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OIL AND GAS WELLS AND MMS PAYMENTS

HEARINGS

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

TO IDENTIFY ISSUES RELATED TO THE INSPECTION AND ENFORCEMENT OF BUREAU OF LAND MANAGEMENT OIL AND GAS WELLS IN THE FARMINGTON AREA AND ATTEMPTS TO REMEDY COMPUTER PROBLEMS AFFECTING MINERALS MANAGEMENT SERVICE PAYMENTS IN NEW MEXICO

MAY 31, 2002

BLOOMFIELD, NM

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Committee on Energy and Natural Resources

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OIL AND GAS WELLS IN THE FARMINGTON AREA

FRIDAY, MAY 31, 2002

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Bloomfield, NM

The committee met, pursuant to notice, at 8:30 a.m. in The Bloomfield Cultural Complex, 333 South First Street, Bloomfield, New Mexico, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. Let me welcome everybody this morning. This is a field hearing of the Senate Energy and Natural Resources Committee.

We are going to have two topics we are going to try to address. I know we don't have adequate time to fully address probably either one, but we want to do our best in the limited time we have.

First, from 8:30 to 9:30 we are going to discuss the issue of inspection of Bureau of Land Management oil and gas wells here in the Farmington area, your testimony on that.

Second—after that, we will have a short break and then maybe about a quarter to ten we will start up on some testimony and discussion about the Department of the Interior's computer shutdown and its effect on royalty payments that are owed to individual Navajo allottees.

For each part of the hearing, we want to have an opportunity for public comment after we hear the testimony. So if you would like to speak, we would ask that you sign up in the back of the room, and we will hear public comments in the order of those who have signed their names on the list.

Let me be sure I have the right instructions to people here.

Let me say a few things about the first hearing, the one we are starting here at 8:30. We heard several reports, sort of repeated reports, in recent months about the problems here with the Farmington Field Office of the BLM lacking staff for inspection and enforcement.

The national average for the BLM is about 300 wells per inspector, that's what I'm informed. There are at least 1,500 wells per inspector here in Farmington, this area, according to the BLM's 2000 Technical and Procedural Review for the Farmington Field Office.

I understand the BLM has set a goal of reducing the caseload of each Farmington inspector to no more than 500 wells. That's still

more than the national average, but it is the minimum that the BLM finds to be acceptable.

I had a recent meeting in my office with Kathleen Clarke, head of the BLM, and she informed me that they have determined or made a decision to hire five new inspectors in Farmington. These new hires are commendable; however, that still leaves them with less than half the personnel needed to achieve this 500 wells per inspector, so I hope we can urge the BLM to add additional staff and achieve this goal as soon as possible.

We've received a lot of information about reporting and production—reported production sales and royalty amounts were not adequately verified during some of the inspections that were taking place, that the inspection personnel were not provided with adequate support; and the Farmington Field Office needs to hire an inspection and enforcement coordinator, a position that the Office is now making an effort to fill.

I'm also concerned that there are large numbers of old and poorly maintained sites in this area that are in need of restoration. In many of these places, there is insufficient protection against sediment runoff from the site and associated roads. In other cases, sites and roads have not been cleaned or and fully vegetated.

I understand that last year the Farmington Field Office instituted a facilitated collaborative process between ranchers who have grazing rights and the oil and gas lessees to help restore many of the old sites and resolve these problems. I look forward to hearing about that collaborative process. It's a good first step. I want to know how that's working and what more needs to be done. This field hearing, I think, will be a good start in addressing these problems.

I understand that at the national level, Kathleen Clarke told me during our meeting in my office that Assistant Secretary Watson will be announcing some new policies related to surface owner rights. I'm anxious to learn anything we can about those new policies, and we look forward to hearing that.

Today, we are going to hear from the BLM about the agency's efforts to remedy these problems. I know they have been working on them. And we will also hear from Tweeti Blancett, who is a land owner and a grazing permit holder in the area; and from Bob Gallagher, who is the head of the New Mexico Oil and Gas Association.

Before we start the testimony with our first witness, let me just indicate that we would like each witness, if they could, we will include any written testimony that has been prepared in the record as if given. We would like each witness to take 5 minutes or so to summarize the main points and tell us what they think the Committee should be aware of.

Then following that, we will have this opportunity for members of the public to give input as well, and I'll be able to ask some questions.

Our witnesses on this first part will be Mr. Richard Whitley, who is the Acting Director of the New Mexico State Office for the Bureau of Land Management of the Department of the Interior; as I indicated, Robert Gallagher, with New Mexico Oil and Gas Association; and Tweeti Blancett, a long-time local land owner and rancher from Aztec.

So Mr. Whitley, why don't you go ahead and give us your views. And this is going to be a little awkward, I'll just advise everyone, because we have the one microphone, and we want everyone to hear all the witnesses. So we are going to run the microphone back and forth. So there may be a little bit of a delayed reaction here. So why don't we go ahead.

Thank you.

STATEMENT OF RICHARD WHITLEY, ACTING STATE DIRECTOR, NEW MEXICO OFFICE, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. WHITLEY. Mr. Chairman, thank you for the opportunity to appear here today. I am Richard Whitley, Acting State Director for BLM New Mexico State Office. I have a couple of staff here that will be available to answer some questions a little later as well.

In the interest of time, I will begin my oral statement with BLM's inspection and enforcement program, the I&E program, and its responsibilities. The BLM is responsible for the oversight of oil and gas operations on Federal and Indian lands with the exception of Osage Tribal lands. The objectives of the Oil and Gas I&E program are to protect the environment, public health, and public safety; to ensure the public's oil and gas resources are properly developed in a manner that maximizes recovery while minimizing waste; and to ensure the proper verification of production reported from Federal and Indian lands.

This responsibility includes inspection of oil and gas operations to determine compliance with applicable statutes, regulations, onshore operating orders, notices to lessees, lease terms and permit conditions of approval. These terms and conditions include those related to drilling, production, well plugging and abandonment, and other requirements related to lease administration.

Under current law, the Secretary of the Interior is required to inspect leases annually, based on production or operator noncompliance. Leases are also inspected at least annually if there is a potential for environmental degradation or hazard to public health and safety. When inspectors identify noncompliance, they initiate enforcement action. The BLM is authorized to use a number of enforcement tools to ensure compliance, such as issuing notices of violations, imposing assessments or civil penalties, ordering a shutdown of operations, and possible lease cancellation.

In July 2000, a Farmington Field Office I&E review was conducted to address concerns in the Farmington Field Office. The main finding identified an inadequate number of personnel available to monitor oil and gas activities in the Farmington area. The New Mexico State Office has worked to fill critical I&E positions as a result of the fiscal year 2000 review.

A total of $840,000 base funding was provided in fiscal year 2002 for BLM New Mexico petroleum engineering technicians, PETs, in the I&E program. The Farmington Field Office has filled five of those PET positions, the Carlsbad Field Office has filled three PET positions, and the Oklahoma Field Office will be filling four more PET positions in 2003.

The New Mexico State Office has advertised for two regional I&E Coordinator positions, and a State I&E Coordinator, who will provide for a more consistent I&E program statewide.

There will be a total of 14 new I&E positions in BLM New Mexico before the end of fiscal year 2002. For fiscal year 2003, the BLM is proposing to further increase funding for New Mexico's I&E program, and to add an additional 13 I&E positions for the State.

The 2002 review also found that Surface Protection Specialists were focusing their efforts on processing Applications for Permits to Drill, APDs. A recommendation of the review was to increase the number of Surface Protection Specialists to ensure high-priority environmental inspections were performed.

To address this recommendation for fiscal year 2003, the BLM is proposing to add five new Environmental Specialist/Surface Protection Specialist positions to conduct environmental inspections and facilitate the APD approval process. Currently, an individual from the I&E staff is focusing on high-priority environmental inspections.

Of course, providing and maintaining a strong oil and gas I&E program does not resolve all the potential conflicts related to oil and gas development. The BLM is also attempting to initiate and implement other means to address the inevitable conflicts inherent with our multiple use mission.

An example of this in the Farmington area involves the conflicts arising from the fact that the BLM issues livestock grazing permits and oil and gas drilling leases for the same BLM lands.

BLM grazing permit holders have claimed that oil and gas production and pipeline companies negatively impact the ranching operations of BLM grazing permit holders. Their complaints primarily center on accelerated erosion from oil and gas access roads and reclamation efforts on pipelines and well pads.

In addition, ranchers believe they should have the opportunity to have more input into siting and accessing oil and gas wells within their grazing permit areas so that wells cause the least disruption to grazing operations and minimize surface disturbance.

In order to address these concerns, the Farmington Field Office continues to stress collaboration and communication in working toward resolving these conflicts. In July 2001, the Farmington Field Office formed the BLM Grazing/Oil and Gas Committee, consisting of BLM grazing permit holders and representatives of the oil and gas industry, the New Mexico Oil and Gas Conservation Division, the U.S. Forest Service, and the New Mexico Land Office.

Some accomplishments of the committee's collaboration and cooperation include agreeing on standards for fencing of waste pits and tanks on oil and gas well sites; initiating a voluntary $1,000-per-acre offsite mitigation fee to restore vegetation; establishing better seed mix for rehabilitation of disturbed areas; increasing communications between BLM, industry, and grazing communities so that ranchers are aware of pending surface disturbance in grazing areas; and initiating a program of rancher and land owner involvement in predevelopment field consultation and participation in working groups.

Last week, BLM officials also met with the New Mexico Cattle Growers Association in the Farmington area to further discuss

these issues and to develop collaborative methods of mitigating the impacts of oil and gas development activities.

Mr. Chairman, the BLM plays an important role in implementing the President's National Energy Policy and in providing for environmentally sound energy development. As you know, it is imperative that a strong oil and gas I&E program follow any increases in energy development and production. The BLM is committed to addressing the issues raised in the 2000 review of the Farmington I&E program and looks forward to working with you and your committee further on this issue.

Thank you again for the opportunity to testify. I would be pleased to answer any questions that you have.

[The prepared statement of Mr. Whitley follows:]

PREPARED STATEMENT OF RICHARD WHITLEY, ACTING STATE DIRECTOR, NEW MEXICO STATE OFFICE, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to appear here today to discuss the Bureau of Land Management's (BLM's) oil and gas inspection and enforcement (I&E) activities in the Farmington area. I am accompanied by Steve Henke, our Farmington Field Office Manager, who is responsible for the inspection and enforcement program in the Farmington area.

BACKGROUND

In New Mexico, the BLM manages 13.4 million acres of surface land (an area larger than Vermont and New Hampshire combined); 36 million acres of subsurface mineral estate underlying Federal surface land; 8.4 million acres of Tribal and allotted lands where the BLM manages mineral operations as part of its trust responsibility; and 9.5 million acres of subsurface mineral estate underlying privately owned land. Federal lands in New Mexico are some of the highest in oil and gas production in the Nation. The Farmington Field Office administers 1.5 million acres of surface land in northwest New Mexico and 3 million acres of subsurface mineral estate.

In following the Federal Land Policy and Management Act, the BLM manages the public lands based on the principles of multiple use and sustained yield, and balances recreation, commercial, scientific, and cultural interests as it strives for long-term protection of renewable and nonrenewable resources. These include range, timber, minerals, oil and gas, recreation, watershed, fish and wildlife, wilderness, and natural, scenic, scientific, and cultural values.

BLM OIL & GAS INSPECTION & ENFORCEMENT RESPONSIBILITY

The BLM is responsible for the oversight of oil and gas operations on Federal and Indian lands with the exception of Osage Tribal lands. This I&E authority derives from the Mineral Leasing Act of 1920, the Federal Oil and Gas Royalty Management Act of 1982, and the Indian Mineral Leasing Act of 1938.

The objectives of the oil and gas I&E program are to protect the environment, public health, and public safety; to ensure that the public's oil and gas resources are properly developed in a manner that maximizes recovery while minimizing waste; and to ensure the proper verification of production reported from Federal and Indian lands. This responsibility includes inspection of oil and gas operations to determine compliance with applicable statutes, regulations, onshore operating orders, notices to lessees, and lease terms and permit conditions of approval. These terms and conditions include those related to drilling, production, well plugging and abandonment, and other requirements related to lease administration.

Under current law, the Secretary of the Interior is required to inspect leases annually, based on production or operator noncompliance. Leases are also inspected at least annually if there is a potential for environmental degradation, or hazards to public health and safety. When inspectors identify noncompliance they initiate enforcement actions. The BLM is authorized to use a number of enforcement tools to ensure compliance, such as issuing notices of violations, imposing assessments or civil penalties, ordering a shutdown of operations, and possible lease cancellation.

FARMINGTON FIELD OFFICE OIL & GAS INSPECTION & ENFORCEMENT REVIEW FINDINGS, RECOMMENDATIONS & RESOLUTIONS

In July 2000, a Farmington Field Office I&E review was conducted to address concerns regarding I&E issues in the Farmington Field Office. The main finding identified an inadequate number of personnel available to monitor oil and gas activities in the Farmington area. The New Mexico State Office has worked to fill critical I&E positions as a result of the Fiscal Year 2000 review. A total of $840,000 in base funding was provided in Fiscal Year 2002 for BLM New Mexico petroleum engineering technicians (PET) in the I&E program. The Farmington Field Office has filled five PET positions; the Carlsbad Field Office has filled three PETs; and the Oklahoma Field Office will be filling four more PET positions in July 2002. The New Mexico State Office also has advertised for two regional I&E Coordinator positions, and the State I&E Coordinator, who will provide for a more consistent I&E program statewide. There will be a total of fourteen new I&E positions in BLM New Mexico before the end of Fiscal Year 2002. For Fiscal Year 2003, the BLM is proposing to further increase funding for New Mexico's I&E program, and to add thirteen I&E positions for the State.

The 2000 review also found that Surface Protection Specialists were focusing their efforts on processing Applications for Permit to Drill (APD). A recommendation of the review was to increase the number of Surface Protection Specialists to ensure that high-priority environmental inspections are performed. To address this recommendation, for Fiscal Year 2003, the BLM is proposing to add five new Environmental Specialist/Surface Protection Specialist positions to conduct environmental inspections and facilitate the APD approval process. Currently, an individual from the I&E staff is now focusing on high-priority environmental inspections.

OTHER EFFORTS TO RESOLVE OIL & GAS CONFLICTS IN THE FARMINGTON AREA

Of course, providing and maintaining a strong oil and gas inspection and enforcement program does not resolve all of the potential conflicts related to oil and gas development. The BLM also is attempting to initiate and implement other means to address the inevitable conflicts inherent with our multiple use mission. An example of this in the Farmington area involves the conflicts arising from the fact that the BLM issues livestock grazing permits and oil and gas drilling leases for the same BLM lands. BLM grazing permit holders have claimed that oil and gas production and pipeline companies negatively impact the ranching operations of BLM grazing permit holders. Their complaints primarily center on accelerated erosion from oil and gas access roads and reclamation efforts on pipelines and well pads. In addition, ranchers believe they should have the opportunity to have more input into siting and accessing oil and gas wells within their grazing permit areas so that wells cause the least disruption to grazing operations and minimizing surface disturbance.

In order to address these concerns, the Farmington Field Office continues to stress collaboration and communication in working towards resolving these conflicts. In July 2001, the Farmington Field Office formed the BLM Grazing/Oil and Gas Committee, consisting of BLM grazing permit holders and representatives of the oil and gas industry, the New Mexico Oil Conservation Division, the U.S. Forest Service, and the New Mexico Land Office. Some accomplishments of the Committee's collaboration and cooperation include agreeing on standards for fencing of waste pits and tanks on oil and gas well sites; initiating a voluntary $1,000-per-acre off-site mitigation fee to restore vegetation; establishing better seed mix for rehabilitation of disturbed areas; increasing communication between BLM, industry and grazing communities so that ranchers are aware of pending surface disturbance in grazing areas; and initiating a program of rancher and landowner involvement in pre-development field consultation and participation in working groups. Last week, BLM officials also met with the New Mexico Cattle Growers Association in the Farmington area to further discuss these issues and to develop collaborative methods of mitigating the impacts of oil and gas development activities.

CONCLUSION

Mr. Chairman, the BLM plays an important role in implementing the President's National Energy Policy and in providing for environmentally-sound energy development to respond to our Nation's growing energy needs. As you know, it is imperative that a strong oil and gas inspection and enforcement program follow any increases in energy development and production. This applies to the Farmington area, as well as all other energy development areas. The BLM is committed to addressing the issues raised in the 2000 review of the Farmington inspection and enforcement pro-

gram, and looks forward to working with you and your Committee further on this issue.

Again, thank you again for the opportunity to testify. I would be pleased to answer any questions that you may have.

The CHAIRMAN. Well, thank you. Before we go to any questions, why don't we hear from Tweeti Blancett and then from Bob Gallagher, and then I'll have some questions for each of the panel members, and then we will have some public discussion. Why don't we let them testify.

Ms. BLANCETT. Good morning, Senator Bingaman.

The CHAIRMAN. Good morning.

STATEMENT OF TRECIAFAYE W. BLANCETT, BLANCETT TRUST, BLANCETT RANCHES, SAN JUAN BASIN, NM

Ms. BLANCETT. Welcome to northwestern New Mexico. I'm a member of an eighth-generation ranching family. We've lived on and farmed a ranch along the Animas River for parts of three centuries. We were here in the 1800's, all through the 1900's, and hopefully we'll last throughout the 2000's.

I don't really have to tell you the problems, because our Senator has already told you. He outlined what our problems are, and they're no different than they were a year ago when I went into his office and told him what our concerns are.

I don't have to tell you the problems, because they're documented in the evaluation summary that the Farmington Field Office did. These problems were identified in July 2000, but they were also identified in 1994 and 1998. So these are not new problems that we're talking about, these are old problems. And the problems that we have as grazing permittees, the people that are sitting out in the audience, I see a lot of faces that have exactly the same problems. They don't have a grazing permit, but they have a small land holding. And they have the noise, they have the air, they have the water pollution, they have the erosion. They have the contaminant spills. And we have serious contaminant spills throughout San Juan County.

And a year ago when I went into your office, Senator, I wasn't aware of all the contamination that San Juan County has. But in that year's time, with the media making known our position, there's people that have come to me time and time again and said there's some real serious problems in this area. We have serious contamination problems that are not being addressed and have not been addressed that we need to look at as a community, as an industry, and as a BLM enforcement agency. The mood of the stakeholder, whether you're from the environmental community, whether you're from the grazing community, or whether you're from the oil and gas community, is becoming more confrontational. It is not as convenient to work with inner friction in the situation as it was a year ago.

People are wanting more results, and they're wanting to see something done besides lip service.

I would end my short statements and allow my time to be used for people out in the audience to identify specific problems. But I want to leave you with this thought: Last year alone, San Juan County spent $2.49 billion—$2.49 billion from our county from the

extracting industry. Now, that's very conservative, because I don't have Tribal figures, I don't have private royalty owners, and I don't have the State of New Mexico in that. Those are very conservative.

And my question to you as the public and to you, Senator, from Congress, and to the industry and BLM is if we spent that in one year, why are we having the discussion on where the funds are? We have sent the money in to take care of the problems, the surface problems that we have in San Juan County, and we think that money needs to be reallocated back to San Juan County to fix—and Rio Arriba County, northwestern New Mexico—to fix—and parts of McKinley, too, I understand—to fix the surface damage issues.

Now, I think when you start reallocating the money, you need to lay the blame in the proportion of the people who received it—the Tribes, the private royalty owners, the State receive an eighth. Industry receives seven-eighths. So when we start our reclamation project, maybe we need to allocate the resources in that manner.

Senator, thank you again for coming. Thank you for the audience that's here that's willing to share their concerns with you, and thank you for hearing us and coming and having the opportunity for us to speak. We appreciate that.

The CHAIRMAN. Thank you very much. Mr. Gallagher, we are glad to have you representing the Oil and Gas Association.

STATEMENT OF BOB GALLAGHER, PRESIDENT, NEW MEXICO OIL & GAS ASSOCIATION, SANTA FE, NM

Mr. GALLAGHER. Thank you, Mr. Chairman, it's always a pleasure to be here with you. I don't know if I made you mad, but now you've made me speak after Tweeti, and in all the times that Tweeti and I appear together, I always sound less than stellar when you follow Tweeti. It's a little hard to sound good when you have to follow her. But I appreciate the opportunity, Mr. Chairman.

I am the president of the New Mexico Oil and Gas Association, which is comprised of 275 companies who conduct business in New Mexico. Mr. Chairman, the New Mexico Oil and Gas Association represents the producers that produce 99 percent of all the oil and gas that's produced in New Mexico. We were founded in 1929, and not surprisingly at that time the Association was called the New Mexico Oilman's Protective Association.

Although the name has changed, the challenges facing our industry concerning land access have not. Since our inception a few weeks after the infamous stock market crash in 1929, our industry in New Mexico has pumped more than 4.5 billion barrels of crude oil and 45 trillion cubic feet of natural gas to help America meet its growing needs while New Mexico has become a national leader in the production of oil and gas.

In the San Juan Basin, the oil and gas industry takes concerns, complaints, and conflicts over surface effects of their operations very seriously. The oil and gas industry has had an ongoing program to address the concerns, the complaints, and the conflicts of surface owners, including those holding grazing permits, since the first well was drilled in this basin 80 years ago.

The ongoing and very active program includes road maintenance, reclamation, well and facility site security to protect people and

livestock, remediation of surface effects, studies of areas of special environmental concern, noise abatement, and general operating practices.

There have been more than 32,000 wells drilled in the basin that now provides on a daily basis approximately 7 percent of the Nation's consumption of natural gas. These wells have all been drilled, completed, and are being operated under the applicable BLM Resource Management Plan and the rules and regulations of the New Mexico Oil Conservation Division.

In addition, producers and operators comply with the rules of numerous other agencies, including the U.S. Forest Service, the Bureau of Reclamation, Tribal governments, the Bureau of Indian Affairs, the State Game and Fish Department, and the State Environment Department. In each and every instance, these 32,000 wells must comply with all environmental rules, regulations, and policies of these agencies. If operators fail to meet their obligations under these requirements, they are subject—and should be—to fines, and they must correct their failures.

The oil and gas industry goal is zero incidents of surface impact. We have made, and continue to make, great progress, such as smaller well sites and improved drilling and production technology. This also includes a commitment to working with the citizens of the areas in which we operate to do the right things. We are committed to our environmental obligations and take surface owner and user complaints and conflicts very seriously.

This is evidenced by our work every day, as well as by our commitment to and our efforts in the groups that you mentioned in your opening statements, Mr. Chairman, and that is the BLM industry working group as well as the rancher and industry working group.

We are very proud that together these two groups meet in excess of twelve times a year, with the common purpose of identifying and solving impediments to the multi-use principles that must guide the BLM in their regulatory role.

These groups are very active in access issues, road maintenance, reclamation, reseeding, noise abatement, as well as other areas of mutual concern.

These committees do not rely on op-ed pieces in the newspaper, selected tours of sites, or sound bites, but rather on sound science and common sense to ensure that we can continue to provide the energy needs of our State and our country in an environmental responsible way.

In addition, we are proud that State lawmakers and regulatory agencies in the State have passed industry initiative and supported legislation and regulations that have minimized surface damage and have been specific to the San Juan Basin.

As the old saying goes, "This is not your father's Oldsmobile," nor is this your father's oil and gas industry. Much has changed over the past 80 years, including technology as well as regulatory requirements. Holding the industry hostage to today's standards for deeds that were done years ago in compliance with the laws at that time is not acceptable, nor is it based on sound science or common sense.

Our industry is burdened with complicated regulatory requirements which we are meeting on a daily basis while providing the needed energy for our country, as well as a return on the investments of our owners and stockholders. Expecting to right the wrongs of the past 50 years in a 12-month period is impossible at best and ludicrous at worst. Working with the above-mentioned committees, the industry believes that the establishment of 5-year plans by individual companies for remediation and reclamation of old sites is a practical and measured response to the problem.

Let me quickly move to the Bureau of Land Management and their inspection and enforcement activities in the San Juan Basin. We have a very good professional working relationship with the Farmington Field Office of the BLM, and it generally has increased tenfold under the leadership of Steve Henke, who is the Field Office Manager in Farmington. But the entire State of New Mexico's BLM efforts are hampered by a lack of financial commitment on the part of the national BLM Office. Let me give you some figures to illustrate that.

During the time period from fiscal year 1996 to fiscal year 2001, the Bureau—countrywide, there was a 25 percent increase in funding, while New Mexico's increase during that same time period for oil and gas activities was limited to 11 percent. That's a little over 2 percent a year, not even keeping pace with inflation. At the same time, the budget of the Washington, D.C. National Office of the BLM has increased 175 percent.

Mr. Chairman, I stop at this point to point out my testimony, my written testimony, shows the National Office increased 45 percent. Knowing your demand for accuracy, we double-checked again yesterday to make sure, because that figure sounded high. And, in fact, that figure was low. In that time period, the national office has increased 175 percent.

Those figures: in 1997, the Washington Office of the BLM had a budget of $43.8 million. A short 5 years later, the budget of the Washington Office is $120.4 million. This represents an increase of 175 percent from fiscal year 1997 to fiscal year 2002. Employees have grown from 300 to 500 in the national headquarters of the BLM.

And while Tweeti and the ranchers and the grazing permit holders can't get enough I&E inspectors, the oil and gas industry can't get enough people processing applications and permits to drill and right-of-way permits in order to effectively work.

I have to question how the money can be spent in Washington, D.C., rather than in the field offices throughout New Mexico and the United States. It's hard for me to understand this disparity in funding and its logic.

The industry, Mr. Chairman, does not oppose an increase on I&E as long as it's accompanied by equal increases in the Field Office's ability to process applications to drill and permits. In New Mexico today, there's an average of 90 days wait for the processing of APDs, and our industry cannot maximize the production of natural resources, which is essential to our industry's health, meeting the growing demand for energy, as well as the financial health of cities, counties, and the State of New Mexico.

I would point out, Mr. Chairman, that in On-surface Rule 1 of the BLM, they say that 85 percent of all applications and permits to drill should be processed in 30 days. Our average in New Mexico is 90. I will tell you in the Farmington Field Office it's a little bit lower than 90. Since Mr. Henke arrived, it's been reduced from over 100 to approximately 60. Down in the Carlsbad area, it is still exceeding 100 days.

Moving forward, we will, as an industry, continue to work in coordination with the BLM and the Federal and State government, surface owners, and users to ensure all concerns, complaints, and conflicts are addressed in a timely and responsible manner.

The time has come to put to bed the myth that resource development and the environment are not compatible or diametrically opposed. Our industry has shown that we can and in practice do develop valuable natural resources while protecting the important wildlife and environmental values that exist today. And we're committed to continuing that effort. The taxpayers of our State deserve that commitment as much as they deserve the $1.3 billion the oil and gas industry directly provided to the State of New Mexico this past year.

Mr. Chairman, thank you for the opportunity to provide testimony to you and your committee this morning. I also want to thank you on behalf of our 275 member companies for your leadership and dedication to the passage of a comprehensive national energy policy. Our country now, more than ever, is in dire need of a strategy that will provide the energy our citizens need and will reduce our reliance for that energy from hostile parts of the world.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much. Thank you all very much. Before I start asking a few questions here, let me just say what I should have said right at the beginning of this hearing, and that is to thank the city of Bloomfield, Keith Johnson, who is the mayor—I believe Keith is here, is that right? Thank you very much for letting us use your facilities today. I appreciate the hospitality and all the good work.

And let me also thank Terri Lee, who is the director of the Community Services. Terri is in the back of the room. And Mary Tso, who is the special projects coordinator, who is helping us; is this right?

Ms. TSO. Yes.

The CHAIRMAN.T1 Okay. Thank you all very much for your help.

Mr. Whitley, let me ask you a few questions about the BLM effort here. The figures that I cited in my first comments about the number of inspectors per well here in this Farmington area, are those accurate as you understand it? I mean, do we have that few number of inspectors per well in this area?

Mr. WHITLEY. Yes, Mr. Chairman. It's, 350 is the average nationwide, and it's 1,500 here in the San Juan Basin.

The CHAIRMAN.T1 Does the plan—if it's 350 nationwide, 350 wells per inspector, and it's 1,500 wells per inspector here, how quickly can the BLM under your present budgeting plans remedy that and get our situation here in line with the rest of the country?

Mr. WHITLEY. The numbers we brought on this year will be a huge help. In addition, with the surface protection specialists we'll

bring on next year, that will be additional resources for the field office here.

And there are some other issues related to some technology that we're trying to bring on board in the way of pilot technology to do remote sensing at the well sites that will also help. And that pilot should start here in Farmington in the next couple months, if we get the funding for it.

The CHAIRMAN. Well, I guess my concern, though, is if we add the five people you're talking about adding this year here in this office—and how many would you anticipate adding next year in this office for inspection enforcement?

Mr. WHITLEY. Five.

The CHAIRMAN. Five additional. So that will be ten more people. Does that correct the imbalance? Does that get us up to one inspector per 350 wells in this area?

Mr. WHITLEY. No. I believe it gets us to 500.

The CHAIRMAN. But that does get us to 500, one inspector for 500?

Mr. WHITLEY. For 500 wells, that's correct.

The CHAIRMAN. So by the end of next fiscal year—so that would be a year from this—from the first of October, essentially——

Mr. WHITLEY. Right.

The CHAIRMAN [continuing]. You're saying that we would be to where we'd have one inspector for 500 wells.

You say in your testimony here that the inspectors identify noncompliance—when they identify noncompliance, they initiate enforcement actions. Can you tell me how many enforcement actions have been initiated by inspectors here in the San Juan County and this area in the last year, for example?

Mr. WHITLEY. Mr. Chairman, I'd like Steve Henke, the field office manager from Farmington, to answer that question for you. He'd have that.

The CHAIRMAN. That would be fine. Steve, come right ahead. Come on and join us.

Mr. HENKE. Thank you. I believe we issued close to 700 incidents of noncompliance last year, and that does not include situations where we found areas of concern where we handled it with a telephone call or a verbal warning. But those were the actual written notices of noncompliance that were issued.

The CHAIRMAN. And going on with Mr. Whitley's testimony, it says the BLM has authorized a number of enforcement tools to ensure compliance. You can issue a notice of violation, you can impose assessments or civil penalties, you can order a shutdown of operations, and possible lease cancellation. Could you give me some indication of what—which of those various tools actually are being used, or have been used in the last year? Is it just the issuance of something, or do you actually impose penalties, fines, civil penalties?

Mr. HENKE. It follows the whole range that you identified, Mr. Chairman. We start with the lowest level, and that would be a verbal contact and request for action. And that would escalate to written notification, fining, and ultimately if there's noncompliance, to cancellation of the lease or suspension of operations. I believe

last year we only went to the highest level of suspension on one lease.

The CHAIRMAN. I indicated earlier when I made my comments that I had this meeting with Kathleen Clarke, the head of the BLM. I guess she is your boss, is she not, Mr. Whitley?

Mr. WHITLEY. Yes.

The CHAIRMAN. She indicated that Assistant Secretary Watson intends to announce some additional policies with regard to surface owner rights. Can you give us any information as to what is contemplated there or what we could expect there, the timing or any of it?

Mr. WHITLEY. No, Mr. Chairman, other than knowing that they're working on some new guidelines in that regard, I don't have any detailed information.

The CHAIRMAN. Have you had a chance to provide input to the national office as to the development of these?

Mr. WHITLEY. No.

The CHAIRMAN. And Mr. Henke, have you?

Mr. HENKE. I have not. The national office is aware of what we're doing in Farmington and in our working groups in our committee. We have agreed to move towards consultation on on-site development, where we bring in not only the surface owner, where we have private surface and Federal mineral estate, but also the grazing permittees on the BLM land to assist us in siting of wells and roads in a manner that's least impacting to the grazing operation. And that's something we have implemented in the last 3 or 4 months.

The CHAIRMAN. So you have a committee that assists with this, is that right? Does this relate to the individual land owner, surface owner that is involved here, the lessee? I'm not clear if you have a general committee that is setting up these procedures or if the person who owns the surface is called in to participate. How is that done?

Mr. HENKE. Mr. Chairman, we had a recommendation from the rancher/oil and gas/BLM working group to improve the communication on the ground for the siting of well locations and access roads. And we've begun implementation of that, when we have an application for a permit to drill, whether it's on private surface or BLM surface to invite that grazing permittee, that land owner, to that site visit to have input into the siting of that well. And I hope that answers your question.

The CHAIRMAN. Yes, I think that does help. You also have a Roads Management Committee, which I understand consists of a committee of agency staff and oil and gas lessees. That committee raises funds from certain lessees and certain areas to maintain collector roads. Can you tell us how that functions? There is an area, Hart Canyon Unit, that we have heard particular complaints on. What are the percentage of roads needing restoration that the committee is working on? Any information you can give us on that I would appreciate.

Mr. HENKE. The Roads Management Committee has taken a look basin-wide at the roads issue. We've developed a cooperative agreement among all the oil and gas operators in the basin and the Bureau of Land Management. We've divided the basin up into 13 road

management units, of which the Hart Canyon is one of the 13. Assessments for road maintenance are based upon a percentage of ownership of wells in those 13 units, and the BLM contributes to that road maintenance agreement.

We anticipate spending approximately—collectively approximately $600,000 annually to bring our roads up to standards. We've invited representatives from the land owner/ranching community to work with those individual 13 road superintendents to provide input into the priorities for the road maintenance in those 13 units.

Obviously, we've got to have the buses running, people have to access their private lands. There may be issues beyond oil and gas access that we need to consider as we maintain roads. So again, we've tried to make that connection with the folks living and working and owning property out on the ground with the oil and gas operations in the BLM, to agree upon priorities for road maintenance.

The CHAIRMAN. Let me ask you to return just a minute to this issue of the number of staff we are going to have per well. Mr. Henke, do you agree that we are expected to have enough people in play here on inspection and enforcement by the end of next fiscal year to get to this 500 wells per inspector?

Mr. HENKE. Mr. Chairman, I went into natural resources because I couldn't do the math to go into engineering. I think the ratio is pretty close. Certainly the trend is up. I don't have the exact figures, but, you know, our intent is to meet the national strategy on our oil and gas inspection program.

The CHAIRMAN. So we are going to get to a point here fairly soon where we are not that greatly disadvantaged relative to the rest of the country as far as the staffing that we have?

Mr. HENKE. The trend is absolutely in a positive direction with regard to that ratio.

The CHAIRMAN. Okay. And Mr. Gallagher was also concerned about the need for people to assist with the issuance of permits. Is that part of what the increased staffing is going to address or not?

Mr. HENKE. That's part of our package for additional funding as we go into fiscal year 2003, that part of that additional capability would go towards the permitting and surface compliance part of actual APD processing and completion.

The CHAIRMAN. Let me ask about another part of this report, this technical performance review that the BLM did itself. It indicated that there was—I think the word they used was "huge," a huge problem with no user validation of data entries into the inspection recordkeeping system known as AFMSS. This technical performance review found, and I quote, "The AFMSS data is so corrupted and inadequate that it is recommended that all inspections except those critical be suspended to allow for I&E personnel to perform data cleanup, file verification, and data entry." Is this something that has been done and been corrected?

I guess this report was done in the year 2000, we are now halfway through 2002. Has this problem been fixed? Mr. Whitley, do you have a view on that?

Mr. WHITLEY. Yes. We've hired two additional positions that are working on the data entry and data cleanup and the movement of the data from the old system to this new Atlas system.

The CHAIRMAN. Okay. Let me ask a couple of the other witnesses here a few of these questions.

Tweeti, thank you for being here. There's a lot obviously that you believe needs to be addressed in order to get this problem under control. If you had to identify a couple of first steps that you think need to be taken that haven't yet been taken—you've heard some of the things that are ongoing that Mr. Henke has tried to implement since he has arrived here, but if there were a couple of things that you think are first steps that need to be given highest priority by the BLM, what would those be?

Ms. BLANCETT. Mr. Chairman, I along with the other panel members want to congratulate Steve Henke on the job that he's attempting to do. It's very difficult to walk into a situation that, as Bob Gallagher said, is 50 years in the making, and correct it overnight.

But the industry that we have in San Juan County has not had to comply for a long time. And as a result, there's many issues that we're at odds on. And I think probably the one that's the most evident is the reseeding and the lack of reseeding and establishment of forage. If we do not have forage for livestock grazing, we do not have it for wildlife, we don't have it for our environment. It contributes—the lack of forage also contributes to our watershed problems, to our contamination migration from well sites and roads and pipelines to other parts of the environment. The reseeding has been not ignored, but it has certainly taken second place to anything else.

The second thing is—you asked me for two. The second thing that I would suggest is to bring the roads into compliance. Because the network of roads throughout the entire Farmington District—and I need to tell you that our ranch is 75 sections, which is larger than all of D.C. But San Juan County is about the same size as Connecticut. So you're talking about a pretty large land mass that has been pretty badly abused.

So the roads and the reseeding are the two things that would work towards restoring the overall environment, and these are the two things that I think have been neglected the worst.

The CHAIRMAN. Okay. Thank you very much. Let me ask Bob Gallagher: I understand there are some 5-year plans that some of the larger oil and gas companies are developing to try to restore some of the oil sites that exist here in the San Juan Basin. Could you give us any information about those 5-year plans?

Mr. GALLAGHER. Mr. Chairman, we've had several of our companies, not only large but small independent companies as well, begin to want to aggressively address the concerns that Tweeti and some of the ranching and user groups have raised. And knowing that we can't do it overnight, knowing that it's not possible to do, some of our companies have produced 5-year plans.

And the 5-year plans are very specific to the problems of the past. And not 5-year plans for how they're going to continue to develop the basin, because they are at work on those. But this 5-year plan is how would we address the problems that have been raised

by the citizens that have occurred maybe when you built a road to a location 30 years ago. Obviously over the last 20 years there probably has been erosion, there's no doubt about that. And that road would not be up to today's standards, even though 30 years ago when they built it, it was up to those standards.

So our companies are beginning to say listen, we need to address this, we need to address it in a very structured and timely way. But in order to ensure that they're able to do their job in the next several years developing natural resources and at the same time go back and address these problems, that's what we're beginning to see.

And Mr. Chairman, I can assure you we are encouraging companies to continue to do that. Because I think—Tweeti and I disagree on a lot of things, but we also agree on a lot of things. And I think one of those is it can't be done in 12 months. But it can't be ignored tomorrow. And I think that that's the common ground that we have found and that we're pursuing, the industry, is to continue to address on a day-to-day basis and hopefully in that 5-year plan to have gone back and address that.

The two biggest issues on those plans are exactly what Tweeti mentioned, is the reseeding and on the roads. And I think they're being worked on as we speak today, Mr. Chairman. I'm not going to tell you that the Hart Canyon area, for instance, we're going to wait for 4 years. As they come up, we continue to work on them.

The CHAIRMAN. Let me ask, is there an effort in any of this planned development to get some of the grazing lessees, some of the ranchers involved in that so they have some say as to where you set the priorities and how you proceed?

Mr. GALLAGHER. Mr. Chairman, the answer is yes. The rancher/industry/BLM group that meets several times a quarter, we have gotten that input from that group. In addition, the BLM and industry group has met. At the last meeting the president of the Ranchers Association group was there and said that he believes that progress is being made in those areas. But we very definitely are developing the 5-year plans because of input by the grazing permittees and those users. We are not developing those sitting in an office and not listening to those concerns.

The CHAIRMAN. Well, thank you very much. Why don't we go ahead and allow some public input here. We have got another 10 minutes to go on this. I think we have a place we can have the public use this microphone. Can we move this out there where people could get it?

Let me just ask folks to come up here and take about 2 minutes each. As I understand it, Terri has a sign-up sheet that she is bringing up to the podium to sort of try to indicate the order in which people will speak. Oh, here it is, I see. Okay. Alan Rolston, is that right?

Mr. ROLSTON. Yes.

The CHAIRMAN. Alan, why don't you come ahead and why don't you take this mike.

STATEMENT OF ALAN ROLSTON, SAN JUAN SYSTEMS

Mr. ROLSTON. Thank you, Mr. Chairman, for the opportunity to speak and thank you for the personal attention you devoted to this

area. I appreciate that. My name is Alan Rolston, I work for San Juan Systems Lands out of Durango, and I work in the whole basin on oil and gas issues. And I just want to address one particular issue I think we've already touched.

The CHAIRMAN. If you might just hold that microphone so that everybody in the back can hear you? I think that they are having trouble hearing you.

Mr. ROLSTON. I'm very happy to see that you're familiar with the inspection report about the lack of compliance personnel in the Farmington Field Office. I think that's a major problem. And I think that Steve is working towards that, and also Rich. And I appreciate that. When I first came down here a year ago, I looked at many well sites, and I strongly disagree with Mr. Gallagher about the environmental stewardship of the companies. We have different—an opposing viewpoint on that.

I've seen at least two wells that there's been discharges of flourishing wells that are violations of the Clean Water Act, I've seen——

REPORTER. Wait, wait. I'm sorry, could you please slow down and speak clearly?

Mr. ROLSTON. Okay.

The CHAIRMAN. She's trying to take all this down, it's part of our——

REPORTER. I'm sorry.

Mr. ROLSTON. I'm trying to get all this in in 2 minutes. So anyway, I've seen all these violations, and I—you know, I think Mr. Gallagher has gone through a few, and he can show us some of these places. But I do appreciate that we're trying to move forward.

I urge you to make sure that the Senate and the House properly fund the BLM for this. I talked to Kathleen Clarke. The BLM gets about $3 per acre of land that they manage, compared to the Forest Service around $7.50 an acre. And so I think to do this job right and to get enough compliance people out in the field to make sure the companies are going to practice environmental stewardship and follow the rules and regulations that are in place, we have to have the budget and the amount of money to do that. Thank you.

The CHAIRMAN. Thank you very much. Next would be Brooks Taylor.

STATEMENT OF B. BROOKS TAYLOR, M.D., MPH, LA PLATA COUNTY, CO

Dr. TAYLOR. Senator, panelists and guests: My name is Brooks Taylor, I'm a resident of La Plata County, Colorado. I'm a surface owner, but more importantly I'm a surface dweller, and it's on behalf of the surface dwellers that I'm going to speak. That would include not only most of the people in this room, but the guys drinking coffee over on the highway and the kids who just got out of school yesterday over at the elementary.

There's a persistent notion that methane gas is a source of clean energy. And this may be true relative to other energy sources at the point of use, at the time of use. However, if we look at methane exploitation, exploration, transportation and use, in its totality it's not clean, it is not environmentally neutral. This is certainly the case with its effects on air quality, and subsequently on the per-

sonal health of the residents and the surface dwellers in this part of the country.

Recently publicized data on air quality and the deterioration of air quality in the Four Corners highlights several very disturbing trends. Among these are increasing levels of ambient ozone in San Juan County—ozone is a pulmonary toxin; the so-called hot spots of oxides of nitrogen in La Plata County, Colorado; diminished visibility at Mesa Verde National Park; and the ranking of Rio Arriba County to our east as among the Nation's worst in air quality. These indicators, which are occurring in what is customarily considered to be a rural part of the Nation, run counter to national trends of improving air quality.

Over the past few months, a subcommittee of the San Juan Citizens Alliance has tried to look carefully at these issues and their relationship to the expanding oil and gas industrialization. We have found that perhaps as much as a third of the air pollutant burden is contributed by this so-called clean industry.

We have found that regulation of the industry's pollution, because it targets only sources of certain sizes and as single entities in the permitting systems, artificially minimizes the apparent contribution to air pollution. We have found that regulation is moreover rudimentary, haphazard, and uncoordinated, and there's no single entity where all aspects of regional air quality are systematically reviewed.

I have three recommendations. We strongly recommend that all relevant air monitoring data be analyzed at a central point, and Federal, State, and Tribal agencies be charged to coordinate their efforts and to mutually share their findings regarding air quality.

Secondly, it's urged that any expansion of oil and gas exploration be preceded by systematic study and forecasting of impact on regional air quality.

And thirdly, it's recommended that the USEPA be charged to establish at least two comprehensive air monitoring stations integrated into their national network to further follow—to follow the further degradation, or hopefully improvement, of regional air quality.

We appreciate your attention and interest.

The CHAIRMAN. Thank you very much. We are just going to have time for a couple more statements here, and then after that we will have people just go ahead and provide their statements for the record.

But let me ask the next person to come forward. Lucille Ulibarri? Is Lucille here?

Ms. ULIBARRI. Yes, I am.

The CHAIRMAN. Please come up.

STATEMENT OF LUCILLE ULIBARRI, BLANCO, NM

Ms. ULIBARRI. I'm old, Senator Bingaman. I am Lucille Ulibarri. I live in the Blanco area. My complaint is my—I'll start from the beginning. My dad 80 years ago homesteaded in the Pump Canyon area. I own two sections of land. It's between two hills and is in a valley. The roads—my biggest issue is the roads that go through this—through my land is—I mean, it's a freeway. I mean 30—20, 30 vehicles a day. That includes rigs or service trucks or whatever.

I have tried to get together with Burlington, and they tell me there is nothing they can do to help me out. I have suggested that I work with them, and they have ignored me. And I am very much upset about this. I'm 80 years old and I'd like to see something done for inspection. Thank you.

The CHAIRMAN. Thank you very much. We have—Linn Blancett is here? Please come right ahead.

STATEMENT OF LINN BLANCETT, SAN JUAN BASIN, NM

Mr. BLANCETT. Senator, thank you for your time. I am pleased with your grasp of the problem that we have here. Again, I appreciate what Steve Henke's trying to do. I'm a member of the working committee. I would remind everyone that the surface is not a rancher permittee problem only, although many ranchers have had serious AUM unit cuts, and you can directly relate it back to the loss of forage.

Now, our committee is working, and we are striving to change things. But a problem that we have is industry's attitude towards the grazing permittee and the process that we're going through. At the present time, I know of one animal for certain that was hit by a water truck, possibly another one of mine, but I'm here today, I haven't been able to go look and see. It's an attitude that we are causing enforcement of the rules and regulations that are existing and have not been met.

With that, I would remind you, as it was mentioned earlier, of the amount of money that is generated here in this county. And it needs to come back in some form from the BLM to help protect the surface where the money was generated. Thank you.

The CHAIRMAN. Thank you very much. Let's try to get two additional folks given a chance here. Jacob Hartlell?

Mr. HOTTELL. Hottell.

The CHAIRMAN. Excuse me?

Mr. HOTTELL. Hottell.

The CHAIRMAN. Hottell, excuse me. Please go right ahead.

STATEMENT OF JACOB HOTTELL, CHAIRMAN, CLEAN WATER COALITION

Mr. HOTTELL. Thank you, Senator. Good morning, Senator Bingaman, panels and guests. My name is Jacob Hottell, chairman of the Clean Water Coalition.

I appreciate Mr. Henke, Frank Chavez, Laurie Rodenbury, OCD. I appreciate the people that are trying to keep this thing under control. I think we're starting to get a little grasp of what the magnitude of this is.

The numbers and figures and dialogue here this morning are pretty overwhelming. It is absolutely overwhelming. Can we comprehend the magnitude of the wealth that this industry is taking in? The question to be addressed is how much of our quality of life are we willing to sacrifice for your children, my children, our grandchildren, and the future of our society?

Mr. Bingaman, we appreciate what you're doing to help America and the people salvage some sanity in these times of confusion. I love America, I'm fortunate to be born into America, America the Beautiful. I've been blessed from the time of the beginning of my

life. I was born and raised on the Animas River, and I don't know how a person could be more blessed. And I realize there are those who are much less fortunate than I.

Senator Bingaman, I see us as a society of junkies. We're so addicted to hydrocarbon energy, we'll do just about anything. We'll sacrifice our rivers, our lakes, our springs. And worst of all, we're reinjecting the waste right into our aquifers and our water tables.

In 1988, we found there was a shallow injection well at Bondad, Colorado. They were injecting at 800 feet. Sir, that is unbelievable. We questioned the ability of Colorado OTC and the New Mexico OCD to actually regulate and control all this madness that's going on around us. If Colorado OTC would permit an injection well at 800 feet, I just can't comprehend this type of engineering.

I don't know if you recall, but we had some correspondence a few weeks ago pertaining to the Florida River, the direct discharge into the Florida River. Well, if it hadn't been for concerned citizens and organizations like San Juan Citizens Alliance and Alan and us and the Southern Ute Tribe, I suppose it would have been permitted.

But with the threat of lawsuits and so forth, Colorado OTC, they rescinded this permit into the Florida River. I'm very thankful for that.

I'll cut this short because of lack of time. We need emergency action by Congress and the Senate for alternative energy resource and development. There is no doubt about it. If you look at our world's condition, the magnitude of wealth that's going into oil and gas, there should be no problem with that, they shouldn't object whatsoever.

We have fuel cell energy, solar cell, and all these energies that absolutely have got to have some attention, and the State of New Mexico should be the leader in this development.

Coal bed methane development has been an absolute travesty. I have personally witnessed in my farm the migration of methane gas around the Cedar Hill area and all the Animas River Valley, we've seen methane gas migrate into water wells. Methane gas carries other dangerous pollutants.

I think that coal bed methane development has been a real serious impact on the future of this community. It's wrecking the water tables. The disposal to produce water is a nightmare. By some observations here in the county, you can see that we have to inject it, they have to evaporate in evaporative ponds. And the cleaning up of dirty methane gas is costly. We don't think that coal bed methane development would be practical without government subsidies.

Thank you, sir, for coming down here.

The CHAIRMAN. Thank you. I think in light of the time, we are going to have to cut it off at this point. We have got several others who have signed our sheet indicating a desire to give us input on this issue, and I would just urge each of these, and anyone else in the audience that wants to have a statement included for us to consider in the record, to contact John, my staff, during this break we are going to have here for the next 10 or 15 minutes, or mail it to us at the Senate Energy and Natural Resources Committee.

But any of you who have a desire to have your statement, if you want the equivalent of a couple of minutes of testimony included, we are glad to include that.

Again, let me thank the witnesses that we have had this morning. I think this has been useful in getting some of the issued out on the table for folks to think about. Obviously, there is some progress being made. It does not sound to me as though it's adequate progress to satisfy all the concerns that have been raised, and there is undoubtedly more we can try to do in Washington to get the resources to the local office here so that they can do all that is required under law to implement these inspections and enforcement actions as necessary.

We also—frankly, I am also very hopeful that this initiative that is apparently going on in the Washington headquarters for the BLM will prove beneficial and will give us some new direction and some new priority on solving some of these conflicts between the subsurface and surface owners.

Thank you all very much. Let's conclude this hearing right now. And then we will start up with the hearing that we are going to do on the royalty owners in about 15 minutes. Thank you.

[Whereupon, at 10:30 a.m. the hearing was adjourned.]

COMPUTER PROBLEMS AFFECTING MMS PAYMENTS IN NEW MEXICO

FRIDAY, MAY 31, 2002

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Bloomfield, NM.

The committee met, pursuant to notice, at 10:45 a.m. in The Bloomfield Cultural Complex, 333 South First Street, Bloomfield, New Mexico, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. Okay. Why don't we start up again. This hearing is another hearing of the Energy and Natural Resources Committee. And here we are examining the attempts to remedy the computer problems caused by the Department of the Interior's computer system shutdown on December 6, 2001.

This is affecting the Mineral Management Services payments to individual Indian allottees in New Mexico. This disorder caused by the shutdown and the lack of information about what's happening here has become a major problem for a lot of the allottees in this part of our State, especially.

I invited the Department of the Interior to testify at the hearing today to explain what's happening with the royalty payments that are owed to thousands of Navajos for oil and gas leases on their allotments.

There are many rumors and there is a lot of confusion out there about the shutdown, about estimated payments, about how these accounts are being reconciled now that the Mineral Management Service computer system is functional again.

In addition, I am sure that many people here would like to know exactly what the royalty payments—when these royalty payments will be issued in accordance with the normal payment schedule that people have expected.

I would like to hear from the Departments first and have them give their views, and then hear from Navajo Nation officials and individual allottees about their view of the situation, and then I will have some questions.

And then what we will do is to once again have an opportunity for members of the public who are not on the witness panel to make their statements. And we would ask that they do that in a couple of minutes each.

Let me acknowledge Pete Valencia, who is here representing Congressman Tom Udall. Pete, where are you? There he is.

Mr. VALENCIA. Thanks, Senator.

The CHAIRMAN. Give Pete a hand. We appreciate him attending today and the interest he is showing in this issue. Let me go ahead with our witnesses here. Let me get the—be sure I have the full list here. First is Mr. Douglas Lords, who is the Director of the Office of Trust Funds Management with the Department of the Interior, Office of Special Trustee.

Following him is Mr. Edward Begay, who is speaker of the Navajo Nation Council. Next is Mr. Arvin Trujillo, chief of staff for the Navajo Nation, and then Mr. Calvert Garcia, who is the president of the Nageezi Chapter of the Navajo Nation of Nageezi. We very much appreciate all of them being here.

Mr. Lords, why don't you start. Let's give them a hand here. They deserve a hand. Okay, let us start with Mr. Lords, and we will just try to get this microphone over to you and have you each testify. And then after all of you have completed your testimony, I will ask some questions.

STATEMENT OF DOUGLAS LORDS, DIRECTOR OF OFFICE OF TRUST FUNDS MANAGEMENT, DEPARTMENT OF THE INTERIOR, OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Mr. LORDS. Good morning, Mr. Chairman, and thank you. Prior to giving my oral testimony, I'd like to introduce two representatives, one from the Bureau of Indian Affairs, and one with Minerals Management Service. They will be here to also help and assist in addressing questions. From Minerals Management Service we have Katherine Martinez, and from the Bureau of Indian Affairs, we have Steve Graham.

Mr. Chairman, thank you for inviting the Department to testify today. My name is Doug Lords, I'm the Director of the Office of Trust Funds Management, OTFM, and the Office of Special Trustee for American Indians. I've held the position of Director since October 2001.

As Director of the Office of Trust Funds Management, I report to the Principal Deputy Special Trustee, Office of Special Trustee for American Indians.

The divisions of Trust Fund Services, Trust Fund Accounting, Quality Assurance, Trust Fund Systems, Reports and Reconciliation, and Field Operations assist me in the execution of OTFM programs. The Office of Trust Funds Management is head-quartered in Albuquerque, New Mexico.

As director, I'm responsible for supervising and managing the day-to-day trust operations of approximately $3.2 billion held in trust for approximately 250,000 individuals and over 300 Tribes.

An example of one of the trust resources is oil and gas royalty collection on Indian land. Based on my experience as Director, it's my understanding that the processing of oil and gas royalties generally involves five governmental entities that transmit information to and from one another. The five governmental entities are Treasury, Minerals Management Service, Bureau of Indian Affairs, National Business Center in Denver, and the Office of Trust Funds Management.

It also primarily involves three nongovernmental entities: The oil and gas producers, system contractors, and the account holders. There are variances in the processes.

The processing of oil and gas royalties for Indian tribes and individuals is initiated when the Minerals Management Service deposits producers' funds with Treasury. The following day, Minerals Management Service notifies the Office of Trust Funds Management of the deposit. The Office of Trust Funds Management then records the Minerals Management Service deposit in a holding account and invests the funds.

The Minerals Management Service sends a distribution file through the National Business Center mainframe to the Bureau of Indian Affairs. The Bureau of Indian Affairs processes the files and sends the output to the Office of Trust Funds Management.

In the normal course of business, this results in an oil and gas credit being recorded in the beneficiary's account. A check or direct deposit payment may be generated, depending on the account restrictions and/or disbursement instructions for the accounts.

The office of Trust Funds Management relies on Minerals Management Service to verify that the correct amount was sent and collected and on the Bureau of Indian Affairs to verify that the distribution file generated by the Bureau of Indian Affairs accurately reflects the correct beneficiary credit. Some Tribes receive payments from producers directly via lock box arrangements with banks. In these cases, Minerals Management Service collects and processes the royalty reports.

This concludes my prepared statement. I'm happy to answer any questions the committee may have.

Mr. BINGAMAN. Why don't you go right ahead, Ed, with your testimony.

STATEMENT OF EDWARD T. BEGAY, SPEAKER, NAVAJO NATION COUNCIL

Mr. BEGAY. Thank you, Senator and Chairman, and also the staff that is accompanying you to get information from the field, and especially the State of New Mexico.

I'd like to thank you for allowing the Navajo Nation this time to provide comments regarding the ongoing effort to resume payments of Individual Indian Monies to account holders.

The Department of the Interior relies on the Internet to exchange information to create payments and has caused considerable hardship for many. Late last year, the Navajo Nation was informed that IIM payments could not be processed because U.S. District Judge Royce Lamberth ordered the trust system taken off the Internet until DOI installed the necessary safeguards. We were told that Interior Secretary Gale Norton took the entire DOI off line, effectively freezing payments to individual Indian trust beneficiaries.

On January 20, I attended a day-long meeting in Nageezi, New Mexico, with allottees whose IIM payments were affected by the DOI's Internet shutdown. I heard from elders who had not received any income for 3 months. Many of them relied solely upon IIM payments to pay for their homes and automobiles and were being threatened with evictions and repossessions.

While these hardships were imposed by DOI's stoppage of IIM account checks, the Navajo Nation could not, as a sovereign Indian Nation, simply ignore the suffering of the Navajo allottees.

I assured the allottees that I would make every effort to use my authority and responsibilities vested in me by the Council to move forward legislation that would provide some financial assistance to Navajo elders affected by the freeze.

Subsequently, on January 28, during the Navajo Nation Council's Winter Session, I sponsored a resolution that appropriated $534,276 from the Navajo Nation's undesignated unreserved funds to provide financial assistance to IIM account holders. The Council acted compassionately and passed the Resolution, which is attached to my written statement,* to help those account holders who were in dire straits.

It is not a common practice for the Navajo Nation to assume the Federal Government's fiduciary responsibilities. The Navajo Nation must not be placed in a similar situation by its trustee, the Department of the Interior, in the future. The Council's action was intended to be a one-time emergency appropriation for those that were suffering financially as a result of the payment stoppage.

As many of you on the Senate Committee on Energy and Natural Resources already know, the Navajo Nation has limited resources. There are many needs, such as scholarships and veterans' services, that go unmet every year. I believe the Federal Government has a responsibility to reimburse the Navajo Nation Government for the emergency allocation it made to IIM account holders.

The Navajo Nation does support trust fund management reform, as well as the larger issue of trust asset management reform. The experience of Navajo allottees and the interruption of their IIM payments highlights the need for such a reform. The Navajo Nation supports the continued and improved provision of trust fund management to IIM account holders. The narrow reliance by the Department of the Interior on the Internet as the sole mechanism for the transmission of information necessary to the calculation and processing of the income of IIM account holders without back-up contingency is but another example of the gross failure of the DOI to meet its trust fund management responsibilities.

It is my hope that by bringing these issues forward to this committee that the DOI will be moved to respond quickly and resolve the problems surrounding the provision of IIM payments to account holders. Because a lot of account holders are—have been informed, and they are here in the audience. If they have—if they only had the time, I'm sure they'd have a story to tell you. But due to the limited time, this is what I'd like to pass on on their behalf, as I understood from them, from the previous meeting.

Thank you.

The CHAIRMAN. Thank you very much. Go ahead, Mr. Trujillo.

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* Retained in committee files.

STATEMENT OF ARVIN TRUJILLO, CHIEF OF STAFF FOR THE NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT

Mr. TRUJILLO. Thank you, Senator, again, the public, your staff. Real quickly let me introduce myself to the folks out there.

[Mr. Trujillo speaks in Navajo.]

Again, this morning, Senator, the Navajo Nation thanks the Senate Energy Committee for holding this hearing near the Navajo Nation concerning the suspension of royalty payments to Navajo allottees. And also we thank the committee for allowing the Navajo Nation to present its concerns this morning.

My name is Arvin Trujillo, and I serve as chief of staff for the Navajo Nation Office of the President and Vice President. I extend to you greetings on behalf of President Kelsey Begay and the great Navajo Nation. President Begay had some other engagements to attend to with the Hopi Tribe this morning. Therefore, he asked me to come and represent him this morning.

Again, we thank you for bringing this issue to the forefront, but most importantly, to bring it to the attention of the Federal officials, as well as your colleagues on the Hill. And again, the President wanted me to express his thanks to you.

Over the past few months, the Navajo Nation has been working with the BIA, the Minerals Management Service, the Office of Trust Funds Management, and other responsible agencies to try to find a workable solution to the present suspension of royalty payment checks to the Navajo allottees. The Navajo Nation knows that these Navajo allottees are the most affected due to the stipulations placed on the Federal Government by Judge Lamberth in the Cobell versus Norton court case.

The Nation understands the reasoning behind this suspension but finds that the allottees are bearing the burden for the Department of the Interior's failure to live up to its trust responsibility. Moreover, these Navajo families are being punished for the Federal Government's inability to govern Indian statutory mandates and manage fundamental government functions. To have our Navajo people undergo such hardships is not acceptable.

As time continues to move forward, many allottees are caught in circumstances where they do not have the income to address their basic financial needs. These individuals are being threatened with foreclosures and liens and basic household needs not being met, because the royalty funds are part of their families' basic income stream.

The agencies' responsibilities must be to resolve the payment suspension in order to resume the rightful gas and oil trust payments to these allottees. Part of the trust responsibility is to create a more convenient process to improve the payment delivery, but these improvements must not jeopardize the timely delivery of these royalty payments. The impact of these delays could ruin credit ratings and future financial opportunities for these individuals.

The Navajo Nation itself took some drastic steps to make up for the financial irresponsibility of the Federal Government by providing small discrepancy grants to the most economically affected allottees. This was done to help ease the immediate financial concerns.

In January, as the Speaker noted, the Navajo Nation appropriated from its general funds account $534,000 to provide one-time grants to eligible allottees.

Unfortunately, the families—unfortunately, the families haven't really taken advantage of these grants. They falsely believe if they accept this grant—if they accept this grant, this income would affect their eligibility status, which would result in their not qualifying for other social services programs.

This has resulted in confusion and resulted in unnecessary hardships by a direct result of the suspension of the payments to the allottees. Until the issue is resolved, the Government has noted that this grant will remain in place. An audit will be conducted once the payments are resumed, and the Navajo Nation will be requesting a fund of the expended amount. And in the interim, your support in this effort will be most appreciated.

As the Speaker knows, in January there was a meeting. The Division of Social Services, under the direction of Miss Belone, put forth a tremendous effort to identify assistance for these allottees. And again, that process continues.

In summary, the Navajo Nation has availed itself to provide assistance. But, unfortunately, the Navajo allottees haven't taken advantage of the grants and services provided at this point in time because the royalty checks were believed to be in process and would be delivered. But we are finding that that is not the case right now.

From our point of view, these families find themselves back at square one with the suspension of their payments and the inability to gain access to these funds.

The Navajo Nation recommends the following to answer the needs of these allottees.

One, provide average annual royalty payments to be used for estimated payments until such time a fully functional computer system is operational. This would resolve the immediate problem.

Two, provide for effective and efficient communication and cooperation between Minerals Revenue Management, the BIA, and the Office of Trust Funds Management to solve the accounting and deposit information problems.

Three, resolve the royalty distribution and identification problems under the Mescal Settlement for individual owners.

Four, resolve the computer system "rejections" apparently caused by errors on the forms submitted for processing. These systematic technical errors have slowed the oil and gas royalty payment processing with the Minerals Revenue Management System.

Five, place the rejections issue at a high priority.

Six, review the time it takes to process the royalty check payments and reduce the time between actual payments and distribution of checks.

Most importantly, number seven, provide for a more effective—a more effective method of communication between the agencies and those individuals affected. Allow for assistance and timely answers to urgent questions. We have also found that several allottees have noted that the explanation of payments, determining what is being paid out and how, is either very confusing or not even given at this point. And also the uncertainty of these pay-

ments must be resolved so that reliable timetables can be communicated to these individuals. The idea that the check is in the mail is just not sufficient any more.

The Navajo Nation continues to assist affected Navajo allottees as best we can. The most persistent call for service at this point in time is to devise a process to pay the allottees their royalty payments as soon as possible. Once this is achieved, then a more efficient, dependable, and reliable system of royalty check payment processing should be put in place, a system that will provide timely payments but would also anticipate circumstances that are happening now, so similar type payment suspensions do not happen again.

Once again, thank you for your attention in this matter.

The CHAIRMAN. Thank you very much. Mr. Garcia, please go ahead.

STATEMENT OF CALVERT GARCIA, PRESIDENT, NAGEEZI CHAPTER, DISTRICT 19, NUMBER 92, NAGEEZI, NM

Mr. GARCIA. Thank you, Senator. On behalf of Navajo allottees and as a chapter president of the Nageezi, I would also like to thank Mr. Wilson Ray, our chapter president, who has been very instrumental in getting these concerns and issues addressed to you, Senator. And on behalf of your staff and the people out here and the Navajo Nation, I'd like to thank you. I will just go ahead and read a statement that we have prepared.

The Navajo allottees and the Nageezi Committee are deeply concerned and disappointed that individual Indian monies have not been adjudicated since the computer shutdown on December 6, 2001. The Department of the Interior, through the Bureau of Indian Affairs, has mismanaged billions of dollars through royalty payments of the Navajos, also known as Individual Indian Monies.

What will make the Bureau of Indian Affairs to account for all missing funds and return it to the rightful owners?

It was over a century ago that the United States obligated to have the trust responsibility to ensure the Native Americans protection and management of their affairs.

Most of our elderly rely on this income to meet their basic living needs and to care for their livestock. This income is deeply needed by our community to supplement what income they have, if any, in that the majority of our people are way below poverty income guidelines.

A great percentage of our Indian allottees have not received or resumed any royalty payment proceeds since the shutdown, which created critical financial hardship. Some resorted to selling their personal possessions, livestock, or other items of value.

On May 3, 2002, the Navajo allottees conducted a meeting with Minerals Management Service from Denver, Colorado, Office of Trust Indian Fund Management in Albuquerque, Bureau of Indian Affairs of Gallup, and Farmington at Indian Minerals Office of—Indian Minerals Office of Farmington. It was evident at that time that some oil companies were not making payments to MMS on Indian land for production and leases. Minerals Management Service personnel confirmed the discrepancies, which resulted in nonpayment to Navajo allottees. And this is still current, ongoing, has not resumed any of their production and lease payments.

Speaking on behalf of Navajo allottees, there are numerous problems with the current program operation on Indian Trust Management operations. Secretary Norton's plan to reorganize and consolidate Indian Trust Asset Management functions into a separate new organization unit will not work unless Tribes develop a realistic and workable plan with individual input. Creating another department with current Department of the Interior personnel will only create further bureaucracy, thereby hindering improvement and customer service.

Our recommendation to you, Senator, is to support the following:

One, allow our Navajo allottees to utilize the Indian Self-Determination Act by creating a local Individual Indian Monies payment distribution, preferably in Farmington, New Mexico. Current process for payment are distributed as follows: Oil companies pay directly to Minerals Management Service in Denver. Then it goes to the Bureau of Indian Affairs in Gallup, New Mexico, and then to the Office of Trust Funds Management in Albuquerque. Then, finally, to the Indian allottees. There are ways to cut down the process that currently is not working, and our people are at most times disadvantaged.

Two, coordinate proposed plan and set up with Farmington Indian Minerals Office. Plans are as follows: Oil companies make direct payment to Navajo allottees. The Farmington Indian Minerals Office will monitor and ensure that oil companies make proper and timely payments.

Three, the other recommendation that we make to you is to develop a Feasibility Economic Plan, which will enable the Navajo citizens to have a direct impact utilizing mineral extraction for employment and other positive means. Suggestion: Since our community averages a payout over almost a million dollars a month, would it be feasible to have our own Navajo refinery?

We urge you to support and seek ways to improve the system that has failed our people for many years. There are ways to prevent wasteful and unnecessary government bureaucracy in hindering direct service to our community members. Please give this matter your highest priority. May we hear from you very soon?

Thank you. Calvert Garcia, chapter president.

The CHAIRMAN. Thank you all very much for the testimony. Let me start with some questions here, Mr. Lords, about the status of things.

Can you give us—the way I think about this issue, there are, and I think everyone acknowledges this, a series of problems in the Department of the Interior administration of these payments to allottees. And that's one set of issues.

But a second sort of more immediate set of issues is the set of issues that have arisen out of the decision, or the order, really, which was directed to the Department of the Interior to shut down their computer system this last December.

As regards that second series of problems, have we gotten the computer system back up and running so that we are now back to where we were before the judge stepped in and ordered a shutdown, or is that still in the works?

Mr. LORDS. Let me respond for OTFM, and I'll have Kathy respond for MMS and Steve respond for BIA.

In the court order, Senator, it's stated that any individual Indian systems that were connected to the Internet were to be shut down. The Office of Trust Funds Management converted all tribal and individual Indian money accounts to a commercial Trust Funds Accounting System (TFAS). Conversion was completed in March 2000. TFAS was not connected to the Internet. The Office of Trust Funds Management System was not shut down, due to the court order. If we had money in an IIM account and we had distribution information, we were cutting checks. But if I don't have the ownership information, I couldn't cut checks.

The CHAIRMAN. And who has the ownership information?

Mr. LORDS. BIA maintains the ownership information for oil and gas royalties.

The CHAIRMAN. And that information was—the availability of that information to you was interrupted by the court order; is that right?

Mr. LORDS. That's my understanding, yes.

The CHAIRMAN. So I guess the next question is is whether BIA has now gotten in a position where they're making that ownership information available so checks can be cut?

Mr. LORDS. We've been issuing checks on oil and gas royalties since the end of March 2002 on a weekly basis.

The CHAIRMAN. This seems to be in dispute. Let me ask the audience to please let us try to conduct this is an orderly way. Mr. Garcia, the president for the Nageezi Chapter, says in his statement, "A great percentage of our Indian allottees have not received or resumed any royalty proceeds since the shutdown." Is that consistent with what you understand, or do you disagree with it?

Mr. LORDS. Let me clarify, Senator. We estimated payments, two estimated payments on February 21 and March 21.

Once systems started back up in March with MMS sending BIA information, BIA sending OTFM information, then the estimated payments were offset against the actual payments that came forth on a weekly basis. Once we've recouped the estimated payments, then the individuals started receiving checks. If we haven't recouped the estimated payments, allottees are right, they have not received checks.

The CHAIRMAN. So they did receive a check that was issued February 21 and again a check that was issued March 21, but those were estimated payments?

Mr. LORDS. Yes, Senator.

The CHAIRMAN. And you're saying that if no checks have been received since those two checks, it is because the estimated payments were too large, were larger than they were really—than they otherwise would have received. You estimated they would be receiving more than they, in fact, had received up until that time?

Mr. LORDS. That is one scenario, Senator. I think the other scenario may be that maybe there was a change in ownership or the well production has changed.

The CHAIRMAN. If I were an owner—I am not an owner, but if I were, if I were an allottee entitled to receive a check, how would I know whether or not I'm getting my fair share of the payments from production on one of these wells? Is there any kind of an ac-

counting that you provide to owners saying this is what the total production was from the well, this is the amount of your payment?

Mr. LORDS. The BIA generates for OTFM an EOP, Explanation of Payment, and that was enclosed with oil and gas royalty payments prior to the shutdown. And that explained the production, the amount of money, what oil well the money was generated from. But since the recouping of the estimated payments, the explanations of payments have not been enclosed with the checks for the individuals that do receive checks.

The CHAIRMAN. And why have they not been enclosed?

Mr. LORDS. Because with the recoupment process, the check may not equate to EOP because we may have offset the actual payment against the estimated payments. For example, let's say that their total estimated payments were a hundred dollars. And they get an EOP that the actual production was $150. Well, the check is going to be for $50, the residual, and the EOP will reflect that there was $150 generated off that well.

The CHAIRMAN. What I guess I'm wondering is, is this—are you providing information to allottees that will let them understand what you just said, so that they would know that in January the well produced so much and I was entitled to so much royalty payment from the well; in February it produced so much? And then indicate what the checks were and how much is left over to be paid? I mean, is this all—do people have to come to a meeting like this in order to understand this information, or are you providing it to them?

Mr. LORDS. The EOP will show what the actual production was.

The CHAIRMAN. Tell me, the EOP—what does that stand for?

Mr. LORDS. Explanation of Payment, Senator.

The CHAIRMAN. Explanation of Payment. And that's a document that is sent to them along with the payment?

Mr. LORDS. In normal processing, yes.

The CHAIRMAN. But we are not in normal processing.

Mr. LORDS. No, we're still offsetting the estimated payments, Senator.

The CHAIRMAN. And you don't give them any explanation in a period when you are offsetting their payments? They get no explanation?

Mr. LORDS. Within the quarterly statements that OTFM is mandated to send out per the Reform Act, it shows their estimated payments and what we've offset against them.

And today I have staff here for any of the allottees who want to know the status of their estimated payments. I've got a listing in alphabetical order by allottees of what their estimated payments were, what we've recouped, and what they may owe, if any. And once they show identification, we'd be happy to tell them where they stand.

The CHAIRMAN. Well, in order that we be sure that people can take advantage of that, who are your staff? Are they here?

Mr. LORDS. Yes, right here.

The CHAIRMAN. Okay. And you have that information now?

Ms. WABNUM. Yes.

The CHAIRMAN. Should we have them either go to a separate room and provide that to people——

Mr. LORDS. I think that would be most effective, yes.

The CHAIRMAN. Is that possible? Do we have a place where they could sit at a table and go through this?

Ms. LEE. We'll put you around the corner in the lobby, away from this room.

The CHAIRMAN. Okay. Well, why don't we do this: Have them go ahead and proceed there and be available to answer questions of individual allottees as we are having this hearing. We will continue to have the hearing and give people a chance to speak, but if there are individual allottees who are here and want this information now, they could get it right now from these people.

Mr. LORDS. Yes, Senator.

The CHAIRMAN. Okay. And let me ask also, though, if we conclude the hearing about noon, which we are expecting to do, or by noon, no later than noon, will they be able to stay beyond that and provide the information?

Mr. LORDS. We will definitely have someone stay until we answer the questions, yes.

The CHAIRMAN. Okay. So they will be here until everyone's questions are answered about their individual payments.

So any of you that want to talk to those representatives now, you can, or you can wait until after the hearing. That's your choice. Yes, Mr. Begay, please.

Mr. BEGAY. Senator, could I assist here by translating into Navajo?

The CHAIRMAN. Please. Please do.

Mr. BEGAY.

[Navajo spoken.]

The CHAIRMAN. Very good. Why don't you hand the microphone back to Mr. Lords, and let me ask a few additional questions of him.

For allottees—Navajo allottees who are entitled to receive royalties who are not able to be here today, who should they contact in case we want to put a notice out? Who could they contact to get the information that is on that sheet that your assistants have in the next room if they're not able to be here today?

Mr. LORDS. They can contact the Office of Trust Funds Management at (505) 816-1001.

They can dial 1-800-OST OTFM, and when it asks for the three digits of their account number, that will take them right to the agency where their account is managed. Agency staff can get the information off the system, also.

The CHAIRMAN. So they dial 1-800-OST OTFM?

Mr. LORDS. Yes.

The CHAIRMAN. And then they insert three digits of their account number. So that each allottee knows what their account number is?

Mr. LORDS. They may or may not. And Kevin Gambrell at the Farmington Indian Mineral Office can also help them, also.

The CHAIRMAN. Okay. Now, we are putting that information up here so that anybody who is not able to be here today to ask the questions about their individual payments, we want to be sure you can get access to it.

Let me ask about the quarterly payments you referred to. The quarters that you talked about, is the first quarter being January, February, March?

Mr. LORDS. They're not quarterly payments, Senator. They're quarterly statements.

The CHAIRMAN. Quarterly statements?

Mr. LORDS. Yes. And no, they do not coincide with the calendar quarter. They're staggered, because we've got 250,000 individual IIM accounts that we're required to issue these on. So we stagger them, but they're staggered on a 3-month basis.

The CHAIRMAN. So we cannot say to all allottees that as of the end of June, they will be receiving a statement. Some will, some won't?

Mr. LORDS. For the Navajo allottees, I can get with my staff. I don't know off the top of my head, but I can say for them yes, they should have received a quarterly statement at these dates for all of them.

We issue by regions and made sure they were consistent. We didn't separate a region and say some of the individuals got it these 3 months, and another of the individuals in another 3 months staggered.

The CHAIRMAN. Okay. Why don't—we need someone to translate this also, and Mr. Garcia, are you able to do that? Or who can translate what we just discussed and indicate what these numbers are? Do we have somebody here who is a translator? I hate to just keep relying on Ed Begay to do this, but whatever——

Mr. GARCIA. Thank you, Senator. I believe what some of our people are experiencing getting—having direct contact with them every day and conversing with them. I believe most of the allottees who receive individual Indian monies were accustomed to receiving an average amount prior to shutdown.

I believe—now, Kevin is here. Some oil company, maybe two, has taken advantage of this computer shutdown. And I believe there's two or maybe even possibly three that have not made any payment, or very small payment, to Mineral Management Service of Denver. That might have resulted in nonpayment to some of the Indian allottees. I believe maybe Kevin can maybe attest to that.

The CHAIRMAN. Why don't we hand that back to Mr. Lords, and let me ask him. Do you have any information, or do you have anybody who can tell us whether there's been any problem with the companies making the payments into the government accounts? Please go ahead, identify who you are, and tell us——

Ms. MARTINEZ. Good morning, Senator Bingaman. My name is Kathy Martinez, I work with Minerals Management Service. I'm the Chief of the Accounting Services Branch there. As you know, this issue started with the system shutdown. And in today's world, we use computers for almost everything we do. So when the Department was ordered by the Court to shut down and disconnect from the Internet, that basically affected them.

There is a situation where a couple of companies also were having computer issues. One of the companies happened to be a company that does business in Indian country. And they, for whatever reason, I don't know, because I'm not a computer techno-person and I don't talk technobabble, because I don't understand it, basi-

cally, but one of the companies was having severe difficulties in bringing their computer system on line and giving us a file. Basically, they were having difficulty getting their computer to report correctly.

And this issue was resolved about a couple of weeks ago and they were current as of a couple weeks ago. But that means that they, too, had a number of months of data to give us.

Now, during the shutdown, all of the companies still had to pay. Just because they couldn't report on the Internet was not a reason that they could not pay. They were still required to pay.

We collected all of the money that was reported to us, either by wire transfer to a bank or by check, and we continued to make deposits to the treasury account for OTFM to invest.

As I said earlier, to my knowledge, all of the companies that did have computer reporting issues that did business in Indian countries, those were resolved as of a couple weeks ago.

Now, that still means that the computer has to process the data and that the accountant and the computer have to match the report and the payment. And the data must be reported correctly so that we can transmit that data to BIA so they can identify the owners so that we can get checks out the door to the Indian owners.

The CHAIRMAN. Well, if I am an Indian owner, are you telling me that you are not able to send me my check because of your internal computer problems and it's my problem and not yours?

Ms. MARTINEZ. No, sir, that is not at all what I intended to imply.

The CHAIRMAN. What are you saying?

Ms. MARTINEZ. Lets work with a particular example. If I have a lease that is being operated, let's say right here in New Mexico, and it's being operated by—it's Lease 1 being operated by Company X, that company reports to Mineral Management Service either electronically or by paper or whatever method they so choose. They also have to send in a payment for that royalty.

The computer adds up that data that's entered onto the report to ensure basic math, basic dates, and to ensure that the right lease number is on there. Then we do basic edits, we do some basic verification.

We take that royalty report for that lease, say it's $100 and the company must also pay $100. Our computer and our accountant basically work to match that payment—to identify that payment to that report, and then it's processed through the computer, sent in a file to BIA, just data at this point. The money has already been deposited, so at this point it's just data.

The file is sent to BIA, BIA looks at their computer system, and it allocates that $100 to whoever the appropriate owners are on that lease. And then OTFM distributes checks.

The CHAIRMAN. Well, I guess what I'm wondering is how quickly are we going to see these computer problems resolved so that people—Mr. Garcia here says that people were accustomed to receiving a monthly check or a check every two weeks. Is it a monthly check if I'm a royalty owner, or is it every two weeks?

Ms. MARTINEZ. Prior to the shutdown, BIA, MMS, and OTFM used to go to the oil and gas revenue distribution twice a month.

The CHAIRMAN. Okay.

Ms. MARTINEZ. Since the shutdown, we have been doing the oil and gas distribution on a weekly basis.

The CHAIRMAN. So that means you send a check out to one owner every week? If I'm an owner, I should expect to get a check every week?

Mr. LORDS. Senator, based on the information that I receive from BIA, if you were an owner and I did receive distribution information, you would receive a credit to your account. Then, depending on if you had estimated payments to offset, you may or may not get a check. And then depending on the type of account—there's certain restrictions, obviously, minors, non-comps don't get checks distributed to them.

The CHAIRMAN. Well, I'm just trying to figure out—there was a certain set of procedures being followed before the Federal judge ordered the shutdown because of security reasons or concern about people's privacy, I think was what prompted that. How quickly are we going to be back to that same procedure so that anybody who was getting checks before, under normal circumstances could expect to start receiving their checks again on a regular basis? How quickly?

Mr. LORDS. I don't have a good answer for you, Senator. That's dependent upon the information that I receive from BIA. BIA is dependent upon the information they get from MMS. MMS is dependent upon the producer information they get.

As Kathy stated, we're processing on a weekly basis now. BIA has sent me weekly distribution files since the end of March. We are going to continue to do that until we get caught up.

Ms. MARTINEZ. From when the system shutdown to about the end of last week, Minerals Management Service has collected roughly $9 million of Indian revenue. And since we brought the system back the last week in March to the end of the last week in May, we have also distributed to BIA $9 million.

Yes, there were some exceptions to that. There was the company that wasn't reporting for 4 months. We're working with that company, we work with them every day. We work on their report, so we expect to get back to regular business very soon, very quickly.

Again, if I can repeat myself, during the system shutdown to about last week, we received $9 million of Indian revenue and we have distributed $9 million to BIA for their action with OTFM. So we have our resources working on Indian issues.

As I said earlier, I'm the Chief of the Accounting Services Branch, and I make sure that they understand that our Indian workload is our priority.

The CHAIRMAN. Let me try to understand this issue, though, with the company that was not able to give you the right information, computer information. They have been making their payments, but you are not able to tell Mr. Lords's agency to go ahead and send a check out because the information that they have given you has been inadequate for you to verify as to how much goes to which allottee; is that right?

Ms. MARTINEZ. The particulars? Yes, sir, you are correct. The particular company that I'm aware of that had the reporting prob-

lem, they could not give me the data to identify what lease they were paying on.

The CHAIRMAN. Which company is this?

Ms. MARTINEZ. It's Burlington.

The CHAIRMAN. Burlington, okay. Have they corrected this?

Ms. MARTINEZ. They have corrected their system issues, and they are current in reporting to us. Now, it's our job to review their reports, make sure they're adequate, that they pass the basic edits that I described earlier. The math has to be correct, it's got to be a valid lease number.

The CHAIRMAN. So the bottleneck in getting those payments distributed by Mr. Lords is you have to check the information. Now, Burlington has provided it, you are now in the process of trying to audit it or confirm——

Ms. MARTINEZ. Do some basic verification.

The CHAIRMAN. Right. And then Mr. Lords can send those checks out?

Ms. MARTINEZ. I have to make sure I process that data, identify for OTFM the payment of that data, and then send the data—the lease data with the payment data to BIA so they can identify the right owner. And then when BIA sends the ownership information with my lease and payment data, then OTFM can send that out with interest.

The CHAIRMAN. But, now, you're the bottleneck right now?

Ms. MARTINEZ. It sits in my court, I've got to work with Burlington.

The CHAIRMAN. So how much longer are you going to be the bottleneck?

Ms. MARTINEZ. A lot of it depends on how good Burlington's computer system is now. And off the top of my head, even though we got the report, I don't know how accurate they are. A lot of it depends on their accuracy, their response to our request for information. But we are working on it and our staff does know that our Indian workload is our priority.

The CHAIRMAN. And once you conclude your workload, how long does it take for the BIA to get the information to Mr. Lords so he can cut the check?

Ms. MARTINEZ. I'll turn the mike over to BIA.

Mr. GRAHAM. My name is Steve Graham, and I'm the regional royalty officer for the Navajo Region.

Currently, one of the problems that we're having with it is that we don't have all of our staff able to have access to our system because of the security problems. Getting our current office staff that were available to utilize the system prior to the shutdown aren't able to utilize that.

The CHAIRMAN. So you say the Judge's order is still in place and you can't access your computer?

Mr. GRAHAM. Once the Judge's order is in place, the BIA goes through the security process of all the staff that had access to the system. They're reverifying everyone's access to the system to make sure they have proper clearance.

The CHAIRMAN. So this is another bottleneck within your agency?

Mr. GRAHAM. Within BIA, yes.

The CHAIRMAN. Within BIA. BIA cannot figure out who—which of their own employees should have access to the system?

Mr. GRAHAM. They've been given—the information is there, but the security office who—I don't know what their staffing level is to verify every person that was knocked off the system, to get everybody back on to utilize it, to work with the different system that we have out there.

The CHAIRMAN. So how long is it going to take your security office to figure out who's going to get access to the system so that you can function?

Mr. GRAHAM. I can't speak for the security office. I just know that we sent our—the people that need to deal with generating payments from the FIMO Office and also the Navajo Regional Office and agencies to the people in Washington and identify the people that need access to the system.

When the system went down and started to come up, there was a very limited amount of people that were given access to the system. And since that time in—prior to March, when we started making payments, there has not been any other additional individuals that have been given access to the system.

So that hindered the people out there in the field to update their records in order to post new probates, if there's a problem with the lease or whatever is identified in the payment issue, for us to clarify and rectify that issue.

The CHAIRMAN. So we've identified two bottlenecks: One is with the Mineral Management trying to verify the information from Burlington in this case. That's the only area that's related to the Navajo allottees that is currently not functioning in a normal way. Is that fair?

Ms. MARTINEZ. That is correct. We have today's business to deal with as well as the accumulated inventory during the shutdown. So we not only have to get current with this month's activity, but reduce the backlog. And we've made great strides toward that. But right now, given that Burlington was finally able to report, now the ball is in our court, yes.

The CHAIRMAN. Okay. So that's one bottleneck. And then there's a bottleneck within BIA getting these security clearances accomplished?

Mr. GRAHAM. That's one issue. And also the office there in Farmington, because of their location, doesn't have access to the system like they did prior to the shutdown. So they're having to go offsite to process payments, which is also slowing down the process.

The CHAIRMAN. Now, tell me a little more about that. Why doesn't the Farmington office have access? I thought the Judge's order had been lifted?

Mr. GRAHAM. Maybe Kevin can speak to that, because I don't know all the firewall and that kind of computer stuff. Because they're in a different location with the three different agencies working together at the Farmington Minerals Office—BLM, MMS, and BIA. And I don't know what system they're running off of to get back in to work with our system. Kevin may be able to answer that question.

The CHAIRMAN. Kevin, are you able to give us more information?

Mr. GAMBRELL. Kevin Gambrell with the Farmington Indian Minerals Office. We shared the offices since the December shutdown, and we will be able to serve. BLM has recently got their trust data back on line 2 weeks ago. And I've been back in D.C. working with the special master to get the Farmington Indian Minerals Office back on line.

The CHAIRMAN. The special master has not permitted that as yet?

Mr. GAMBRELL. Not the FIMO office. Because we're a multi-bureau office at present. There's other things that have to go on, to tell you the truth. Everyone's in my office—there's a—it's kind of complicated in terms of security and how we go through the security changes.

The CHAIRMAN. All right. Let me just make a statement, and then we will go ahead to hear from some of the other people who have signed the list wanting to testify here.

Obviously, this is an amazingly confused and multi-agency process that needs to be sorted out and streamlined so that once a payment is made by an oil company that's producing from a lease, fairly quickly after that, the check will go to the royalty owner, I would think.

Now, Mr. Lords, you indicated in your testimony that there are some Tribes that have received payments from producers directly by a lockbox arrangement with banks. Is there a reason why we couldn't institute that for the Navajo Nation?

Mr. LORDS. Senator, I don't have anything to do with direct pay, so that's why I'm not going to try and answer that.

The CHAIRMAN. Okay. Is there any of the people here who could tell me whether this is a possibility for us to try to institute this for the Navajo Tribe so that they do not have to go through the three or four agencies?

Mr. GRAHAM. The Navajo Tribe—the Tribe on tribal leases is currently on a lockbox arrangement. Individual allottees for individual allotments aren't on direct payment. They have no boxes that are available, even in the lease, to opt for direct pay. But that has to be between the individual owner making application, and then they will work directly with the oil company on receiving payments.

The CHAIRMAN. So each allottee has that option?

Mr. GRAHAM. There is an option for direct pay in our current oil and gas leases.

The CHAIRMAN. But now, is that an option for the allottee, or an option for the oil company?

Mr. GRAHAM. It's the individual owner's option to request for direct pay. Then it would not run through our system.

The CHAIRMAN. Is that information that is made available to all the allottees, that they can start getting their payments directly from the oil companies and not have to go through this whole mess?

Mr. GRAHAM. I don't know if that was offered to them. The leases that are negotiated for allotted leases are handled from the Farmington Indian Minerals Office.

The CHAIRMAN. But if I am an allottee at the Nageezi Chapter and I want to start getting my payments directly from the oil company, who do I talk to in order to get that accomplished?

Mr. GRAHAM. I'll have to let Kevin answer to that, because his office is the one that administers allotted leases, so they would be dealing with his office in requesting direct pay, if that's something that an owner wished.

The CHAIRMAN. Kevin, do you have any information about that? Is that a real option that people have?

Mr. GAMBRELL. There is an option with oil leases that pay direct pay. There are some trust responsibility issues that are problematic in trying to reconcile the payment that went to the individual's account on an off-line system versus a royalty report. That's some of the problems they've experienced in Oklahoma. But direct pay is an option. It hasn't been exercised in this area, and not anywhere else but Oklahoma, I believe. That is our indication. Is that correct?

Ms. MARTINEZ. My understanding is that the direct pay option was being exercised in Oklahoma up until recently, and I'm not sure why or what the rationale was, but my understanding is that Oklahoma is now reversing all of their direct pay leases back to agency pay. Again, I don't know enough about the Bureau of Indian Affairs policies or processing procedures, but that is my understanding as I've spoken to them in doing research on other leases.

The CHAIRMAN. Okay. Well, why don't you give me back the microphone and I'll quit asking so many questions.

Let me thank all of the witnesses. I'm not trying to point the finger here except to point out the various problems that we clearly have in this system. As I understand it, we have payments being made by an oil and gas company that is producing from a well. The payment to the royalty owner is being made, and it goes first to the information goes first to the BIA, is that right? To the MMS, the Minerals Management Service.

They get the payment and they then look to the BIA to verify how much payment has been made and who it goes to or——

Ms. MARTINEZ. No. Just——

The CHAIRMAN. Please tell me the three- or four-step procedure that is followed.

Ms. MARTINEZ. I'm going to stand up, and hopefully my voice will project. Can you hear me in the back?

The CHAIRMAN. Here. Hand her this microphone again. Give us the very short version of how a payment gets made from the oil company to finally being a check that someone can take to the bank and cash.

Ms. MARTINEZ. Okay. In most situations for allotted leases, Minerals Management Service, MMS, receives a check and a report. The day that I get a check, it gets deposited into the Treasury, and the next day I tell OTFM about all of the deposits that I made for all of the allotted agencies. And so immediately that day they have information so they can start investing that revenue.

I start working in that royalty report and check and make sure—if they come in together, I start working with the computer to make sure that the computer understands here's the check, here's the lease number it meant to pay.

And once I confirm that it's the right lease number—accuracy is very important to us—once I confirm it's the right lease number,

then that data is sent to BIA. BIA checks their records to make sure that they understand who the owners are.

That data is married with the MMS file on lease payment, Navajo ownership data. Now, that file goes back to OTFM so that they can process.

Mr. LORDS. What she's outlining, Senator, is correct. Once BIA sends me a lease file, like for example they send me a lease file today, we interface it tonight, and if there are checks that were to be generated, they will go out tomorrow.

The other thing I need to point out is that our 1-800 number is 1-888.

The CHAIRMAN. Okay. I'm sure there are a lot of unanswered questions that people have after hearing these various explanations. I have quite a few still myself. But I think probably the best course—we have about 55 minutes now before we have to conclude the hearing, and let me go ahead to the various people who have signed up to give some short testimony about the royalty payments and the issues that they want to see addressed or the points they want to make.

We will take as many of these as we can before noon, but we are going to have to quit by noon. So let me call on people in the order in which people have signed up and ask them to come up. And we will have the microphone for them, and I ask you to keep your comments to 2 or 3 minutes, if you can, so we don't—excuse me? I'm told 2 minutes each.

If we try to keep the comments very short, that way everybody on our list will be able to make comments. If people drag on too long with their comments, that's going to keep someone else from testifying.

Let me first call Chris Martinez. Is Chris Martinez still here? He is gone.

Kevin Gambrell? Is Kevin here? You do not have anything more to say, okay, thank you very much.

Chris Velasquez? Is Chris Velasquez here? Well, we are getting through this list in a hurry.

Lela Haseesa? Is that the correct? Is Lela—she left? Okay, she's next door, that's fine.

What is this? Is this Orlen Blaki? Blakey?

AUDIENCE MEMBER. Arlene Blackie.

The CHAIRMAN. Arlene Blackie? She did not want to speak? Rose Pettigrew? Dorothy Bitsue or Bitsie?

Mr. GARCIA. Bitsue.

The CHAIRMAN. Bitsue. Is Dorothy here? Would you like to speak?

Ms. BITSUE. Yes.

The CHAIRMAN. Would you like the microphone? Please come up.

Ms. BITSUE. My name is Dorothy Bitsue. We're having problems with our payment. We haven't gotten paid for 6 months now, ever since November, last November. So we haven't gotten anything yet.

The CHAIRMAN. You haven't received any payments since last November?

Ms. BITSUE. That's correct.

The CHAIRMAN. Okay.

Ms. BITSUE. And I got a check for one penny. That doesn't mean—that's a check?

The CHAIRMAN. Have you had a chance to look at the sheet that Mr. Lords brought to see what they indicate you are owed?

Ms. BITSUE. No.

The CHAIRMAN. Okay. I think that would be a good thing to do while you're here today.

Ms. BITSUE. Okay.

The CHAIRMAN. But thank you very much. I know Ervin Chavez is here to speak, and we are glad to have him. Please come forward, Ervin.

Mr. CHAVEZ. Good morning Senator. By the way, Miss Arlene Blackie gave me her 2 minutes.

The CHAIRMAN. Very good.

Mr. CHAVEZ. I'm just kidding. There was a confusion, Senator. Apparently they thought that you had a bag of checks that you brought today for them to distribute.

The CHAIRMAN. I thought you had the checks, Ervin.

STATEMENT OF ERVIN CHAVEZ, PRESIDENT, SHII SHI KEYAH ASSOCIATION, BLOOMFIELD, NM

Mr. CHAVEZ. But it's good to see you again. And I do want to make a statement regarding—and I would like for you to bear with me, because I'm going to put a little different twist on this, because I've been dealing with allottee issues for about almost more than 20, 25 years. And I dealt with your office on various issues like health issues, and I'm very familiar with your staff.

Let me start off by saying my name is Ervin Chavez. I'm here today representing an allottee association called Shii Shi Keyah Association. This organization was first organized in 1982. The association is not a stranger to the Department of the Interior. In fact, this association filed a similar class action lawsuit as a Cobell lawsuit in 1984.

In 1997, Shii Shi Keyah Association agreed to a consent decree whereby the U.S. Government agreed to make, among other things, timely payments, development of an explanation of payments, and to respond to complaints on environmental issues on well sites, especially dealing with livestock.

Also coming from this action is the development of the Farmington Indian Minerals Office, whereby three agencies were supposed to come together to resolve issues for Indian oil and gas problems. Today, the Bureau of Land Management and the Mineral Management Service is the only ones to respond. The Bureau of Indian Affairs continues to hold out.

So the problems with royalty payments is not new. When I say this, this is an understatement. Historically, the Bureau of Indian Affairs has never lived up to its trust responsibility, never kept adequate records for Indian people, especially dealing with royalty payments for oil and gas taken from their land.

I might be oversimplifying, but I ask you these simple questions. How much longer do we as Indian people, Navajo people, have to put up with this?

How many more lawsuits, oversight hearings will it take for the Federal agencies, Mineral Management Service, Bureau of Land

Management, Bureau of Indian Affairs to do their jobs, live up to their trust responsibilities to Indian people?

When will Congress step forth and say enough is enough, take the responsibility, take major action in revamping the section of the Department of the Interior who is responsible for individual Indian monies by appropriating money to repay the Indian people the money which was taken from them by this faceless governmental system?

This appropriation is not to be confused with the annual Congressional Interior Appropriation, because every time Indian people ask for more funding, it is subject to the Balanced Budget Act, where money is just shifted. This money—this needs to be real money.

In 1988-89, it was my understanding that the Senate Select Committee on Indian Affairs was established in response to an article which appeared in the *Arizona Republic* newspaper on mismanagement of IIM. This committee was to address the very issue that we're talking about today. On behalf of Shii Shi Keyah Association, our attorney and I were involved in those hearings on the Hill. Sad to say, that never was completed nor did anything materialize, because their attention was focused to investigate one Indian leader in Window Rock.

Meanwhile, millions of Indian money continued to walk out the back door of the BIA for another 12 to 13 years since 1988. We have gone through a Reagan administration, a Bush administration, a Clinton administration, and now another Bush administration. Everybody is stalling and passing the buck. BIA and MMS, or the system, is continuing losing millions on millions of dollars. The only difference is that it is only 12 to 13 times today. We are still holding hearings on the same issue—we are still at the same place.

As long as the system is not addressed, corrected, lawsuits will continue to be filed. Internets, computers will still be unplugged and blamed for the inaction of those responsible.

Many of the problems for nonpayment that were addressed today were even in place when the computers were up and running. Navajo families will continue to get caught in the middle of this system and politics. That's what I meant when I said the system is not a new problem. Navajo families are not being paid, are not being able to pay for food, clothing, and make house payments, car payments. They are faced with repossession of these items they bought. Meanwhile, they look out their window and still see oil and gas wells producing, but no money in return.

It will probably continue until someone deals with it and solves this problem.

It is time Congress appropriates the money, reassigns the responsibility of IIM accounting to another responsible entity and repays the Indian people, Navajo people, their money. Stop passing the buck.

Thank you.

The CHAIRMAN. Thank you very much. Is George Werito here? Yes? Does he wish to speak?

AUDIENCE MEMBER. Mrs. Werito.

The CHAIRMAN. Yes, ma'am.

STATEMENT OF EILEEN WERITO

Mrs. WERITO. Senator Bingaman, my name is Eileen Werito, and I just had a concern, and I direct my question to the BIA. We've been receiving the same information over and over as to the process that it goes through. But the question we have, or I have, is, you know, we've stopped getting payments as of November, and we have the estimated payments, which some of us had been paid and have a zero balance.

And right now, what I want to know is—and I'm pretty sure some of the allottees would like to know also when do we get our payments?

Do we get a lump sum for the 6 months that we haven't been paid? And if there's any reports to that effect as to how much—what money has been paid and which months, I still don't have anything in writing to that.

I received a payment this month, but I'm just questioning whether that's my regular payment or whether it's one of the other months' payment. So I still question that, and just wondering whether I should be getting another lump sum from previous months.

Just like I said, we've just been getting the same information over and over. Seems like it's not moving forward. And I'm pretty sure some of the allottees still have a question about that.

The CHAIRMAN. Let me ask if you have had a chance to look at the sheet that Mr. Lords brought that sets out each payee and how much has been paid and how much is expected to be paid to them?

Mrs. WERITO. Yes, I did. And it's the same information that we've looked into when we had our meeting with the different departments at Nageezi.

The CHAIRMAN. So it did not tell you what you want to know?

Mrs. WERITO. No.

The CHAIRMAN. What more do you want to know beyond that?

Mrs. WERITO. What I wanted to know is, when will the payments stop. And I'd like to know for each month, you know, a report as to say, how much money is in my account and how much money was paid out. Of course, you said that my estimated amount that I've repaid, and I have a zero balance. And what I wanted to know is, how much money is in the account and how much money I've been paid out, which I don't think maybe just one payment out of that.

The CHAIRMAN. Okay.

Mrs. WERITO. And I still want to know how much in my account I still have.

The CHAIRMAN. Mr. Lords, are you able to respond to this, or you just—maybe once we conclude the hearing, maybe we could be sure to just verify any additional information that we could provide on your payments.

Mrs. WERITO. Yes, that's what we're looking for more information as to, you know, regarding our payments.

The CHAIRMAN. Okay.

Mrs. WERITO. Thank you.

The CHAIRMAN. Yes, thank you very much. Next is Wilson Ray, I believe? Please. How are you?

STATEMENT OF WILSON RAY

Mr. RAY. Good morning, Senator.

The CHAIRMAN. Good morning.

Mr. RAY. You chair the Energy and Natural Resource?

The CHAIRMAN. That's right.

Mr. RAY. And I'm very thankful that you're here this morning and to hear our problems and to give our input what needs to be done. We started to—well, the people, the allottees themselves, have been coming to our chapters. And the problem that they're having, that they're not receiving their payments. And it seems like we're the ones that they chew on, me and Calvert.

But somebody's got to start the fire somewhere. And this problem has to be resolved in some way. And as we listen, as we have these meetings, it seems like from the very start, that I was confused, just like you, when you were listening. And all these—how the money flows into different departments and what it does. And all this, we kind of like said that this is so confusing that a lot of times we just don't understand how this money flows.

And I think from you being a Senator and being the chair of this committee, that this really needs to be looked into. And there needs to be something done on this. There's got to be a shorter way to do this.

And talking about direct payments, we know that that can be done somehow. And even though there's an organization that exists now, and I think they talk about it, they talk about it, they talk about but never resolve anything. But we need this to be resolved in some way.

And we need the checks going directly to the land owners, to the allottees, instead of going from there to there to there to there. When we had this May 3 meeting, I talked to all the department heads, the people that work in these departments, like Denver, Albuquerque, Gallup, and even Farmington.

I talked to each one of them and I told them we need to work together. What I understood from that meeting is that these departments don't have a good communication going, see? Like everybody blames this department and they just blame each other, is what I understood. So I told them in order to resolve the problem that they all need to work together somehow, even Navajo Nation needs to be involved.

To me, the Navajo Nation don't have anything in place. That's what I see. And that's the reason why we have this problem. And we live on Navajo country. We don't really call it reservation, we call it Navajo country. Because of the land status, the way the lands are in our area. And those are the reasons why we—any—any projects, anything like that, like running the water lines, we have to run to that. And power lines, same thing. And we just have to work through it. And it takes years in order to do something. But I know it can be resolved some way.

And from where you stand as a Senator and chair of the Energy and Natural Resource Committee, would you please do something for us?

The CHAIRMAN. Okay.

Mr. RAY. It should be looked into and to be resolved and to shorten this process, please. Thank you.

The CHAIRMAN. Thank you very much. We have Tom Etcitty. Is Tom here and does he wish to speak?

Ada Etcitty?

Is this Tommy Lou, is that right? Tommy Lee? Excuse me. Tammy Lee?

Pauline McCauley?

Ms. MCCAULEY. They said get it all out, so I will.

The CHAIRMAN. Thank you.

STATEMENT OF PAULINE McCAULEY

Ms. MCCAULEY. Thank you, Senator, for taking your time to come out here to listen to our problems. I think I met with you at Nageezi one time.

I have a letter here that I want to give to you. There's a little corrections on it, but——

The first thing is when President Bush encouraged more oil and gas development and all this, and then the Judge comes around and puts the Secretary of the Interior in contempt of court for not doing the Indian job. Then it goes further, shuts down all the Indian royalties while the rest of the Nation, they still got their royalties.

I was talking to Tweeti. She was saying she still got her royalty, Tweeti Blancett. And she is still being paid. And she said even by Burlington. And this to me is like eating ice cream in front of your family.

The CHAIRMAN. When they do not have ice cream?

Ms. MCCAULEY. Yes. They all have the ice cream, we just sat there and drooled.

And then in October, we used to get some $800 to $1,000 a month. Last summer. Then starting in October, it started going down to less than $100 a month. And they keep telling us this was the drop-off for all gas prices. And I don't know why it dropped so much. We had communitizations, like two wells on one allotment. And still the payment didn't increase, still stayed the same.

And I was saying here, Mr. Senator, Honorable Senator, I only wish you had a Navajo census number and an IIM account, you'd know the frustrations we're going through.

We go to BIA, we know they have their trust responsibilities on our allotments. But yet it seems like they just completely ignore us from the area level. And then the agency level, the people try to work with us, but things are at Window Rock, and it just makes things harder.

These people at the agency level is like having their hands tied and not doing anything unless the area tells them to. We are so frustrated for not getting paid.

I, too, am one who thanks the Navajo Nation for my assistance of the grant money they got, only now I hear them saying I want that money back. And I say don't take it from us.

And then the Indian Minerals came out and gave us like an estimated payment for 2 months. Then when this money came by, when the court lifted its order, we kept saying we are going to get paid every week. Well, every week I've been paying back what was advanced to me. I finally got $18, and nothing after that.

And the Farmington Indian Minerals Office has taken a lot of rap from all the allottees when they do not have the Internet back to their office. Because right now, the Internet just goes to IIM in Gallup, Window Rock. And the Farmington Indian Minerals Office, they have to drive by vehicle to Window Rock to try to get some of this information to us.

And I don't think that—and then what I wanted to see was maybe the Bureau, or all these people who handle our royalties and leases, they should be centralized in one place. Right now if we go to Farmington Indian Minerals, we get what we want. But yet the information we want, they know how much the oil companies have paid, and then they send that money to BIA, and it seems like that's where the hang-up is.

And to me, that's the way I look at it. And we don't get the money in Window Rock and Gallup. They don't have like a public or open office atmosphere. You go over there, you come to doors that's shut off, you have to stand out in the hall. That's no way to follow people on something like this.

I would suggest that they centralize this in the Farmington office, because this is the most centralized location. And that's what I'm asking.

And then we have the Mescal case that you're familiar with? Well, I was one of those. We owned the skin, but now we own the whole thing. And thanks to the court for giving us that.

And then this one here, for some reason or another, the Mescal case was paid at the end of the month, not with the other royalties. And it's all manually done at Window Rock. And when we come out here to Indian Minerals, everything is automated.

And I believe that they should go to automation to get better and faster service. Just like today, I mean, let's see—Wednesday I went to the Indian Minerals Office, and I asked them if they had seen anything on the Mescal cases coming up. And they said no, that the one person who handles those accounts was on leave at Window Rock, so no payments were going to go out.

So in the meantime, I've been picking on Tweeti, and I told her, I said, I pawned my belongings, and I think one went there, and Tweeti has it all.

And now, people are being—like I said, being threatened with repossessions. And a lot of people are pawning their belongings. And then there's places where these people are being reported to the Credit Bureau for bad credit. And I think that all that is unnecessary.

And I even went to an Indian Minerals Steering Committee meeting, and their area regional director told me this Mescal case, we had to take it back to court to get things the way we wanted. So I wrote to Paul Fry and I asked him about it, and he said it's not necessary for it to go back to court. This kind of stuff is going on. I don't like it.

I am an ex-Bureau employee. I used to help people even through my lunch hour. There was people who complained because I was working there too long. They said I was getting—but we were there to serve the Navajo people, and that's what I believe in. And you remember the late Ed Plummer?

The CHAIRMAN. Right.

Ms. McCauley. He backed me up and told me, he says, you're doing the right job, so keep at it.

So this is what I have here, and I wish that something would be done centralizing this leasing and IIM and Indian Minerals Office all in one location where when we want to talk about IIM stuff, we don't have to go to Gallup, or we don't have to go to Crownpoint, the agency staff there will want to help you, but yet they said your records are at Window Rock. And you go to Window Rock—this was before one of them retired, I went to her office. And I asked her about my allotted status and leases and all that, and she says—and I was affected by the Indian Irrigation Project.

And I went over there asking for that, too, and she says well, when I find your allotment, I'll look into it. And she had a stack of allotment files around the wall. And I thought this was confidential information. And I didn't like that, and I just came back. And I was just disappointed.

And to this day—maybe they have corrected it, but the last time I saw it, that's the way—I hope those files are in a file cabinet under lock and key. So this is one reason why I want to see this thing centralized, so we don't have to run to Window Rock and Gallup, and then—and they pay us. I don't mind that part. They can stay where they want if they pay us, but—as long as they pay us. But this information has to come out and quit being withheld from us.

Thank you for——

The Chairman. Thank you very much.

Ms. McCauley. Thank you.

The Chairman. I appreciate it. The last person we have—well, we have two others here. Alice Jordan? Is Alice here? And Louise Blackie? Okay. I guess they're not here at this point.

We have one more person who wants to make a statement. Could you make it in just a few minutes, and then we'll let the witnesses make their—oh, excuse me. Are you Louise?

Ms. Blackie. Yes.

The Chairman. Why don't you go right ahead, Louise.

STATEMENT OF LOUISE BLACKIE

Ms. Blackie. Good morning, every one of you, and the Senator. We appreciate being here. I had an estimated payment, but they told us to pay it back. I checked with the people at La Plata Office, I found out money goes back into my account. So I'm concerned about it. And this has just been going on and I haven't been paid for 6 months. Last year, I get more money, and I had a question. How much does the oil costs today? Does anyone know?

The Chairman. How much—what is the price of oil today?

Ms. Blackie. Yes, a barrel.

The Chairman. I don't know. I think it's what, $25 a barrel, $26 a barrel, something like that. This is on the world market you're talking about?

Ms. Blackie. Yes.

The Chairman. Yes.

Ms. Blackie. So some years ago, the oil was $25, and I get more money. So when I read it in the newspaper, the oil price is $25 and

$26 a barrel. So I expect I should have more money. So that is a concern for me today. Thank you, Senator. Help us today.

The CHAIRMAN. Thank you very much. Yes, sir? Please come give us your comments.

STATEMENT OF CHESTER BENALLY

Mr. BENALLY. Chester Benally. I'm sorry I didn't put my name in it. I wanted to say something all along, but I guess after sitting through some of the statements that individuals are making here, I began to wonder if I should also say something on behalf of my mother. She's living in Utah. And I see there's some other individuals that are from Aneth area.

A lot of times I think these type of concerns that we're talking about and addressing here is—I guess the idea is more relevant to Nageezi's area. There's also families in Aneth area that have IIM accounts, too.

I have just only recently become—I hate to say owner, but through probate—my father is deceased, and I investigated the IIM. I didn't know what it was and I didn't really want to express any concern over that, because for the longest time since his death about 8, 10 years ago, we've been getting statements that we have a dime in the account.

And my brothers and sisters, they probably have a dime or maybe eleven cents. And I often wondered why it was the case. You're out there every day, you see oil wells pumping, there's activities taking place, and yet you only have a dime. I often wonder if there was at any time MMS, BIA, ever had the fortitude to go out and really try to verify the production that is taking place out in the oil field.

I often wonder if the companies that operate out there truly and honestly report the amount of production that they're making to MMS. If no one is doing it, I think something needs to be done there, too.

Perhaps maybe this is one of the reasons why these people here are complaining about not getting their money. Maybe there's dishonesty on the part of the companies. That needs to be followed through.

And I was just amazed to listen to this lady over here saying that we have a hard time identifying owners of these leases. Every month when a report comes in, I sit here and wonder: If these owners have been on the books for 10, 15, 20 years, and they're the same people every month, why is it so hard to identify the lease owners of that piece of property? Why should you have to go through to identify that when the paperwork is already in place and the identity of the lease number is there? Why is it so hard not to coordinate those two papers to identify the names of the individuals that own that property? It just seems like it's just another excuse for them to sit back and say that we can't identify them.

This is not something that's changing every single day. And the lady that came before me asked the price of oil. Most of us, and probably about 99½ percent of the people here, have an ownership of a vehicle. As we gas up every day, the price jumps from a dime, nickel—whatever is the case on a daily basis. The fluctuation of the

price is so much that we have to reach in deeper just to pay for the price of gasoline. And yet the prices that were maybe perhaps negotiated a hundred years ago is still the same amount of price that is being paid to these individuals. And maybe perhaps that is the reason for the low statements that they have, the amount of funds that they have in their account.

I often wonder why BIA has to continue to approve leases on the lands that we have. Why should they have to be continued to be our fathers when perhaps maybe that they could work for us, or perhaps we should do it and negotiate the prices of the product that is being produced from these lands. Maybe then can we get better funding and have a better accounting of what is in our account.

The CHAIRMAN. Could you go ahead and summarize your remaining points?

Mr. BENALLY. Yes, yes. I had not thought, you just got me lost now. But anyway, this is a great concern that I have, and I wish that somebody, Senator perhaps, under your administration, in the program, and doing this, a lot of these problems will be identified. And I think the concerns are legitimate and that we need your help, we need everybody's help. I'm thankful for the Navajo Nation to be a part of this.

So I do thank you, thank you for coming.

The CHAIRMAN. Thank you for your comments very much. Matilda Lizer? Is that——

Ms. LIZER. Yes.

The CHAIRMAN. Matilda?

Ms. HUMPHREY. No, Mary.

The CHAIRMAN. Mary, are you going to speak, too? I didn't know that. Matilda first, and then Mary. And you'll be last. Go ahead.

STATEMENT OF MATILDA LIZER, WINDOW ROCK, AZ

Ms. LIZER. Good morning, Senator and staff members. My name is Matilda Lizer, and I'm coming in from Window Rock, Arizona. And I'm wondering—there's two that's under the Mescal account.

I have two questions, one for Kathy. Why under the Mescal account with the PNM Coal don't I have a listing like the oil and gas estimated listings for the feet of coal?

Ms. MARTINEZ. I'm sorry, could you repeat your question? It's very hard to hear.

Ms. LIZER. Okay. I was wondering why the Mescal account with the PNM Coal has no estimated listings, just like the oil and gas?

Ms. MARTINEZ. Your question was what?

The CHAIRMAN. Yes. The Mescal account, I guess, involves coal production, right?

Ms. LIZER. Coal, yes.

The CHAIRMAN. And she was asking why there is not a similar ability to determine what's owed on that as there is in oil and gas.

Ms. MARTINEZ. Your question is that you're not getting an explanation of payments on the coal leases?

Ms. LIZER. Yeah. Yes.

Ms. MARTINEZ. My understanding of the Mescal settlement is that it is still to be treated as a Federal lease. We collect the money and then we tell OTFM about it. And I really don't under-

stand the mechanics of why you're not getting any EOPs, but I did write Pauline's name down. Is she still here? She had some issues and questions about Mescal, and I'd be glad to talk to her about that.

The CHAIRMAN. If you would give her your information here right after the meeting, then she could get back to you with an explanation.

Ms. LIZER. Okay. And then I had another question. I'd like to know, because like they said I received my last payment back in November also. And then from that time, you know, I'm one of the persons that lost a vehicle already. And then my—because, you know, this Mescal account was my only source of income. And then my employment also, but it's not enough. And is there a letter that can be written or some information for creditors not to ruin your credit for the Credit Bureau type?

The CHAIRMAN. This would be information about what you are owed or what you are likely to be paid? Is that what you mean?

Ms. LIZER. Yes.

The CHAIRMAN. Again, I think—why don't you ask when we conclude the hearing, and they'll tell you anything they can about what is owed or expected to be paid.

Ms. LIZER. Okay. Thank you.

The CHAIRMAN. Thank you very much. Mary, did you wish to be the last witness? Please.

Ms. HUMPHREY. Well, I hope not to be the last.

The CHAIRMAN. No, I think you're the last.

Ms. HUMPHREY. Really? Oh, no. Well, let's see how much time we got. Plenty of time.

The CHAIRMAN. No, we don't want you to take all this time.

Ms. HUMPHREY. No?

The CHAIRMAN. We want to have some time for these people to give final comments.

STATEMENT OF MARY HUMPHREY

Ms. HUMPHREY. Oh, okay. Well, it's good to see you again and everybody here. I wanted to ask some questions about my IIM. It seems like every time I call, they either say well, the check's in the mail. And then when that time comes, they say you'll get it tomorrow or by Friday. When the time comes, I go and there's no checks. And then I call back, and then they tell me well, on this listing that we got, your name is not on it. So that really gets me upset. And I ask how come? And they said that you had borrowed money from somebody I don't even know, somebody I'm sure that don't know me. And they say we're getting your IIM money and paying that money back. And they tell me you got, I think, 251 cents to go until you're all paid.

To who, to what? I never even talked to this person, and I'm sure that that person don't know me. Don't know my IIM account, don't know nothing about me. And I think that is wrong. Because it is my civil rights are being all stepped on, name it. It's been done.

And also, they also tell me my brother has got a sheep that he took back over there, over there to the IIM Department over there in Farmington, and they told him that he was all paid up for what he's got. He's all paid off. He doesn't owe nothing else.

Why is his different than mine when we both get equal amounts? And to this day—my brother's here, he tells me why, if they tell me that I am already paid up, why have they not sent me a check? This is what I want to ask.

The CHAIRMAN. Have you had a chance to talk to the ladies who have the list of what is owed to each allottee who could go over this with you?

Ms. HUMPHREY. I'll do that.

The CHAIRMAN. They're in the next room. And I think if you would sit with them and go through this, they could give you whatever information they have, both about your account and about your brother's account.

Ms. HUMPHREY. Well, what I don't understand is how come his is paid off and mine's not, and he's still not getting a check?

The CHAIRMAN. Well, that's a good question. But you'll need to ask them that question, I don't have the answer. And I think the only ones who would are the folks that have that list.

Ms. HUMPHREY. All right. Thank you for your time, Senator.

The CHAIRMAN. Thank you very much, appreciate you being here.

Let me do this: Let me just ask if any of the people who have been on our panel here have some concluding remarks, anything they would like to make. Mr. Garcia, Mr. Begay, Mr. Trujillo, Mr. Lords?

Let me just have the microphone passed over. And maybe we would go in the reverse order that we went before, so that—why don't you make your concluding remarks in a couple of minutes, if you could, each one, and then we would conclude the hearing.

Mr. GARCIA. Thank you, Senator. Seems listening to various testimonies being given and observing the whole environment here, I don't think this is any different than what we have heard as chapter leaders in these affected communities.

I personally believe that there is a problem all the way from MMS as far as the oil companies paying their share for their production leases or whatever.

Also, the next biggest problem is up to the BIA. I don't believe the BIA has the resource and a meaningful way to expedite these payments. And I don't really blame the Office of Trust Funds Management. I think they're in a position after they receive the data from the BIA to process these checks.

I do believe, however, that the BIA has a trust responsibility to ensure that our Navajos, our community members, receive a fair and honest amount. But I believe the system is not working. It's going to take coordination on behalf of the Navajo Nation, various departments of the Interior, and all players need to come together and coordinate. And this has been ongoing for numbers of years, this is not new to these people.

And the other thing that really bothers me here is if you heard all the testimony, none of these people are receiving what they normally have been getting prior to the shutdown. So there's still something wrong where maybe the companies are not paying. Well, who's monitoring that? Who is the person to ensure that these companies pay the rightful amount to these land owners? And I think the more we wait, we're going to see some very tragic things are

going to happen, both socially and financially. And I'd like to summarize, Senator, really briefly, in Navajo.

[Navajo spoken.]

And I'd like to thank Mr. Brunner from the Senator's Office, and everyone else. This is from the Albuquerque, the chairperson, and they have made every effort to ensure that our comments and our problems be heard. And we have met with them at our Chapter House, and I'd like to thank you for making that time and making that effort to ensure that our people be heard.

[Navajo spoken.]

This is a problem for us. We need your input, we need your participation. And as a Chapter leader advocating on my behalf for the community, our Navajo Nation will take 100 percent effort to ensure that this problem be corrected and make this service efficient to all these people here. Thank you.

The CHAIRMAN. Thank you very much.

Mr. Trujillo.

Mr. TRUJILLO. Thank you, Senator.

The CHAIRMAN. Mr. Trujillo, could you make yours short? We are about out of time.

Mr. TRUJILLO. Thank you, Senator. Very quickly, just a couple of observations here.

One, I think it's very apparent through your questioning that the community members from the eastern agencies, as well as the other allottees, are wondering. They're used to a certain payment coming within a certain time period. And because of this, that's been disrupted and there's been a change.

As a result, as with anything else, people are reacting to that change. Yet, I think it's becoming somewhat apparent that the explanations are not coming forward as to why these changes are happening. And because of that, there's still a tremendous amount of confusion as to what's happening, when it's going to be resolved, and how it will be resolved.

So one, I would ask that you continue to work in this area. And if there's any way that you would require the assistance of the President of the Navajo Nation or his staff to assist you in that, we would be willing to assist you with that.

The other point I'd like to also make is that again, the Navajo Nation is continuing to focus on how we can assist individuals within the Navajo Nation. As with any other entity, there are a tremendous amount of needs. One very important one right now that we're working on is the drought. So at times we feel some gain.

We need to help these communities and these families. But on the other side of it, as we take money to do that, as we go into the drought season, that may impact us even more.

So again, to reiterate one point as we go through this process and watch it completed, we will go through audits, but I think we'll be looking to see the Federal Government reimburse us for the money that we're trying to help the communities with.

But to clarify that, I don't want those dollars to impact the communities. This is a Federal Government issue. They should pay for it, not the people out here.

So those are the two things that we are looking at. Again, I appreciate your time, Senator.

Mr. BEGAY. Thank you, Mr. Chairman. Quickly, there have been suggestions that there should be a consolidation of various agencies to relocate in one area. I guess that it's an easy suggestion to be made. All of us here must remember that Secretary Norton, under her leadership, had proposed to reorganize this effort. But as for the Navajo Nation, it's going to have a tremendous impact. Just, for example, if the Trust Manager is all housed under one roof, then Navajo Nation has—Navajo Region Office is going to have to give up 200 FTEs, $12 million in our budget in order to be part of the consolidation.

Because on the initial planning, it was going to cost $300 million to reorganize under one roof with that concept. Because this will impact the Navajo Nation. That's why we resist that. So I think there should be another alternative that could be reviewed for that consideration. Thank you.

The CHAIRMAN. Thank you. Mr. Lords, you have the final word here.

Mr. LORDS. Thank you, Mr. Chairman. Thank you for inviting the Department of the Interior to your hearing, I'll make my comments very quick.

For the people who are part of Mescal settlement, OTFM received its first lease file yesterday, since the Internet shutdown. There should be credits going into allottee accounts today. The total for that file was approximately $750,000.

Just because we make weekly distributions, Senator, does not mean that everyone gets a weekly credit to their account. As Mr. Garcia stated, that depends on which lands MMS receives funds for.

And then lastly, based on what I heard today, I will go back and will look at what we can do to update the account holders on the estimated payments and what was offset so that we get something to them so they have some information in hand.

The CHAIRMAN. Good. Let me get the microphone again.

Well, let me just thank everybody who has given us information today. I think even though there are a lot of problems, and there clearly are, with the way we are having this administered, the way it's been set up, I think that the people who have been here today have been trying to give us information about their view of what needs to be done.

I do believe it would be helpful to see if we can improve the communication about what people are owed and what people's accounts reveal, about what's going into these accounts. And anything that can be done along those lines would be very much appreciated.

We are going to regroup with the Department of the Interior officials when we get back to Washington and try to find ways to get these problems resolved and get them resolved as quickly as possible. This is something which I know has been an ongoing issue for a long time.

I hope we can work cooperatively with the Department of the Interior to get the problem solved so that people do get their payments, get them quickly, and get their full payments. And that people also have confidence that the oil companies are, in fact, paying

the full royalties that are owed to the royalty owners. That's something that people need to have confidence of, and we obviously haven't been giving people enough information to give them that confidence up until now.

Let me once again just indicate Terry Brunner, who is over here by the door. He works with me and my staff, and I know he has met with Mr. Garcia and some others here. He is available to continue working with you on this, and we look forward to helping get this resolved as quickly as possible.

I thank you all for coming, and I hope that some of the information here has been useful. And again, I thank the City of Bloomfield for providing this facility and all the help they've given us to make this happen.

So this concludes our hearing and thank you very much.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

EASTERN NAVAJO AGENCY,
NAGEEZI CHAPTER—DISTRICT 19—#92,
Nageezi, NM, May 31, 2002.

Hon. JEFF BINGAMAN,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: The Navajo Allottee's in the Nageezi Community are deeply concerned and disappointed that some Individual Indian Monies (IIM) has not resumed payments since the computer shutdown on November 21, 2001.

The Department of the Interior through the Bureau of Indian Affairs (BIA) has mismanaged billions of dollars through royalty payments from the Navajos, also known as Individual Indian Monies.

What will make the Bureau of Indian Affairs to account for all missing funds and return it to the rightful owners?

- It was over a century ago that the United States Government obligated to have the "trust responsibility" to ensure Native Americans with protection and management of their affairs.
- Most of our elderly rely on this income to meet their basic living needs and to care for their livestock. This income is deeply needed by our community to supplement what income they have, if any.
- A great percentage of our Indian Allottee's have not received or resumed any royalty proceed since the shut down, which created critical financial hardship. Some resorted in selling their personal possession, livestock or other items of value.
- On May 3, 2002, the Navajo Allottee's conducted a meeting with Mineral Management Service from Denver, Colorado, Office of Indian Trust Funds Management of Albuquerque, Bureau of Indian Affairs of Gallup and Farmington Indian Mineral Office of Albuquerque. It was evident at that time that some oil companies were not making payments to MMS on Indian Land for production and leases. Mineral Management Service personnel confirmed the discrepancies, which resulted in non-payment to Navajo Allottee's.

Speaking on behalf of Navajo Allottee's, there are numerous problems with the current program operation on Indian Trust Management operation. Secretary Norton's plans to reorganize and consolidate Indian Trust Asset Management functions into a separate new organization unit will not work unless each tribe develops a realistic and workable plan with individual input. Creating another department with current Department of the Interior personnel will only create further bureaucracy thereby hindering improvement and customer service.

Our recommendation to you as our Senator, is to support the following:

1. Allow our Navajo Allottee's to utilize the Indian Self-Determination Act by creating a local Individual Indian Monies (IIM) payment distribution preferably in Farmington, New Mexico. Current process for payment are distribute as follows: Oil Companies to Mineral Management Service (Denver, Colorado) to Area Bureau of Indian Affairs (Gallup, New Mexico) to Office of Trust Funds Management (Albuquerque, New Mexico) to Indian Allottee's.

2. Coordinate proposed plan and set up with Farmington Indian Mineral Office (Farmington, New Mexico). Plans are as follow: Oil Companies make direct payment to Navajo Allottee's. The Farmington Indian Mineral Office will monitor and ensure that oil companies make proper and timely payments.

3. Develop a Feasibility Economic Plan, which will enable the Navajo citizens to have a direct impact utilizing mineral extraction for employment and other positive means. SUGGESTION: Since our community averages a pay out over $650,000.00 a month, would it be feasible to have our own Navajo Refinery?

We urge you to support and seek ways to improve the system that has failed our people for many years. There are ways to prevent wasteful and unnecessary government bureaucracy in hindering direct service to our community members. Please give this matter your highest priority. May we hear from you very soon with your plans?

Sincerely,

CALVERT GARCIA,
President.

STATEMENT OF DR. STEPHEN C. TORBIT, SENIOR SCIENTIST, ROCKY MOUNTAIN NATURAL RESOURCE CENTER, NATIONAL WILDLIFE FEDERATION

INTRODUCTION

My name is Stephen C. Torbit, and I appreciate the opportunity to submit this statement to the Committee on Energy and Natural Resources. I am testifying today on behalf of the National Wildlife Federation, Wyoming Outdoor Council, Biodiversity Associates and myself.

On March 13, 2002, I testified before the Committee on Government Affairs on the Impact of the National Energy Plan on Western Public Lands and submitted this statement for the record. Today's field hearing will address similar issues outlined in my earlier testimony before the Committee on Government Affairs. Therefore, I would like to request that this statement be submitted for the record.

The National Wildlife Federation (NWF) is the nation's largest member-supported conservation education organization. For more than 65 years, millions of NWF members and supporters from across America have invested their time, energy, passion, and grassroots action in conserving and restoring the living legacy we will bequeath to our children—in keeping the wild alive.

Established in 1967, the Wyoming Outdoor Council is the state's oldest and largest independent statewide conservation organization. Their mission is to protect and enhance Wyoming's environment by educating and involving citizens and advocating environmentally sound public policies and decisions.

Biodiversity Associates is a Wyoming-based conservation group dedicated to preserving wildlife and wild places. This group serves as a voice for native species and public lands in the Red Desert and other parts of the Intermountain West and Great Plains.

I earned my Ph.D. in Wildlife Ecology from Colorado State University in 1981, and have worked as a wildlife educator, researcher and biologist for the Colorado Division of Wildlife, the Wyoming Game and Fish Department and the U.S. Fish and Wildlife Service. I currently am the Senior Scientist for the National Wildlife Federation.

I am a native of the west and have been involved with energy development on western public lands for more than 20 years. I am here today to discuss this Administration's National Energy Policy and its impacts on our western landscape. Although this Congress is currently considering legislation to enact this National Energy Policy, I can assure you that significant pro-energy development policies have already been put in place by this Administration. These radical changes have completely reversed the logical sequence of environmental analysis, public input and agency decision. This has occurred in a vacuum of no public input and in a manner that compromises unbiased environmental analysis and disregards the other public-trust resources on the federal estate.

I also understand the debates in this Congress concerning the opening of the Arctic National Wildlife Refuge for oil and gas development. NWF has been actively engaged on this issue and has been working to protect the wildlife values of this unique area. Its addition to the Arctic Refuge, NWF is extremely concerned about the many other actions already threatening wildlife and other resources on our western public lands. In my testimony, I will illustrate some of the impacts of the Administration's energy policies on an area that is personally and professionally very important to me, Wyoming's Red Desert.

As a professional biologist, I have been engaged with wildlife issues in Wyoming's Red Desert since the late 1970s. Additionally, I have used the Red Desert personally for recreation including hunting, hiking, photography and camping. The Red Desert epitomizes the west; its wide-open spaces and its abundant wildlife resources allow me to reconnect to my western heritage. I have harvested significant numbers of mule deer and pronghorn antelope from the Red Desert and those animals were an important source of food for my family when we resided in Wyoming. I continue to hunt, hike and camp in the Red Desert although I no longer live in Wyoming.

WYOMING'S RED DESERT

Despite its name and its appearance to the uninitiated, the Red Desert is not an empty wasteland. The Red Desert of Wyoming is truly an ecological, geological and wildlife wonder. The Greater Red Desert region includes the largest undeveloped high elevation desert left in the United States, the continent's largest active sand dune system, two-thousand-year-old rock art and Shoshone spiritual sites, portions of the Oregon, California and Pony Express Trails and 10 Wilderness Study Areas. This special area is rich in wildlife because of the integrity of the habitat. More than 350 wildlife species call this area home including the largest desert elk herd in North America, and the largest migratory game herd in the United States outside of Alaska consisting of some 45,000–50,000 pronghorn. The Red Desert also provides important habitat for mule deer, sage grouse, numerous small mammals and nesting and wintering habitat for birds of prey. It was principally because of the integrity and viability of these habitats that the Department of the Interior chose not to list ferruginous hawks under the authorities of the Endangered Species Act of 1973, as amended.

Since 1898, there have been efforts to set aside and protect portions of the Red Desert and the wildlife habitat it supports. In 1935, the Governor of Wyoming proposed establishing the Great Divide Basin National Park. In 1973 and again in 1976, the National Park Service reviewed Adobe Town, a series of badlands formations on par with Badlands and Bryce Canyon National Parks, for designation as a National Natural Landmark. The reviewers concluded, "the greatest natural value of this area is that it is still a 'howling wilderness,'" (1) and rated the area as having the highest rating for ecological and geological values, a rating that reflects the "high degree of national significance," (2).

But now this area rich in ecological, geological and cultural wonders is at risk from multiple entities that would cast aside these public values and dominate the landscape with energy development.

EXPEDITED ENERGY DEVELOPMENT

Our public lands already provide a substantial amount of oil and gas from an estimated 57,800 producing oil and gas wells. According to a 1999 report published by the National Petroleum Council, roughly 95% of BLM lands in the Overthrust Belt of the Rocky Mountains are already open for mineral leasing and development.

While this Congress considers and debates the National Energy Policy, many actions are already accelerating energy extraction on the Red Desert and other public areas in a way that will permanently alter the character and resources of these public lands. Currently, public land managers are not considering the multiple assets of public lands and are not working proactively to balance conservation of these assets with energy development demands. Rather, this Administration is using its discretionary authorities to totally skew decisions toward domination of the landscape by extractive industries. Indeed, we are witnessing the rapid industrialization of our western public lands.

RECENT EXECUTIVE ORDERS

There is ample evidence to justify our concern. Until now, federal land managers were expected to fully evaluate the impacts of their proposed decisions on the environment, to disclose those impacts to the public and consider public input prior to finalizing their decision. In decisions to lease or permit drilling, prescriptive restrictions were often attached to minimize or avoid impacts to public resources (water quantity and quality, air quality, historical and wildlife resources, etc.). In essence, the logical framework was to "look before you leap" to assure no irretrievable commitments of resources were unknowingly made.

However, this Administration has turned this entire process on its head by ordering agencies to first analyze whether any proposed actions (e.g. winter range improvement for wildlife) will impede or accelerate energy development on public lands before issuing a final decision. Specifically, Executive Orders 13211 (3) and 13212 (4) now require an "Energy Effects Statement" to specify "any adverse effects on energy supply, distribution or use . . ." of federal actions. Furthermore, for energy related projects, agencies are encouraged to "expedite their review of permits or take other actions as necessary to accelerate the completion of such projects . . ." This message has been heard clearly by those who manage the federal estate. The result is that certain actions are discouraged if they impair the federal government's ability to extract energy reserves. If environmental protections are already incorporated into existing energy development decisions, federal managers are encouraged to be creative in circumventing those protections to benefit energy extraction.

THREATS TO THE RED DESERT

Examples of what this new policy of expedited development has meant to the Red Desert include:

- The BLM released a proposal in June 2001 to allow up to 3,880 coal-bed methane wells in the Atlantic Rim Project Area, an area of critical importance to wintering wildlife. Consistent with new policies to accelerate oil and gas development on public lands, the BLM is proposing piecemeal development of up to 200 wells before completing a thorough and comprehensive environmental analysis of the entire proposal. This piecemeal approach is designed to leverage the ultimate decision by establishing a "beach head" for energy development by first minimizing the environmental impacts of these smaller projects.
- In August 2001, the BLM approved seismic exploration in the Adobe Town area. Seismic trucks drove through roughly 50,000 acres of citizen-proposed wilderness areas in September through December 2001, degrading this fragile landscape, laying the foundation for future development and thus undermining the integrity of the citizen's proposal. Exploration continued within crucial wildlife winter ranges during the winter months, in violation of agency commitments to avoid the area during that sensitive time.
- The BLM proposed in December 2001 to permit an eight-mile long hand-laid seismic study entirely within the boundaries of the Adobe Town Wilderness Study Area. Thereby, BLM may have undermined wilderness designation for Adobe Town.

THE ADMINISTRATION'S NATIONAL ENERGY POLICY

There are more examples of the Administration expediting permits evaluating impediments to leasing public lands and removing these impediments as "unnecessary" obstacles to energy production. These examples come from many areas in the west in the new rush for energy development, including:

- BLM authorizing seismic exploration in Utah's Dome Plateau, just outside of Arches National Park. The Interior Office of Hearings and Appeals (OHA) halted this project finding it was likely that BLM had inadequately considered the environmental impacts of this action on public lands.
- In January 2002, the Wyoming State BLM Director presented an Award for Excellence to the Buffalo Field Office. This one field office was recognized for approving more drilling permits than all other BLM offices combined, excluding New Mexico. This one area of northeastern Wyoming is proposed to soon be home to tens of thousands of gas wells. The Buffalo Field office was praised for working "diligently" and "creatively" with industry in approving the record number of oil and gas permits.
- BLM is characterizing wildlife lease stipulations as obstacles to production. These minimal measures are now the only wildlife mitigation measures found on drilling permits and leases. They are intended to balance natural resource values against energy development and protect critical wildlife habitats, such as crucial winter ranges, migration corridors, calving and nesting grounds. If these protections are stripped, the vast array of wildlife species calling the Red Desert home will diminish in the onslaught of energy development.
- Overturning lease stipulations designed to protect important wildlife habitats. The Wyoming BLM has already approved nearly 70 percent of the 88 requests for exceptions to lease stipulations requested by the natural gas industry for the Green River Basin this winter. These waivers follow two years of extensive drought when wildlife and wildlife habitat is already stressed.
- Opening "all public lands" regardless of existing environmental safeguards as promoted by the National Energy Policy. This attitude is manifested by BLM's seismic testing operations in federally designated Wilderness Study Areas in the Red Desert. It is important to point out that all of the seismic operations in the Red Desert were proposed after the Administration's National Energy Policy was released.

Previous legislation enacted by Congress, approved by other Administrations and consistently upheld in the courts, promote multiple uses of public lands where a mix of resource values are developed or maintained across the public estate. The provisions of the National Energy Policy ignore the multiple use mandate and propose to eliminate even the token balance between resource conservation and energy exploitation and substitute a dominant use for-multiple use.

Certain special areas on our public lands are simply too wild to waste. These areas include our National Parks, National Monuments, National Wildlife Refuges,

roadless areas, and lands with special values such as Wyoming's Red Desert, Montana's Rocky Mountain Front and Colorado's Vermillion Basin.

Well-planned, responsible development can balance our country's energy needs with the conservation of wildlife habitat and other natural treasures for future generation to enjoy. Responsible development requires thorough pre-leasing environmental review, full compliance with all environmental and land management laws, measures to protect wildlife migratory routes and other sensitive lands, full reclamation of developed areas once operations cease and minimization of road building.

Unfortunately, rather than encouraging a thoughtful, strategic and balanced approach to energy development, the Administration's National Energy Policy is recreating the chaos of the western gold rush of the 1800s. Like that archaic approach, these new tactics give no consideration for other users or resources. Like the old western gold rush, this new "western energy rush" will leave impoverished natural resources and cleanup as the legacies for future generations. I invite the members of this committee or their staff to come to Wyoming with me and visit Adobe Town, Jack Morrow Hills and other unique and valuable areas of the Red Desert to view these areas and the consequences of industrialization.

I appreciate the Committee's interest in these critical issues and urge you to take action to ensure that we do not replicate the mistakes of the past and instead manage the public lands in the public interest not only for today but for tomorrow as well.

Bloomfield, NM, May 30, 2002.

SENATOR BINGAMAN: The negative impact of oil and gas operations in San Juan County is extensive. Pipeline rights-of-way are wide and, coupled with adjacent roads, affect the movement of wildlife. These rights-of-way are supposed to be reclaimed by revegetating but seem mostly to grow more invasive weeds, if anything at all. A one time planting may not be enough to restore what has been denuded; those responsible must check later to see if reseeding was successful, and, if not, must work to correct the problem.

Compressors not only are multiple additional man-made units in wild areas but are also noisy beyond what is acceptable. In addition, New Mexico EPA recently advised the public in San Juan County that the county is nearing non-attainment status for ozone and that compressor emissions are a part of the problem. It seems that recently we are seeing these units scattered in large numbers throughout the county. We are concerned because the public is not being asked about installations nor are expressed concerns being positively addressed. We do not consider the legals in the newspaper adequate notification. Many local land owners, primarily ranchers, believe their concerns are being ignored and their rights overrun. It is important to remember that these ranchers serve our nation by putting food on our tables. Judging from what we see on our birding expeditions into the wild areas of San Juan County, we believe their concerns are justified.

If current laws are inadequate to protect the land, both public and private, then we may need to look at new or additional legislation to correct the problems.

More is often not better. The oil/gas industry would go a long way by minimizing the areas they use and by seriously addressing the problems of restoration. BLS must be more diligent in the permitting process and in approving revegetation efforts.

JANET AND JOHN REES.

Aztec, NM, May 31, 2002.

GAS WELLS ALONG THE ANIMAS RIVER

DEAR SENATOR BINGAMAN; My wife and I are schoolteachers (along with our two children) living near the Animas River at Cedar Hill, New Mexico, about nine miles north of Aztec. We are very concerned with the potential environmental impact from the recent and future down spacing of gas wells.

Our river community has been impacted in years past from methane migrating through porous alluvial soil taking the path of least resistance into water wells, agricultural land, or into the river itself. Some landowners have settled through litigation, but the Animas River and riparian ecosystems cannot defend itself.

How can the oil and gas industry be allowed many exemptions from hazardous waste and drill in our backyards or along the banks of a fragile river? We desperately need state and federal legislation passed establishing no-drill buffer zones

along America's rivers. The effluent from leaking wells or accidental chemical spills (some wells are literally on the banks of the Animas) leave little or no response time. A conflict of resources exists. Oil and gas should never have priority over our precious water. With four billion cubic feet of gas being produced daily in the San Juan Basin our "community share" of the economic resources is small in comparison to our "disproportionate share" of the spillover costs.

While some Oil and Gas CEO's and stockholders may enjoy the quiet and privacy of their posh gated communities, we see the continued depletion and deprivation of irrigated farmland, the damage to river ecosystems and hear the unnerving relentless sound of compressors. We have the technology, but not the political will, to establish a no-drill buffer zone at least a half-mile away from either side of our rivers. We have had to absorb the spillover costs from "government subsidized" coal seam wells, why not subsidize a "Riparian protection zone". The every-day citizens living in the river valleys of the San Juan Basin deserve to be "equal partners" at the negotiating table. Government should not exist as a private club for lobbyists representing the corporate elite.

Sincerely,

KEN STANLEY.

Farmington, NM, May 30, 2002.

As a teacher in San Juan County for the past 25 years, I have taken many field trips with students into our BLM lands. Over the years, I have seen a remarkable increase in the land damage that the oil and gas industry has caused. This primarily includes a huge increase in noxious weeds, erosion at poorly maintained road sites, and oil/chemical spills at well locations. The increase in roads then opens up illegal dumping sites for trash, dead animals, etc. It is a raping of our land with little thought of preserving the natural beauty of our fragile ecosystem. The billions ($2.49 to be more precise) of dollars that our land generates needs to be used in a timely manner to repair this damage as soon as possible.

KATHY PRICE.

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