry hole, it provided us with data indicating that further exploration was warranted.

- Additional Fee and State leases, shown on the map in green and purple, were then acquired, and the 10 BLM parcels shown in blue were nominated for the November 2, 2010 Sale. Our cumulative project investment at this point is in excess of $3,500,000.

- We were planning to drill a second well on the green L.U. Sheep Fee lease in 2010 to evaluate the ten nominated parcels. This plan required a Right-of-Way across BLM lands to access the location. A thorough NEPA analysis and evaluation was again conducted using the old rules, and a 30 year lease issued in October 2010, just one month before the November 2nd Sale. Please note that the ROW lease actually crosses the southern portion of the nominated parcels shown in blue.

- After flying to Cheyenne, WY, and registering to bid, I learned that the BLM had with-drawn the ten Parcels nominated by EEC and that the earliest they could come up for

sale was February 7, 2012 – some 20 months after first being nominated.

- In response to my strongly voiced letter objections, the Cheyenne Office advised by letter dated January 21, 2011, that Athe deferral was based on the need for additional NEPA analysis@, and pointed out that the Aleasing process has been evolving since the Washington Office (WO) issued Instruction Memorandum (IM) 2010@ was received on May 17, 2010. The letter went on to say the withdrawn parcels were Aprocessed under the old leasing process@ and Amust be re-offered under the provisions of WO IM 2010 using the new criteria@.

- As the February 7, 2012 Sale date approached, I contacted the Cheyenne Office to confirm that the parcels were actually included in the Sale List, and was told that they were. Three weeks before that sale, the BLM sent me a letter advising the parcels were again being withdrawn from the sale, and would not be re-offered until early 2014--some 51 months after their first nomination—and also contingent upon final approval of the Bighorn Basin RMP consolidation.

- As a result of the above cited BLM actions and delays, my company has already lost three five-year term Wyoming State leases, and by 2014 our original ten year term BLM leases will have been reduced to two-, three-, and four-years remaining. Since short term leases do not provide sufficient operating time to attract investor interest in exploration ventures, the BLM actions will likely result in EEC=s loss of control of the Baird Peak Prospect and its multi-million barrel reserve potential.

Several questions need to be addressed regarding the BLM=s handling of the EEC Parcel nomination withdrawals. They are:

1) Why did the parcel withdrawals occur without any regard for EEC=s ongoing activities?
2) What was the BLM=s motive for obstructing EEC=s opportunity to acquire these leases?
3) Was there a reasonable alternative available to the BLM?
4) Why was the RMP Consolidation undertaken in the first place?
5) Why did the BLM not consider the County Commissioners= recommendations?

The five-minute limitation for this testimony does not allow sufficient time to elaborate on the answers to these questions. However, I would be glad to address them during the question and answer session. Thank you for the invitation to allow me to air my concerns and complaints regarding the grossly unfair, inconsiderate, and unreasonable decisions rendered by the BLM administrators in Cheyenne, WY and Washington, D.C., which have unfortunately made further pursuit of the Baird Peak prospect improbable.

Respectfully submitted,
David J. Ewing
President
Ewing Exploration Company

March 8, 2012

Written Testimony of Kimberly J. Rodell, Senior Project Manager
Banko Petroleum Management, Englewood, Colorado

Submitted to: Committee on Small Business Subcommittee on
Investigations, Oversight and Regulations
Mike Coffman, Chairman

Regarding: *"Powering Down: Are Government Regulations Impeding Small Energy Producers and Harming Energy Security?"*

Hearing to be held March 8, 2012

INTRODUCTION

Thank you for the opportunity to share with the Committee my first-hand knowledge of some of the obstacles small energy companies may and do encounter when working to develop oil and natural gas on Federal and State lands.

My company, Banko Petroleum Management, Inc. is a consulting firm with over 50 years of cumulative oil and natural gas regulatory and engineering experience. We assist businesses comprised of as little as two employees to mid-cap companies in navigating through the oil and natural gas regulatory maze.

Our company is comprised of nine employees in the Denver area and one associate field hand in Rock Springs Wyoming. We are heavily involved pre-drill permitting and subsequent regulatory filings. We understand the process from the initial leasing to the final plugging of a well and the regulatory complications and inconsistent information operators encounter from various BLM offices.

GLOSSARY

Application to Drill (APD)
An APD must be filed with and approved by federal, state and/or local agencies in order to be allowed to drill at a specific location. An APD is required for every proposed well that is drilled, even if there is a master plan of development in place. If all information is readily available to begin the application process – which is rare – a standard APD will take approximately 20 hours to complete, not including pre-application research and field-work time.

Bureau of Land Management (BLM)
The mission of the BLM is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations

Conditions of Approval (COA)
Listed in the final permit approval, COAs include any limitations to a drilling permit, including, but not limited to, Wildlife Stipulation(s), drilling stipulations and general operating guidelines relating to construction and BLM notifications and surveys.

For example, a Wildlife Stipulation might restrict a drilling window allowing drilling from August 1 to September 15 because of hunting season, big game winter range, protected sage grouse, raptor area(s), etc. Essentially, COAs can limit a well that will take to 120 days to drill and complete to be drilled and completed within 45 days.

Environmental Assessment (EA) and Environmental Impact Statement (EIS)
EAs and EISs contain statements of the environmental effects of proposed federal agency actions.

Federal Action
If any portion of the project has a federal component, it is referred to as a Federal Action.

Federal Land Policy Management Act (FLPMA)
Guideline to the multi-use federal lands.
A federal statute that governs BLM land management. It gives BLM its "multiple use and sustained yields" mandate and directs BLM to manage public lands in accordance with land use plans developed with public participation to meet the needs of present and future generations. Congress identified mineral development, as well as grazing and outdoor recreation, as "principle or major uses" of public lands.

Sage Grouse Lek
Communal breeding grounds for sage grouse are known as leks.

National Environmental Policy Act (NEPA)
NEPA is a United States environmental law that established a U.S. national policy promoting the enhancement of the environment. NEPA's most significant effect was to set up procedural requirements for all federal government agencies to prepare Environmental Assessments (EAs) and Environmental Impact Statements (EISs).

No Surface Occupancy (NSO)
A federal or state stipulation that denotes that no surface disturbing activities whatsoever can take place. This includes activities related to drilling and road and/or pipeline construction. An NSO is typically put in place and identified by a federal agency.

Notice of Staking (NOS)
A written filing to notify the BLM that a potential wellsite has been identified and an APD may be forthcoming. An NOS will trigger the scheduling of an onsite meeting.

Natural Resource Specialist (NRS)
A representative of the Bureau Land Management.

Onshore Orders
The regulations by which the BLM oversees all oil and natural gas matters. Onshore Order No. 1 – Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Approval of Operations. Onshore Order No. 2 - Drilling Operations.

Right-of-Way (ROW)
A federal authorization from the BLM that approves the construction of roads, pipelines, power and other infrastructure on federal land which is not contained in the lease description. If an ROW accompanies an APD, it is reasonable to add 10-20 hours to the APD process, not including pre-research and field-work.

Restricted Surface Occupancy (RSO)
A stipulation relating to timing limitations of any well construction, drilling, maintenance, and operation activities. RSO can refer to hours of the day or months of the year.

Surface Management Agency (SMA)
The entity that owns the land where the well or related infrastructure is or will be located.

Sundry Notice (SN)
Any request or change to the APD subsequent to approval or during the lifecycle of the well must be completed through a formal SN.

Surface Use Agreements (SUA)
A monetary agreement with the surface (land) owner to compensate for damages typically associated with construction, which may or have occurred anytime during a project's lifecycle.

Surface Use Plan of Operations (SUPO)
A required component of the APD which details existing or new roads, production facilities, location of water supply, sources of construction material, waste disposal, wellsite layouts, pipelines and flowlines, and surface restoration including general, interim (production phase) and final restoration.

Uncertainty
Uncertainty if often referred to in the oil and natural gas industry. It applies to both operators as well as associated service companies who work on federal lands. There is often no planning for any of these business entities.

Wildlife Protection
Measures put in place by various agencies for the protection of wildlife and contiguous habitat. These measures include timing limitations and/or restrictions, geographic limitations and/or restrictions, and mitigation measures.

BACKGROUND/CONTEXT

Independent energy companies - often comprised of 12 or fewer employees - develop 95% of the nation's oil and natural gas wells. These businesses produce 54% of American oil and 85% of American natural gas. Independent onshore operators account for 77% of the total natural gas production and 43% of the total oil production in America. These figures are expected to increase over the next ten years as shale plays continue to ramp up around the county.
(Source: Independent Petroleum Association of America, IPAA)

(Source for the following references: Western Energy Alliance, 2011)

- The oil and natural gas industry is the second largest source of revenue to the federal government after the Internal Revenue Service.
- The oil and natural gas industry supports an estimated 488,000 jobs across the West.
- For every dollar spent administering the on-shore oil and natural gas program, industry returns approximately $40 in royalties and leasing revenue to the federal government, which is shared with the states.
- Bureau of Land Management (BLM) directly supports an estimated 288,490 jobs broken down as follows:
  - ✓ Minerals (oil, natural gas, coal and other non-energy minerals) – 231,436
  - ✓ Geothermal and wind – 1,637
  - ✓ Timber – 3,746
  - ✓ Grazing – 4,182
  - ✓ Recreation – 47,489
- In 2010, there was a $100M backlog of unissued leases in the West. i.e., leases that have been won at auction and paid-for, but not issued to the company so that exploration and production cannot commence.
- Western oil and natural gas production currently impacts less than 0.07% of public lands.

Timeframe for Filing and APD (Assuming lease has been issued)

- Well staking – 4 weeks (two weeks to schedule and stake; one to four weeks for plat package preparation)
- Cultural Survey (ground must be completely cleared of snow; can take upwards of eight months)
- Notice of Staking (preparation and submission takes approximately six hours which does not include all necessary preliminary research which can take an additional six to eight hours; onsite scheduling can take several months due to weather and BLM scheduling)
- Onsite Meeting (held at the location between BLM and operator)
- APD Preparation (15 – 40 hours over a 30 -60 day period which is subject to BLM post onsite meeting requirements)

The timeframe required by the BLM regulations can be upwards of one year just to get to a point where the APD can be submitted. These timeframes do not include any seismic data gathering which also requires BLM permits.

General Filing Fees (non-refundable)
BLM APD: $6,500
BLM Right-of-Way: $400 - $5,000
State: $0 - $200
County: $0 - $20,000

For additional statistics and reference materials from the IPAA and the Western Energy Alliance, see attached Supplemental Information.

In order to comprehend the challenges these small, independent companies face, it is important to have some background understanding regarding what is involved in the APD process and those regulatory filings that may accompany an APD.

PROCESS

In discussing Process, we are referencing single well projects, not multi-well plans of development.

From the time a potential wellsite is identified to the time when drilling can commence depends on a multitude of factors. Generally, if the location is not at all contentious (ease of access, cooperative land owner(s), isolated and unused geography, etc.) we budget a minimum of 6 to 12 months for approval(s) to be issued from the federal, state, and county regulatory agencies.

In contentious situations (difficult access issues - geographic or land ownership - locations closer to high-profile geography, presence or high-profile/well-funded organizations interested in blocking any type of development) we conservatively add an additional one to five years to the approval(s) timeframe.

The Application for Permit to Drill (APD) process is initiated when a Notice of Staking (NOS) is filed. This notice serves to assist the operators with site-specific requirements that will be necessary to file a technically complete APD package. The BLM will provide the Surface Management Agency (SMA) a copy of the NOS. Within 10 days of receiving the NOS, the BLM will review it for the required information and schedule an onsite inspection date.

The onsite inspection allows for the BLM, the company and the SMA to meet at the wellsite and discuss all issues related to the potential upcoming permit. Representatives from the BLM may include, but are not limited to: Petroleum Engineers, Natural Resource Specialists (NRSs), Wildlife Biologists, Hydrologists, Archaeologists, Geologists, etc. Those attendees at the onsite may also include the Division of Wildlife, Game and Fish, State Agencies, Health Departments, County Government representatives, etc.

After the onsite is held, the APD and/or Right-of-Way (ROW) are prepared using the best available data from the onsite meeting. Once the APD is submitted, the BLM must provide 30 days public notice prior to approving an APD. In addition, within 10 days, the BLM must provide the operator notification as to whether the APD is technically complete. This is typically known as a 10-Day Letter or a Deficiency Letter which lays out any areas in both the Drilling Program and the Surface Use Plan of Operations (SUPO) which the BLM has deemed technically "incomplete."

The operator then has 45 days to respond to these deficiencies or the APD may be returned unapproved minus the $6,500 filing fee. During the response period, the clock is stopped and the time-frames required of the BLM are on-hold until the operator provides the necessary information.

If the operator does not respond to the deficiencies in a manner which suits the BLM, a second deficiency can be issued. This back-and-forth process can continue until all deficiencies are resolved during which time the clock for the timing for the BLM approval and response periods is suspended.

The APD and/or ROW can move forward only when all deficiencies are mitigated, to *possibly* be approved by the BLM.

CHALLENGES/OBSTCLES

The challenges small businesses face in completing the permitting process can be numerous. While the process has always been cumbersome, it is the general consensus among small independent energy companies that under the current Administration, the permitting challenges and inconsistences in federal regulations have increased significantly.

Our company works directly with BLM, state, and local regulatory agencies throughout the Rocky Mountain Region. While each BLM office operates under the Department of Interior, their requirements can vary drastically from office to office, with little or no consistency between them. Unfortunately, even those of us who work in permitting on a day-to-day basis are sometimes perplexed and utterly frustrated in attempting to understand the varying requirements of each office.

In regards to leases, there are nearly always additional stipulations. However, the listed stipulations are not the "final word" and may change at any time based on the onsite visit and Conditions of Approval (COA) attached to the issued permit. These COAs are only finalized when the permit is approved, which can then lead to limitations in the drilling schedule. COAs can be issued by at the federal, state, and local level. These multiple COAs can further constrict the drilling schedule. These unknown last-minute additions create substantial uncertainty making it very difficult to plan for a drilling schedule, including the hiring and retention of workers.

This uncertainty also impedes the operators and all associated service companies. Business planning becomes virtually impossible. No drilling companies will commit a rig to any operator that does not have an approved permit. A business that cannot do any type of planning will inevitably fail.

The most common stipulations are timing limitations with regards to wildlife. There can also be Restricted Surface Occupancy (RSOs) and No Surface Occupancy (NSO) which may be a part of the lease or federal unit. Again, these stipulations can change at any time during the typical 10-year lease term and can severely inhibit or negate the ability to process a single APD and/or ROW.

Recently, these stipulations have prohibited operators from working assets leased to them by the BLM for up to nine months of the year. These tight windows increase the risk on both the operations and the effectiveness of drilling and completing a well. Operators cannot responsibly develop the BLMs natural resources when such restrictive stipulations are implemented.

The sage grouse, a Non-Threatened and Endangered bird species, has created devastating uncertainty in the West. The protections put in place for these birds closely resemble those protections which

could be placed on actual Threatened and Endangered species. These protections measures put on these hunted game birds have greatly encumbered the ability to develop the natural resources in sage grouse areas on both federal and state lands. These birds live in sagebrush habitat throughout the Western United States. In essence, they are virtually everywhere that energy production exists.

When leases are in jeopardy of expiration, an extension may be requested by the operator to provide more time to get the permit approved. Admittedly, some operators wait until the 11th hour to request an extension and the BLM is right to respond negatively. However, more diligent operators who have tried valiantly to play by the rules over months and sometimes years are occasionally near the end of the process and the BLM refuses to work with them to obtain these lease suspensions.

In the Rocky Mountain Region, we know that weather can play a significant factor in delaying the onsite meeting. However, we also know that we as small energy producers can wait months for the BLM to schedule an onsite meeting even if conditions permit.

In planning a drilling schedule, small operators are much more limited than their larger cousins. For example, a large operator may have the luxury of working multiple areas between various timing limitations as dictated by the COAs. This affords them the opportunity to move equipment and staff easily from place to place while they wait for an open drilling window in a different geographic area.

Small operators are more focused in their geographic areas, limiting their development and ability to keep equipment and staff operational on multiple projects. Small companies cannot afford stagnant equipment and/or employees.

Under the Omnibus spending bill, Congress imposed the APD filing fee be increased from $4,000 to $6,500, a 62% increase. Previously, smaller companies permitted several locations in their limited geographic area understanding they may only get a couple of permit approvals within a reasonable timeframe. However, this would still allow them to continue working on the remaining permits while continuing to be operational. These filing fee increases, while some say are negligible to the actual cost of drilling a well, can impose significant costs.

While a small operator may only plan on drilling two wells, they may permit ten. The uncertainty of not knowing if and how many permits will be approved within a reasonable timeframe in essence, dictate they permit more than they are planning. The high filing fees now restrict small operators from having alternatives. These increased filing fees do not allow for additional spending at the BLM field office level to hire more needed personnel. Without the added resources the BLM offices can be very understaffed and the permit approval timeframes suffer.

Wildlife issues can also place significant constraints on energy development. While some companies can plan for timing stipulations placed on leases, they cannot plan for unforeseen additional stipulations which can be placed on them at the onsite meeting and/or on the approved permit. Due to wildlife stipulations, operators may only have 45 days to drill and complete a well. Placing these narrow windows on drilling can result in rushing the job. Heightened errors and added risk almost

always accompany a compressed drill schedule. Timing restrictions for both large and small operators may also place a greater risk on efficient energy development.

Issues like these and others make energy development on federal lands expensive and burdensome, especially to small companies who do not have unlimited budgets and flexible resources (personnel and equipment).

These challenges and obstacles also impair the ability of companies to plan for their operations. It is difficult enough to obtain a high quality rig being a smaller company. Rig companies will not entertain a project unless there is a valid permit. This ripple effect carries into the service companies not working and the local residents waiting on jobs. This is not about the "big daddy" energy companies; this is about the real people in the field – pumpers, dirt contractors and roustabouts - whose lively hoods depend on energy development in their local communities.

JOBS AND REVENUE

Labor Requirements for a Typical Natural Gas Well

Direct Parties Involved

Jobs	Headcount	Days	Man Hours
Seismic permitting	16	210	13,440
Seismic surveying	30	90	7,200
Drilling shot holes for 3-D seismic shoot	36	90	8,640
Laying out receivers and recording data	50	90	12,000
Drilling contractor and all their personnel	27	51	7,067
Top Drive provider	4	40	192
Surveying	4	2	80
Construction and Restoration	15	14	1,300
Trucking/Transportation – Drilling	39	2	710
Drilling mud and chemicals provider	2	45	204
Mudlogging			
Directional drilling company	5	15	970
Casing crews to run casing in well	8	4	989
Cementers	10	2	745
On site supervision	4	51	1,652
Frac Tank providers	3	7	168
Frac tree and manifold set up	7	1	84
Coil tubing clean outs	10	3	240
Set up water transfer pumps & equipment	6	1	72
Fracture stimulate well	40	6	2,880
Wireline company personnel	4	6	144
Flow back well and haul water, turn to sales	4	7	672
On site supervision	1	20	300

Workover rig crews	8	2	192
Crews to install and hook up production equipment	8	8	600
State inspectors	1	2	16
Indirect Parties Involved			
Various hardware and software providers			
Construction services	23	4	436
Misc Services	37	2	416
Seismic shoot planning and processing	9	160	1,280
Saltwater and oil haulers	12	14	1,120
Other trucking/transportation	15	10	900
Staffing professionals			
Building security			
Mineral owners			
Financial services providers			

Source: El Paso, Frank Falleri, Vice President, Central District
(Source: America's Natural Gas Alliance Final Report on The Contribution of the Natural Gas Industry to the U.S. National and State Economies)

Employment by Occupation

Data Series	Employment, 2010
Geoscientists, except hydrologists and geographers	6,390
Petroleum Engineers	13,270
Petroleum pump system operators, refinery operator, and gaugers	6,450
Roustabouts, oil and gas	9,680
Wellhead pumpers	8,020

(Source: Occupational Employment Statistics)

Garfield County Colorado
In 2012 Garfield County total forecast revenue is $112m
$52m (46%) will come from property tax
$38m (73%) of property tax will come from the O&G industry
Therefore (with Severance Tax) $40m or 35% of total revenues is directly attributable to O&G
(Source: Garfield County Economic Impacts of Oil and Gas on Garfield County)

There are a total of 750 direct employment jobs with operators. This does not include indirect jobs, (restaurant revenue, housing, rental properties, etc.) and may not include jobs directly related to the industry but not the operator (pumpers, roustabouts, water haulers, and any other service job necessary to maintain successful operations). Over all there are 11,000 direct employment jobs with operators. The job multiplier for oil and gas, relatively high at 3.9*, equates to 2,925 indirect jobs in Garfield County or a total of 3,675 jobs.
*(*Source: Colorado Department of Labor and Employment August 2011)*

For the State of Colorado this equates to 42,900 indirect jobs for a total of 53,900 oil and natural gas related jobs.

The report ended with this statement, "The impacts of the O&G industry on the local economy are very beneficial significant, and critical to the financial well-being of Garfield County, both to the government and the area economy as a whole."
(Source: Garfield County Economic Impacts of Oil and Gas on Garfield County)

Weld County Colorado
"Just as an individual earns income through employment, Colorado counties earn income from natural resources, namely oil and gas wells. The revenue from these resources is distributed to county agencies for services we all benefit from."

The oil and gas industry also pays about 40% of the Weld County's property tax bill - a percentage that would otherwise be spread across other classes of property such as residential, industrial and agricultural. Employees of the oil and gas industry contribute greatly to our local economies too. Whether through paying property taxes or sales taxes, employees of the oil and gas industry are valuable members of our community.
(Source: Kenneth R. Buck, Weld County District Attorney)

EXAMPLES
Example 1:
Approximately three years ago, I was working a small well program (approximately 25 wells) – all requiring permitting through the same BLM office. It took more than five months to get the APD to a point where the individual NRS reviewing the APDs was satisfied with all the information in the SUPO.

Although the relationship between the BLM and our company was friendly, it was also extremely frustrating and time consuming as other APDs recently completed in the area passed with the same information in the APDs Surface Use Plan of Operations (SUPO).

After getting approvals on approximately eight APDs over more than 18 months of working with the individual BLM NRS and other personnel, a new NRS was brought in from another office. What had become a relatively streamlined process (after the first few difficult months) became a nightmare. The new NRS had criteria for the ADPs that was a departure from the previously approved APD. Because of this development, we were forced to start the entire process for the remaining wells from square one.

Example 2:
I currently have an outstanding permit in one of the BLM offices. The APD process followed the Onshore Orders and met the BLM requirements for submission. The NOS was submitted in early June, 2011. An onsite was held in late July, 2011. The APD was submitted in late August with a Deficiency letter arriving in our office within the 10-day time frame in early September. All deficiencies were responded to in the same month.

This well is part of a Federal Unit surrounded by several large ranching operations. In some cases the surface owners own the minerals but the majority of the unit is federal minerals. There are two 40-

acre corridors to gain access into the Unit and stay on Federal lands. There is an existing road across private surface. The Company has attempted to reach an agreement with the private surface owner to gain access into this Unit for over two years with no resolution.

Two proposed routes were surveyed through the two 40 acre federal corridors. The Company met with the BLM to request guidance and inquire about which route the BLM would prefer. The BLM explained the southern route would be unapprovable due to wildlife and topography. The only other option was the northern route. The Company continued vigorously to work with the surface owner while the permit process was initiated simultaneously on the northern route. The Company met with the BLM for a presite meeting to discuss options in addition to meeting them for the official onsite along the route. All necessary surveys were completed.

During this time, multiple meetings took place, regulatory paperwork was filed, and the BLM onsites were attended, a new Resource Management Plan was being written at the same BLM field office. It was later discovered that a small portion of the road route fell under a buffer zone designed to protect a sage grouse lek. The buffer had been increased from 1/2-mile to 6/10-mile. This increase affected the previously planned road route. The Company invested the funds to reroute and resurvey the road to ensure the route remained outside the sage grouse lek. Once the final route was agreed upon, the BLM asked that a Sundry Notice (SN) for a change to the Unit be submitted with the new route

This SN was submitted in July, 2011, per BLM request. While all parties involved agreed that the existing access would be the better alternative, there was no land owner agreement and the Company had to start the BLM bond-on process which can take years. I personally have never seen the bond-on process completed as there is usually resolution with the surface owner during this time. In addition, I have yet to personally speak with a BLM representative who has gone through and completed the entire bond-on process. If this process is initiated, typically both the company and surface owner come to an agreement prior to the completion of the bond-on process. Most small companies and BLM representatives are familiar with the process but I have yet to find a small company or a BLM representative that has taken the bond-on process to its entirety.

Once the SN was submitted it became a waiting game for the Company. Over three months later the SN was returned "Unapproved" and "Denied" stating that "the existing route was approved and constructed and the private surface owner does not acknowledge transfer of the SUA from the former operator. The issue is under litigation and the BLM will not make any decisions considering alternate access until the court case has been decided."

This places over 37,000 acres of Federal minerals on hold for energy development while placing undue financial burdens on a Company that cannot develop the United States natural resources the U.S. citizens are entitled to.

There are two wells within the unit that have been previously drilled. One has significant wellhead pressure and can be produced economically. However, the Company cannot obtain access to the well which becomes not only a safety concern but over time if the well is not maintained the condition of the wellbore may deteriorate and become unusable. This becomes not only a financial waste but

eliminates natural resources and potentially harms the productive formation. While industry attempts to work diligently to produce domestic energy responsibly it often encounters many regulatory roadblocks which, for the small business, can create undue hardship for small oil and natural gas businesses.

In this scenario and according to the job numbers referenced by America's Natural Gas Alliance, a staggering 32 jobs could be created off of one drilled well. General state oil and natural gas spacing typically allows for the production of one well for every 40 acres. While 37,000 acres of land are put on hold due to litigation so are roughly 30,000 direct jobs.

Example 3:
After submitting a NOS an operator tried diligently though both phone calls and e-mails to secure and on-site date. The phone calls and e-mails were consistently bounced around to various individuals in the BLM field office. This lag in time created a situation where leases started to expire. The operator was subsequently sued by one of the project stakeholders for not abiding by a contract to get wells permitted and drilled. The litigation process to months and the amount of time and expense afforded to this kept man hours and investment from going back into oil and natural gas exploratory projects.

Example 4:
While working on a two well project in a federal unit, two APDs were submitted in mid-July, 2011. One of the submitted well's road ran through a portion of a sage grouse lek. The second permit was in sage grouse habitat but the BLM did not identify any lek issues in the immediate area or along the road route during the onsite. There were several conversations between the BLM wildlife biologist, the company and me. I anticipated the second well would have timing limitations imposed as it was in sage grouse habitat but the location had no lek concerns. Unfortunately, the BLM determined that a sage grouse study needed to be done for the entire unit. The company had previously paid for an aerial survey. The BLM inquired if the company would be doing this aerial survey over the entire unit on a yearly basis while the BLM conducted their own study.

The BLM wildlife biologist requested the aerial survey and ground work be completed during the sage grouse strutting season. Only one of the two wells should have timing limitations, however, both APDs are on-hold until the operator and the wildlife biologist complete these studies. If the studies are done timely and to BLM satisfaction one of the wells *may* be approvable within a one year time frame. However, the BLM biologist gave no indication when the BLM might complete their sage grouse study in the Unit and no one knows the ramifications of the study's conclusion. Again, the operator is faced with a tremendous amount of uncertainty not only in the two outstanding permits but for the life of the federal unit.

CALL TO ACTION

The oil and natural gas industry is one of the most heavily regulated in the U.S. Regulations that industry must comply with include: the Clean Air Act, the Clean Water Act, Comprehensive Environmental Response Compensation and Liability Act (CERCLA), Emergency Planning and Community Right-to-Know Act (EPCRA), Endangered Species Act, National Environmental Policy Act,

National Historic Preservation Act, Occupational Health and Safety Act, Safe Drinking Water Act, Resources Conservation and Recovery Act, plus additional state and local laws.
(Source: Western Energy Alliance, 2011)

The success of any industry, including oil and natural gas development, is dependent on a predictable regulatory structure, consistencies between those offices governing them, and the ability to plan. Regulations are necessary for the protection of our natural resources, personal property rights, wildlife, and our federal and state public lands. However, there must be consistency in the application of these regulations in order to meet the energy objectives of the U.S.

This consistency in the administration of the federal regulations will enable the both small and large independent oil and natural gas companies to:

- Plan accordingly;
- Continue to meet the energy needs and demands of the U.S.;
- Remain profitable and be capable of retaining or acquiring the necessary personnel and equipment necessary to recover the natural resources; and
- Execute the permitting processes in a timely fashion that minimizes costs and risks to all parties involved, including the U.S. Government, the landowners, mineral rights owners, etc.

The oil and natural gas industry strives to responsibly produce the U.S. natural resources in an efficient and cost effective manner. We live and work in communities where these valuable resources are developed. Our livelihood and local economies depend on these jobs. We want to live in a safe, predictable environment and understand the necessity for regulations; and consistent and predictable regulations create an environment where we can all succeed.

Kimberly J. Rodell
Senior Project Manager
kim@banko1.com

A results-driven energy professional, Kim joined the Banko Petroleum Team in 2003 and has honed her top-tier project management skills through in-house and field-work. Her tenacity and attention to detail are noted and appreciated by Banko Petroleum Management clients and her teammates recognize her as a leader – for direction, advice and strategy.

With more than 10 years' experience in the oil and natural gas industry, Kim brings to the Team extensive experience with creating plans for stormwater management and pollution and prevention, applications for Permit to Drill, Rights-of-Ways, Sundry Notices, Completion Reporting and Special Use Permits, map work, tracking production and working in the field assisting pumpers with gauging, balancing both water and oil tickets and fleet maintenance.

Kim's proficiency with online research and information applications with federal, state, county, client and other various websites for information technology, lease histories, regulations, etc. has helped Banko Petroleum's clients reach their goals with efficiency, accuracy and confidentiality.

As a Colorado native and avid outdoorsman, Kim appreciates the necessity of balancing responsible energy development with protecting the natural environment on federal lands for the enjoyment and recreation of all.

Project Management Certificate Program, 2011 – Colorado State University
M.S., Global Energy Management, 2010 - University of Colorado Denver
Colorado State Certificate – Stormwater Compliance Inspector, 2007 – Red Rocks Community College
Certificate – Stormwater Management During Construction for Oil and Natural Gas, 2007 – San Juan College
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8 March 2012

Testimony of Mark Squillace
Professor of Law and Director, Natural Resources Law Center
University of Colorado School of Law
Before the U.S. House of Representatives Investigations, Oversight, and Regulations Subcommittee of the Small Business Committee

The Honorable Mike Coffman, Chair
Investigations, Oversight, and Regulations Subcommittee
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Coffman:

Thank you for the opportunity to appear before the Investigations, Oversight, and Regulations Subcommittee. My name is Mark Squillace and I am a professor of law and the director of the Natural Resources Law Center at the University of Colorado Law School. Among other things, the Center has developed and maintains a searchable, on-line database of best management practices for oil and gas development. This free resource is designed to promote transparency and better management of oil and gas development, particularly in the Intermountain West. *See http://www.oilandgasbmps.org/.*

I appear today in my private capacity to testify about the opportunities for small businesses to participate in the federal oil and gas leasing program. I want to preface my remarks by noting that for the past several years domestic oil and gas production has been rising even while the American people are consuming less. Reduced consumption is an especially important trend, and that trend can be expected to continue over the next decade as new motor vehicles standards that were negotiated between the auto industry and the Obama Administration take effect. The long-term benefits of these new standards for both the economy and our national security cannot be overstated and I encourage the Congress to embrace these standards and strengthen them even further. While global conflicts and global demand make it impossible for our federal government to control oil and gas prices, we can continue to reduce our consumption and thereby limit our long-term dependence on foreign oil.

The focus of this hearing is on oil and gas development on our public lands, which plays an important role in domestic energy production. The Congress is rightly concerned about promoting sound policies in this arena. Generally, I believe that the agencies responsible for the federal leasing program have established good leasing policies that can

help ensure robust development, appropriate levels of environmental protection, and a fair return to the treasury. Unfortunately, while these policies themselves are good, they are not always administered as well as they can or should be. My testimony reflects this mixed success in implementing the federal oil and gas leasing program and emphasizes five points.

- Federal land use planning and leasing processes are critical to sound decision-making and ought not be compromised for any perceived short term benefits to small businesses or oil and gas production.

- The Bureau of Land Management (BLM) is far too protective of existing lessees, who are most often large oil and gas companies, and this protective policy takes opportunities away from smaller companies.

- Small oil and gas operators can help lead the way toward developing and implementing best management practices for oil and gas development.

- Changes in the oil and gas industry, which were made possible by federally funded research, offer great advantages for extracting oil and gas but may make it more difficult and expensive for small companies to compete for oil and gas leases.

- The EPA's forthcoming rules that will further regulate the oil and gas sector are critically needed to protect public health and to conserve our hydrocarbon resources.

Let me briefly explain each point.

I. Federal Land Use Planning and Leasing Processes are Critical to Sound Oil and Gas Development

The Bureau of Land Management administers the oil and gas leasing program on federal lands through several stages. At the first stage the appropriate federal land management agency (generally the BLM or Forest Service) engages in land use planning to decide what uses are appropriate and not appropriate on particular tracts of the planning unit. For lands deemed suitable for oil and gas leasing, the land use planning agency may establish certain stipulations or restrictions that must be followed if oil and gas leasing occurs. Following the land use planning stage, the BLM invites anyone to nominate for lease sale parcels that are open to leasing following land use planning, and that are not currently leased. Where leasing is scheduled to occur in area that has not been subject to much leasing or other activity, and a conflict with other resources may exist, the BLM has

established new procedures to develop "Master Leasing Plans."[1] The purpose of these Plans is to allow the BLM to make a more holistic assessment of the impacts of leasing in the area, which it can then use to address conflicts proactively. Once planning is completed, the nominated tracts are made available for lease to the highest bidder at a public auction. Auctions are held quarterly by each BLM State office. For the best leasing prospects these auctions can yield substantial bonus bids in the amount of millions of dollars.

Once lands are leased, development may not occur until the BLM approves applications for permits to drill (APDs). Historically, APDs required preparation of appropriate environmental analyses under the National Environmental Policy Act and these typically resulted in additional restrictions designed to protect a variety of public land resources. Environmental analyses are still performed for about three-fourths of all APDs, but the Energy Policy Act of 2005 changed the historic practice of requiring such analyses for all APDs by establishing a "rebuttable presumption" that five categories of activities should be "categorically excluded" from NEPA compliance. Well over 90% of the activities thus far excluded fall into the first three categories,[2] which include:

(1) Individual surface disturbances of less than 5 acres, so long as total disturbance on the leased land sis less than 150 acres.
(2) Drilling an oil and gas well at a location or well pad site at which drilling has occurred within 5 years from the date the new well penetrates the surface; and
(3) Drilling an oil and gas well in a developed field where a land use plan was approved within 5 years of the date the new well penetrates the surface.[3]

According to the GAO, 6,100 APDs, or 28% of the total APDs issued between 2006 and 2008 were subject to these categorical exclusions. While concerns have been raised about the scope of these exclusions generally, one of the biggest problems appears to be the BLM's administration of them. In 2009, the General Accounting Office issued a report detailing numerous violations of §390 of the Energy Policy Act of 2005 by many BLM offices. These violations resulted in excluding many activities from NEPA compliance that were outside the scope of the §390 exclusions.[4] Perhaps more importantly, the BLM had failed to issue guidance to agency officials about how to administer the §390 exclusions, or how a party might rebut the presumption that the categorical exclusion applies.

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[1] *BLM Energy Reforms: Questions and Answers* (May 17, 2010), *available at*, http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/leasing_reform.Par.11912.File.dat/BLM_Energy_Reforms_Q_A.pdf

[2] *See Energy Policy Act of 2005: Greater Clarity Needed to Address Concerns with Categorical Exclusion for Oil and Gas Development under Section 390 of the Act*, General Accounting Office, September, 2009. (Hereafter, *GAO 390 Report*)

[3] Pub. L. No. 109-58, §390, *codified at*, 42 U.S.C. 15942/ The statute uses the term "spudding" to describe the drill bit penetrating the surface.

[4] *See GAO 309 Report*, *supra* n. 1 at 23-29.

The GAO recommended that the BLM "issue detailed and explicit guidance" on the use of the §390 exclusions, "provide standardized templates or checklists" for each category, and, develop a means for overseeing compliance with §390.[5] The GAO also recommended that Congress consider amending §390 to clarify what is meant by a "rebuttable presumption," and whether the §390 exclusions should apply even in "extraordinary circumstances."[6]

In May, 2010, the BLM issued Instruction Memorandum 2010-118, which was designed both to provide the guidance that the GAO had found lacking, and to require the BLM to screen actions for "extraordinary circumstances." This latter requirement implemented a settlement agreement reached in a Utah case titled *Nine Mile Canyon Coalition v. Stiewig*.[7] The BLM was also working on the templates and checklists recommended by the GAO when the federal district court for Wyoming struck down IM 2010-118 because the BLM had failed to follow notice and comment rulemaking procedures.[8] This decision appears to have put the brakes on the BLM's efforts to implement the GAO recommendations and it is not clear at this time how the BLM intends to proceed to address the confusion that was documented by the GAO.[9]

Unfortunately, this lack of clarity matters. One example of an extraordinary circumstance that should probably trigger an environmental analysis even where a categorical exclusion might otherwise apply is where an APD would intrude on greater sage grouse habitat. The U.S. Fish and Wildlife Service has determined that the listing of the greater sage grouse under the Endangered Species Act is "warranted but precluded" by other listing priorities.[10] If the sage grouse is ultimately listed it could have a significant adverse impact on oil and gas leasing as well as a wide range of other activities near sage grouse habitat. It is in everyone's interest to ensure that appropriate protections for the sage grouse and its habitat are put in place so that the sage grouse is able to recover before a listing decision is allowed to go forward. Careful advance planning through the NEPA process could help ensure the survival of the sage grouse and other at-risk species, and

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[5] *Id.* at 53.
[6] *Id.* The Council on Environmental Quality rules, which establish standards for categorical exclusions generally, specifically require agencies "to provide for extraordinary circumstances in which a normally excluded action" would be subject to environmental impact analysis. 40 C.F.R. §1508.4.
[7] Civ. No. 08-586, filed August 6, 2008, (D. Utah)
[8] Western Energy Alliance v. Salazar, ___ F. Supp. 2d ___, 2011 WL 3738240 (D. Wyo. 2011). While the law surrounding rules that require notice and comment is murky, it seems doubtful that notice and comment should apply in this case since the guidance did not legally impact
any third parties. Rather, it merely directed agency officials to proceed with NEPA compliance under particular guidance, which the agency arguably has the authority to do in any case. *See e.g.*, American Hospital Ass'n v. Bowen. 834 F.2d 1037 (D.C. Cir. 1987).
[9] See *Statement of Mark Gaffigan*, Managing Director, Natural Resources and Environment, Government Accountability Office (September 9, 2011).
[10] 75 Fed. Reg. 13910 (March 23, 2010).

provide the public with greater confidence that oil and gas development will take place in a manner that anticipates and avoids conflicts before they occur. It seems odd to suggest, as the Wyoming court has done, that the BLM is precluded from engaging in a careful, pre-decisional analysis when it receives an APD that might disturb greater sage grouse habitat. Surely, the BLM retains the discretion to consider any relevant information before deciding whether to issue a lease.[11]

II. Small Companies Would Find More Opportunities if the BLM Offered Better Oversight of Existing Leases

The Mineral Leasing Act of 1920 (MLA) as amended by the Federal Onshore Oil and Gas Leasing Act of 1987 sets standards for federal onshore oil and gas leasing. Among other things, the MLA was designed to discourage speculation and monopolization of federal mineral resources by large companies, and to assure a fair return to the government for these resources. Among the provisions designed to discourage speculation is a limit on the primary lease term to ten years.[12] Leases may extend beyond the primary term, however, if active drilling is occurring on the lease at the end of the primary term, in which case the lease term is extended for two years, or if the lease is producing oil or gas in paying quantities. *Id.* Leases that are not producing in paying quantities and that do not have active drilling generally expire at the end of the ten year primary term unless they are part of a unit where drilling or production is occurring, in which case all of the leases in the unit are treated as one for purposes of extending the lease for drilling or oil and gas production.

The Mineral Leasing Act discourages monopolies by limiting the amount of lease holdings by a single entity to 246,080 acres in any single State.[13] Leases that are part of units, however, do not count toward these acreage limits.

Unitization of oil and gas properties has historically been carried out to conserve oil and gas resources and provide for more orderly and efficient development of the resource. With the advent of horizontal drilling unitization becomes even more important since deposits that are spread out over a large geographic area can be developed from a single well pad. But unitization *on public lands* carries special risks because it can be used to unfairly extend lease terms or circumvent the acreage limitations set out in the MLA. This appears to be what is happening on some federal leases. Some small companies have complained that the BLM has allowed certain leases to be included in units for the purpose of avoiding termination even when these leases are not needed for orderly development of the resource. To the extent this practice is occurring it undermines virtually every

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[11] In Udall v. Tallman, 380 U.S. 1 (1965), the Supreme Court held that if a lease is issued on a tract made available for sale it must be issued to the first qualified applicant, but even in this circumstance, the Secretary retained "the discretion to refuse to issue an lease at all in a given tract."

[12] 30 U.S.C. §226(e).

[13] 30 U.S.C. §184(d)(1). In Alaska a single entity can lease up to 300,000 acres in each of two regions. *Id.*

important policy of the MLA. It encourages speculation by allowing companies to hold leases for more than 10 years even where there is no serious plan for development, it allows companies to avoid the acreage limitation, thereby giving larger companies the opportunity to monopolize resources in particular basins and States, and it denies the public a fair return for its resources because these leases should have been allowed to expire and made available for resale at a later auction. This latter problem especially harms small operators, because it denies them the chance to bid on new oil and gas leases that are not currently being developed.

The BLM should address this problem by adopting strict rules for unitization designed to ensure that leases are added to units only where the lessee demonstrates to the BLM with clear evidence that adding a lease to the unit is necessary for the fair and efficient development of the oil and gas resources.

III. Small Operators Offer a Clearer Path To Adopting Best Management Practices

The phrase "best management practices" or BMPs, is often used to describe good operating procedures for oil and gas development. BMPs are sometimes required by regulatory agencies but even where they are not required that are sometimes negotiated between oil and gas companies and their host communities, especially when the companies are committed to developing good relations with the host community. While it might seem counterintuitive to expect smaller operators to lead the way on best management practices, smaller operators are arguably more focused on ways to save money. In the oil and gas business, best management practices often equate with more efficient operations and better environmental results. Several examples illustrate how BMPs can save operators money and why small operators might be more likely to adopt these practices in developing oil and gas resources

A. ***Recycling Fracking Fluids***. Fracking requires a lot of water, and about half of that water returns to the surface as flow back. Historically, oil and gas companies have trucked in the water they needed for fracking and then trucked out the flow back water for treatment. These tanker trucks can be a real nuisance to local communities because of noise and air pollution, the damage they cause to local roads, and the most of all, the traffic congestion they cause. Best management practices for fracking would probably require that frack fluids be recycled on site so they can be reused in later fracks. Recycling frack fluids can also reduce costs by more than half. Less water must be purchased, the flow back fluids need not be treated, and truck traffic is drastically reduced, thereby minimizing road damage, air pollution, and traffic congestion.

B. ***Green Completions***. Oil and gas development often results in hydrocarbons escaping into the atmosphere. These hydrocarbons are valuable and can be sold if captured but larger companies often prefer to let them escape, on the assumption that capturing these gases is not cost-effective. In fact, however, capturing and reducing hydrocarbon emissions can be very cost-effective, by

increasing the production of hydrocarbons that can be sold by the operator. The term "green completions" generally describes an oil and gas operation that is designed to capture and use (or flare) the largest percentage of hydrocarbons possible. Green completions are becoming more common and may soon be required by the new EPA regulations, but they also make good economic sense for large and small operators alike.

C. ***Pitless Drilling***. At a conventional well site, fluids are circulated through the well bore, and deposited in a pit adjacent to the well. These pits contain many toxic constituents, including hydrocarbons and heavy metals, and they can leach into the ground and contaminate soils, as well as ground and surface water resources. These pits also pose risks to wildlife, and especially migratory waterfowl. With pitless drilling, the drilled solids are separated from the mud and other liquids during the drilling process, and the fluids are pumped into storage tanks where they are available for reuse. Pitless drilling eliminates pits, reduces water consumption by more than half, and also reduces truck traffic that would otherwise be needed to transport water and drilling wastes. Best of all from the operator's perspective, pitless drilling is generally much cheaper than conventional drilling with pits.

IV. Modern Technologies Have Greatly Improved Oil and Gas Development Prospects but Present Special Challenges for Small Operators

Significant changes in the oil and gas industry, largely made possible by federally funded research, offer great advantages for extracting oil and gas. But some of these technologies, especially fracking and horizontal drilling can significantly increase the capital costs for oil and gas companies and make it more challenging for smaller companies to compete for leases. We should encourage robust competition in the oil and gas industry, including participation by small operators, since this will help promote both lower production costs and better management practices. But we ought not lose sight of the fact that companies that are undercapitalized pose a significantly higher risk of failure, which can harm local communities and lead to greater environmental damage. So while the BLM should welcome the participation of small operators in the federal oil and gas leasing program they should also be vigilant in ensuring that any party operating on the public lands has the financial means to address any and all contingencies that might arise.

V. The EPA's Proposed Regulations Are an Important Step Toward Protecting Local Communities Facing Oil and Gas Development

Oil and gas production and the facilities associated with that development release both conventional and toxic air pollutants. One of the biggest concerns is winter-time ozone levels, which result from release of volatile organic compounds and nitrous oxides in bright sunlight. Oil and gas facilities, including vehicles used for developing and producing oil and gas, are the primary source of these pollutants in many rural regions. Last year, winter-time ozone levels in the small rural community of Pinedale, Wyoming

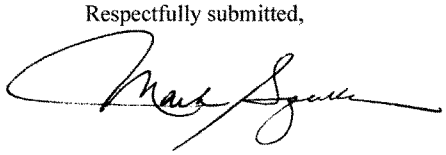
violated national ambient air quality standards for ozone, even exceeding the worst ozone levels recorded in the City of Los Angeles.

On August 23, 2011, the Environmental Protection Agency (EPA) took an important step toward addressing this problem by proposing new rules to strengthen existing standards and expand the types of sources covered by the EPA's new source performance standards (NSPS) and hazardous air pollution standards (HAPs) for sources of air emissions in the oil and natural gas sector. EPA is facing a court deadline to finalize these rules by April 3, 2012. While the final EPA rules will most likely change to reflect the many public comments that were received, we can all hope that these new rules will go a long way to addressing the air quality issues facing communities like Pinedale, Wyoming. Among other things, the final rules seem likely to establish new standards for hydraulic fracturing, compressors, pneumatic controllers, storage vessels, and for green completions of wells.

The proposed rules illustrate that the EPA is very much focused on promulgating rules that are cost-effective for the industry even while assuring that the public's health is protected. The balancing act facing the EPA is difficult and the Congress should give the agency sufficient latitude to apply its expertise to addressing this serious problem.

Thanks again for the opportunity to appear before the Subcommittee to share my views on the federal oil and gas leasing program. I hope that these proceedings will lead to better management of these resources well into the future and I welcome the opportunity to answer your questions and share my perspective on these important issues.

Respectfully submitted,



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23 March 2012

Supplemental Statement of Mark Squillace
Professor of Law and Director, Natural Resources Law Center
University of Colorado School of Law
Before the U.S. House of Representatives Investigations, Oversight, and Regulations Subcommittee of the Small Business Committee

The Honorable Mike Coffman, Chair
Investigations, Oversight, and Regulations Subcommittee
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Coffman:

Thank you, Mr. Chairman, for the opportunity to submit this supplemental statement that follows from the March 8, 2012 hearing before the Investigations, Oversight, and Regulations Subcommittee of the House Small Business Committee. In this statement, I would like to address two matters that I hope will address some of the key questions raised at the hearing: (1) a proposal for reforming and streamlining the BLM and Forest Service planning processes; and (2) a specific recommendation that the Committee request a General Accounting Office study of the unwarranted extension of existing leases beyond their primary term.

I. The Planning Process Can be Stream-lined Without Sacrificing Impact Assessments

Most of the witnesses at the March 8 hearing complained about the delays associated with agency decisions, and especially with the BLM's processing of APDs. These complaints are understandable and on some occasions these delays may be unnecessary and unwarranted. But rather than singling out a particular process for criticism, the Committee should consider the full spectrum of decisions that must be made before leases are approved and developed. This will make it easier to see whether particular steps in the process can be stream-lined or improved. One place where the process could clearly be stream-lined is the land use planning and amendment stage, which occurs at the beginning of the process before leases are issued and APDs are approved.

Public land use planning is much like a zoning exercise whereby the land management agencies decide what uses should be allowed or not allowed on the particular

tracts of public land within a planning unit. Historically, however, both the BLM and the Forest Service go beyond the basic zoning process and set restrictions or conditions on particular uses, such as oil and gas development, that might occur in a zone where those uses are allowed. Unfortunately, however, because the land use planners generally do not have very good data or information about the particular lands that might also be leased, these restrictions and conditions are usually just a starting point. The lease itself, and especially the approved APD, will typically contain many additional restrictions or conditions. While there may be some good reasons for trying to anticipate the kinds of conditions that should be imposed on various activities, these are overwhelmed by countervailing reasons in favor of a more limited and steam-lined planning process.

First, the land use planning process should be a visioning exercise that engages the public about basic decisions about what particular how particular tracts of public land should be used. Unfortunately, committing itself to identifying and articulating specific standards and guidelines for particular types of activities, the agencies have made the planning process far too complex. This complexity overwhelms the more fundamental questions about what land uses should be allowed on particular tracts of land. More importantly, the unnecessary complexity of the current planning process takes far too much time and discourages meaningful public engagement. I have written more extensively about this problem in comments filed with the U.S. Forest Service on their recent land use planning rules. These comments are available at the following link. http://rlch.org/blog/2011/16/3/draft-forest-planning-rule-public-comment-ideas.

Another good reason for stream-lining the planning process relates to the fact that the planning units are too large for the agencies to develop the site-specific data that is critically needed to establish appropriate conditions for development. Only when the agency is facing a particular proposal for something like an APD is the agency able to develop the site-specific data needed to set appropriate conditions on development. Since a site-specific analysis at the leasing and APD stage is generally required by NEPA anyway, it makes far more sense to wait until then to decide what conditions are needed. Indeed, when conditions are set before specific information is available it often proves inadequate or inappropriate and this can lead to the conclusion that the plan must be amended before the relevant activities can go forward. Obviously, this just causes thus further delays.

A final reason for not establishing conditions at the planning stage is that they can mislead affected parties about the likely restrictions that will be imposed on development. When an agency takes the time and trouble to develop conditions for a particular activity it may be reasonable to think that those conditions are going to set the parameters for future use. In fact new restrictions are the norm, and for the reasons discussed above are probably necessary given that the planning stage analysis did not look at the particular site proposed for development.

Stream-lining the planning process benefits everyone. It allows the agency to save scarce resources that are better spent on site specific evaluations. It allows the public to become more meaningfully engaged in helping the agency shape the broader vision for a planning unit. And it helps users, like oil and gas developers, by freeing up agency resources to process applications, and by avoiding agency decisions that can mislead developers about the nature of restrictions on their activities.

II. The Committee Should Request a General Accounting Office Study of Non-producing Federal Oil and Leases that Extend Beyond their Primary Term

Among other things, the Mineral Leasing Act was designed to discourage speculation and monopolization of federal mineral resources and to assure a fair return to the government for these resources. The law discourages speculation by limiting the primary lease term to ten years. Normally, leases can extend beyond the primary term only if active drilling is occurring on the lease at the end of the primary term, in which case the lease term is extended for two years, or if the lease is producing oil or gas in paying quantities. Leases may also be extended, however, *if they are part of a unit where drilling or production is occurring*, in which case all of the leases in the unit are treated as one for purposes of extending the lease for drilling or oil and gas production.

The Mineral Leasing Act discourages monopolies by limiting the amount of lease holdings by a single entity to 246,080 acres in any single State. As a result of the Energy Policy Act of 2005, however, *leases that are part of units do not count toward these acreage limits.*

Unitization of oil and gas properties can certainly help conserve oil and gas resources and provide for more orderly and efficient development. The advent of horizontal drilling makes unitization even more compelling important since deposits that are spread out over a large geographic area can be developed from a single well pad. But unitization on public lands is wrong if it is being used to unfairly extend lease terms or circumvent the acreage limitations set out in the MLA. This appears to be what is happening on some federal leases.

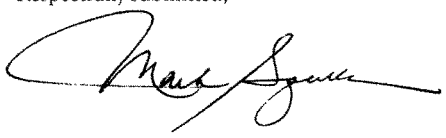
To the extent this practice is occurring it undermines virtually every important policy of the MLA. It encourages speculation by allowing companies to hold leases for more than 10 years even where there is no serious plan for development; it allows companies to avoid the acreage limitation, thereby giving larger companies the opportunity to monopolize resources in particular basins and States; and it denies the public a fair return for its

resources because these leases should have been allowed to expire and made available for resale at a later auction. This latter problem especially harms small operators, because it denies them the chance to bid on new oil and gas leases that are not currently being developed.

Unfortunately, it is almost impossible to know the extent or seriousness of this problem until better information about the number and size of leases that are beyond their primary terms that are not in production becomes available. I urge the Committee to request a GAO investigation and report on the extension of federal oil and gas leases beyond their primary term where no oil and gas is being produced. Among other things, the GAO should consider whether the policies of the Mineral Leasing Act favoring diligent development, fair competition, and a fair return to the public are being met by the BLM's leasing practices.

Thank you again for the opportunity to submit this supplemental statement. I would welcome the opportunity to assist the Committee in carrying out these recommendations.

Respectfully submitted,



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Subjects:
1) Regulation and Its Impact on Small Energy Producers and Technology Creators
2) The Critical Role of Small Energy Companies in Technology Development and National Energy Security
3) Achieving National Energy Security & Reindustrialization with the "20 in 20" U.S. Energy Plan

Hearing Title:
Powering Down: Are Government Regulations Impeding Small Energy Producers and Harming Energy Security? | House Small Business

To the Honorable Representative Jason Chaffetz,

Attached above is the notice of the critical hearing by the House Investigations, Oversight and Regulations Subcommittee as sent to me by a concerned friend, Steve Russo of the DC area, who knew of my work in energy policy development and asked me to comment for input to the record. While I am not currently employed in the oil and gas industry but act as an engineering consultant through our subsidiary, Cerenzie Engineering Consulting, I have had the chance to work on a variety of energy related energy and military projects ranging from breakthrough **V-Stax/Enginetics engine technologies** to new alternative energy systems to new **Eco-Solv(tm) tar sands/oil shale extraction methods** to **Star Wars Weapons Directed Energy Conversions** of tar sands/oil shale/heavy oil/natural gas/coal to oils and fuels without a refinery. With this varied background, I have developed the framework for an energy plan to pave the way for us to achieve U.S. Energy Independence and the National Security inherent in such an effort nicknamed the **"20 in 20" Plan for 20 Million Barrels of Oil Per Day in 20 Years.** My background is large energy project energy development having worked on design, development, construction and startup for the Trans-Alaskan Pipeline and the Prudhoe Bay Oilfield production and separation complex. Subsequently, as a young chemical engineer, I oversaw the design and project development of the North Slope of Alaska Super Giant Kuparuk Oilfield for ARCO Alaska, Inc and ARCO Oil & Gas in the 1978-80 timeframe. After working on these projects and before receiving my Masters of Engineering Management from the University of Alaska, I wrote my masters thesis in 1982 on **"Pay-As -You-Go-Production" Philosophy for Developing Alaskan North Slope Oilfields**.

In so stating, I have seen permits to drill and develop energy projects from a few to literally dozens from essentially dozens of agencies with no real single source contact and what amounts to almost unlimited time on the side of the government to issue any or all permits -- if it so chose then as well as now. And this growth in permits, cash/personnel requirements and complexity almost occurred overnight or so it seemed. Literally, in about one 10 year period, with the

Carter Administration serving as the most destructive regulation creator of all, the permit maze grew to an entire self-serving industry of environmental groups, multiple government levels, multiple departments fighting for power within each level and a somehow instantly sympathetic, even complicate, court system.

From first hand experience over the last 6 years or so, I can address the issues facing small companies including the issues of trying to finance new technologies. My reference is for this discussion is the **"Eco-Solv"(tm) Tar Sands and Oil Shale Extraction Process** as well as the new **"Directed Energy" Process using Reagan Era Star War Weapons to convert coal, natural gas, tar sands and oil shale to crude oil as well as directly to fuels** without cat cracking or a refinery for on-site or off-site processing of these under-utilized resources. While I heard others say they have processed tar sands and oil shale economically, the Eco-Solv(tm) Process is still the only one I know of and have witnessed that has successfully processed Vernal, Utah tar sands (from Asphalt Ridge) and oil shale (from the King of Jordan himself) in a continuous fashion to an essentially clean state of rock and aggregate free crude oil (actually bitumen or kerigen). It is important to understand that regulation literally stops small companies from moving forward since investors -- large and small -- do not want to put money into projects, especially with new technologies, that the permit process cannot be assured in terms of time or money to survive while permits are being processed. Literally, the EPA, BLM, Fish & Game, various State Dept's of Environmental Quality, Marine Fisheries governance groups, National & State Park and Forest Dept. Systems, OSHA, local Fire Marshalls/Fire Departments, local water departments and so forth have come together to form a labyrinth of complexity and uncertainty in terms of time and money without an assurance of issuance at any time. It has become a form of economic warfare with no sure path to achieve any favorable end permit ruling -- without big $$$ and political clout. Even if issued, a company can be held hostage by environmental groups in the courts who seem willing to help them delay and extort money from the operating companies. This has happened recently in Utah with Barrett Oil. This must change and I have some ideas of how to do that if contacted.

Large oil companies once were technology drivers and creators. During my ARCO days, I worked not only on traditional oil and gas, but also on uranium extraction, solar panel construction, mining exploration techniques, plastics & metallurgical development and Canadian Tar Sands process development. All major oil companies had thousands of people doing such work. That all went away in the early 1980's and advent of "shareholder value" with a constant eye on next quarter's performance rather than future viability and growth. Other than Exxon, most large companies have abandoned such expensive roles and creating visionary technologies of the future in favor of letting someone else do the "hard stuff" that is necessary to secure our energy future as a nation.

Ultra Petroleum, with the help of large Haliburton, pioneered the massive, multi-stage frac process in the Pinedale shale gas formations of Wyoming. This success has translated into exploration and exploitation of gas and oil shale formations throughout the U.S. and the world. From Ultra's work, the U.S. has gone from a projected massive natural gas SHORTAGE to a massive natural gas OVERSUPPLY in about 6 short years. Companies like Bingham Exploration have pioneered the horizontal drilling and multi-stage frac combo to exploit the massive Bakken Reservoir (including Sanish, Three Forks, Red River and so forth) where the recoverable oil has gone from just over 3 Billion Barrels per the USGS estimate of a few years ago to where 50 Billion Barrels recoverable is very likely as discussed on Cramer's "Lightening Round". And 100 Billion Barrels recoverable is probably achievable in time with new ideas and new technology. All of this was pioneered by small companies but not without many sleepless nights -- even with worry for survival -- I am sure. They are responsible for the turnaround of our gas and oil production fortunes. They need help to be able to be assured of permit approvals at a very minimal cost. Forced to have an army of "regulation focused engineers, technicians and attorneys" does not add one drop of oil to the bottom line; it only dramatically increases the risk of failure and minimizes job growth.

Suffice it to say, that comments by government officials that indicate coal energy production is going to made so expensive that it will bankrupt the industry do not bring confidence in our government's stance for the public or a small company's good. The constant focus on low energy density, low reliability renewable energy does not make sense economically or that such single focus on unreliable sources is in the public's best interest. The years of work that has gone into the Keystone Pipeline is a perfect example where common sense has just been thrown into the trash -- and the extreme costs of design and redesign for permit approval have now been lost (unless a miracle to turn it around happens fast). The oil will be produced -- and appears our non-friend China will be the beneficiary. When looking at our energy resources, it is obvious we are #1 in most areas of hydrocarbon resources of many kinds: coal, natural gas, and oil shale (free flowing as in the Bakken and locked-up as in kerigen). With all of our offshore areas locked up and much of our interior, it appears we likely are at the top or near the top of light oil reserves in the world (we are currently producing 1.5 Million BOPD from 3-5% of our shoreline and have been since the 1940's -- think about that !!). We have massive uranium and tar sands reserves as well -- which have not been updated since 1982 per USGS Denver office geologist about 1 year ago.

Two technical authors have done some great work in the area of energy regulation "reasonableness", climate change issues, land lock-ups, green energy solutions (or non-solutions), energy density considerations and their combined impact on project development. These two authors are as follows: 1) Warren Seal, master geologist, of Seal Energy and author of **"The Global Warming Hoax and the Coming Energy Crisis"** and 2) Kimball Rasmussen, CEO of Deseret Power (mechanical engineer) and author of **"A Rational Look at Green Energy"** and **"A Rational Look at Green Jobs".** These two men have done an excellent job at comparing current and green energy sources from many different perspectives. Their work should be considered a resource for future energy plans.

We have the chance to turn around our financial woes and create millions of jobs throughout our economy by unleashing our energy resources. The small company will be a key player and the primary innovator in today's energy world -- if regulation is removed as the immovable barrier to progress. I look forward to answering any questions that may arise and sharing just how we can get to achieving the **"20 in 20" Plan for 20 Million BOPD in 20 Years** -- and grow our economy by 40-60% in the process with millions and millions of high paying, long term jobs for engineers, technicians, service workers, pipe & valve manufacturers, turbine/engine builders, car/truck manufacturers, building supply firms, electric motors/transformers/wire manufacturers, high tech computer/communications/security firms and on and on. **This "20 in 20" effort would re-ignite our Industrial Complex Growth to be the World's #1 Manufacturer as outlined the overall plan, "Producing Our Way Back to Prosperity".** We can do this. We must do this. Our economic survival and national security depends upon creating a vision of reduced but predictable regulation with great economic growth for our companies, our great nation and our families.

Sincerely,

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