AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 109–727

EXAMINATION OF OIL AND GAS ACTIVITIES

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

SPECIAL HEARING

OCTOBER 25, 2005—WASHINTON, DC

Printed for the use of the Committee on Appropriations

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html

U.S. GOVERNMENT PRINTING OFFICE

25–117 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON APPROPRIATIONS

THAD COCHRAN, Mississippi, *Chairman*

TED STEVENS, Alaska
ARLEN SPECTER, Pennsylvania
PETE V. DOMENICI, New Mexico
CHRISTOPHER S. BOND, Missouri
MITCH McCONNELL, Kentucky
CONRAD BURNS, Montana
RICHARD C. SHELBY, Alabama
JUDD GREGG, New Hampshire
ROBERT F. BENNETT, Utah
LARRY CRAIG, Idaho
KAY BAILEY HUTCHISON, Texas
MIKE DEWINE, Ohio
SAM BROWNBACK, Kansas
WAYNE ALLARD, Colorado

ROBERT C. BYRD, West Virginia
DANIEL K. INOUYE, Hawaii
PATRICK J. LEAHY, Vermont
TOM HARKIN, Iowa
BARBARA A. MIKULSKI, Maryland
HARRY REID, Nevada
HERB KOHL, Wisconsin
PATTY MURRAY, Washington
BYRON L. DORGAN, North Dakota
DIANNE FEINSTEIN, California
RICHARD J. DURBIN, Illinois
TIM JOHNSON, South Dakota
MARY L. LANDRIEU, Louisiana

J. KEITH KENNEDY, *Staff Director*
TERRENCE E. SAUVAIN, *Minority Staff Director*

SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES

CONRAD BURNS, Montana *Chairman*

TED STEVENS, Alaska
THAD COCHRAN, Mississippi
PETE V. DOMENICI, New Mexico
ROBERT F. BENNETT, Utah
JUDD GREGG, New Hampshire
LARRY CRAIG, Idaho
WAYNE ALLARD, Colorado

BYRON L. DORGAN, North Dakota
ROBERT C. BYRD, West Virginia
PATRICK J. LEAHY, Vermont
HARRY REID, Nevada
DIANNE FEINSTEIN, California
BARBARA A. MIKULSKI, Maryland
HERB KOHL, Wisconsin

Professional Staff
BRUCE EVANS
GINNY JAMES
LEIF FONNESBECK
RYAN THOMAS
REBECCA BENN
PETER KIEFHABER *(Minority)*
RACHAEL TAYLOR *(Minority)*
SCOTT DALZELL *(Minority)*

Administrative Support
MICHELE GORDON

CONTENTS

	Page
Opening statement of Senator Conrad Burns	1
Statement of Senator Larry Craig	3
Statement of Senator Wayne Allard	4
Statement of Senator Robert F. Bennett	5
Statement of Hon. Kathleen Clarke, Director, Bureau of Land Management, Department of the Interior	6
Prepared statement	9
Statement of Logan Magruder, president, Idependent Pertoleum Association of the Mountain States	17
Statement of Ford B. West, president, The Fertilized Institute	27
Prepared statement	29
Statement of Paul N. Cicio, Executive Director, Industrial Energy Consumers of America	34
Prepared statement	35

EXAMINATION OF OIL AND GAS ACTIVITIES

TUESDAY, OCTOBER 25, 2005

U.S. SENATE,
SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Conrad Burns (chairman) presiding.

Present: Senators Burns, Stevens, Domenici, Bennett, Craig, Allard, and Dorgan.

OPENING STATEMENT OF SENATOR CONRAD BURNS

Senator BURNS. We will call the subcommittee to order, and I want to thank, first of all, our witnesses for coming today.

This is to just kind of review the problem of production of natural gas and oil on our public lands.

I want to thank the Director of BLM for coming this morning. Kathleen, thank you very much. We will probably just start the discussion at the table and hope that some facts come out that we can deal with and see what action maybe Congress could take. Working with our Federal bureaucracy that is in charge of this, we could cut through some redtape, maybe.

We have with us this morning Kathleen Clarke, Director of the Bureau of Land Management; Logan Magruder, President of the Independent Petroleum Association of the Mountain States; Paul Cicio, Executive Director of Industrial Energy Consumers of America; and Ford West with The Fertilizer Institute.

I would say that it is very important that agriculture have a voice here because natural gas, of course, is the feedstock to fertilizer, and we have seen our fertilizer prices escalate and I have not seen the price of wheat escalate yet. So we are sort of between a rock and a hard place.

For as long as I have been in the Senate, I have been keenly interested in the ongoing attempt to supply our Nation with sufficient energy to fuel our economy. All segments of the economy are directly impacted by the cost of fuel to produce and move our output. I would tell you yesterday I bought gasoline for $2.35 a gallon. You folks who have not been shopping around, it is out there.

Senator CRAIG. Do not give the address or you will empty the room.

Senator BURNS. There was a big enough crowd there. They do not need any more business, by the way. I will put it that way.

But nonetheless, from keeping warm in our homes and moving our food to market, the American taxpayers face tighter budgets as a result of these energy costs.

Data from the Energy Information Administration illustrate just how much of a burden the average American is facing. Those who heat with natural gas are facing a 48 percent increase, or $350 above last year's cost, to heat this winter. The increases are similar for heating with propane and, of course, with fuel oil. If these expectations hold true, the consumer costs for delivering natural gas in my home State of Montana will have doubled since 2002.

The projections for gasoline and related problems are just as dire. Over the last 3 years, the average price of gasoline in Montana has also doubled, according to the data presented by the EIA. Clearly, we have a problem, but we see some gasoline coming down.

We are not seeing any decline in diesel fuel, however, and that sort of concerns me because I got in a situation a couple of weeks ago where we ended up a couple of trucks short because they just parked them. There was no relaxation at all as far as diesel cost.

For the past decade, Congress grappled with the passage of the energy bill to help address some of these problems that are hindering our energy production in this country. With the passage of the comprehensive energy bill earlier this year, many have held it up as a silver bullet solution to our energy problems. Unfortunately, as most of us know, there is no such thing as a silver bullet, and the bullet does not mean anything if you do not have any gunpowder behind it. So in our case, adequate funding for provisions and authorities included in the energy bill are the gunpowder we must find if we expect some relief.

Today I expect testimony to be pretty factual as we take a look. I know Director Clarke spent a great deal of time trying to find solutions to address the slow process to approve applications for a permit to drill. I must note that the subcommittee still fields numerous complaints that the process continues to be unnecessarily burdensome. It is slow and seemingly arbitrary depending on the personal opinions and the workload of the local bureau employees. I look forward to the Director's update this morning on her efforts to rectify some of these problems and tell us if the sizeable backlog of APD's is being managed appropriately.

More importantly, I believe the cost of the provisions included in the energy bill falling on BLM's shoulders needs to be fully explain to the members of this subcommittee. This is a committee on appropriations. We have primary responsibility to fund this program and to ensure that they have enough money to work on these problems. Clearly, more funding will need to be allocated for BLM's oil and gas efforts, and we expect production to increase in a sound and constructive manner.

With estimates ranging from $100 million in the next fiscal year, I believe we need BLM to give us an idea on how this money will be spent and give us an indication of whether we can expect a sizeable increase in supply for American consumers. Will this investment really spur production and bring more royalty income to the Federal Government? That is an important part. Minerals management is probably one of the largest revenue streams into the Fed-

eral Government that we have in the Federal Government. These are some questions that we hope to tackle.

Of course, we have got some folks who are very much interested here, both on the consumer side, on the production side, and of course, the responsibility we have as a Federal agency to make sure that we try to get as much production as we possibly can.

I have got some figures I am going to pass along in a little bit. You know, we keep talking about 181 and offshore in the Outer Continental Shelf. It takes a long time to build a platform. It takes a long time even if you opened it up now. When would the first supply of gas start to flow? When we have trillions of cubic feet of natural gas onshore that still produces the lion's share of our natural gas where pipelines are in place, where the infrastructure is to drill and to move it, and this is why I am focusing here mostly today on onshore because I happen to think that is where the actions we take will have the largest impact upon the supply of natural gas in this country.

So, again, I want to thank the witnesses for coming today, and now I will turn it over to Larry Craig, who is on the Energy Committee and has a great interest in this. Larry Craig.

STATEMENT OF SENATOR LARRY CRAIG

Senator CRAIG. Well, Mr. Chairman, thank you. I will be brief.

The chairman has spoken of increasing complaints of failure to process and stack-up in application. I would like to know who is asleep at the switch. For this administration to be criticized as being anti-environmental and to be processing less applications than the Clinton administration, so I am told—I am anxious to hear if that is true—would suggest that the work is not getting done. We are in an energy crisis, and I would be anxious to hear if the BLM is at a crisis mode. They ought to be. I anticipate the Director is going to speak to that.

I understand and I read in here the processing of applications for permits to drill and offering parcels of Federal land for oil and gas leasing will be BLM's major priority. I wish it had said, is BLM's major priority, has been for the last 5 years, and we are operating at peak capacity. Yet, we hear today that on an office-to-office basis, in all fairness, there is a significant variance in performance levels.

I am frustrated by all of that. The cost of gas is dislocating this economy and sending it offshore, and we ought to be at a racer's speed, complying with the law, but getting the work done in half the time. If that means reprioritizing budgets, reallocating resources, doing less for some and more for others, I know of nothing more important for our country to be doing than getting us back into the business of production. That is what I am hearing.

So, Director Clarke, I am extremely interested in hearing from you this morning because if what I hear is true, then I would suspect we need you back here every quarter reporting to us on the increased performance that will come and will increasingly come. If you were anticipating 3,000 applications and you are going to get 10,000, then there ought to be a significant shuffling of personnel and people and talent to make that happen, all within the law and certainly within the environmental restrictions necessitated. But if

there are problems, I would hope you would come to this committee or the Energy Committee and say, we cannot get there unless we have the following things done for us to allow us that kind of flexibility.

We are shuffling madly now and I know we are behind the curve. The bill we passed in August that facilitates a great many things should have been passed 7 years ago, but there were many here who simply could not see the future as some of us who spent a lot of time on this issue did.

I would hope that the performance record that is out there with our BLM and the Department of the Interior is significantly better than is currently being reported to me. That is the purpose for this hearing, amongst others. If it is not, then we will have to find out why it is not and ask that changes be made to make it happen.

There is nothing more important for this country right now, whether it is the high prices in the Northeast, whether it is the dislocation of the chemical industry of our country and sending it offshore, whether it is misdirected policy—and it has been—to suggest that we ought to be generating electricity out of natural gas, as it happened during the Clinton years, foolish but real, that has put us where we are. I would hope that all of a sudden we awaken from our sleep and get at the business of performing at a phenomenal rate of speed to get our work done.

Mr. Chairman.

Senator BURNS. Thank you, Senator Craig.

Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Mr. Chairman, I would like to commend you for holding this hearing. I think one of the most important functions we can do as Senators is oversight. So many times we get ourselves involved with passing legislation and do not do enough oversight. So I really do appreciate it.

I think this hearing is very timely in light of many of the concerns that you and Senator Craig have both raised.

One provision that was included in the Energy Policy Act set policies regarding oil shale, which is a promising fuel source found in abundance in the Rocky Mountain region, primarily Colorado, Utah, and Wyoming. The oil shale in this region produces very light crude, suitable to fill needs for jet fuel and other very pure fuels. During the last several years, a handful of companies have worked to develop technologies which will allow for economically and environmentally feasible development of this resource.

Some of the richest deposits of oil shale lie under Federal lands. This area, now under the purview of BLM, was formerly known as the Naval Oil Shale Reserve. I know that BLM Director Kathleen Clarke, who is with us today, is very familiar with this area and this resource. The energy legislation we passed allows for small-scale demonstration projects and includes provisions that will help lead to commercialization after the demonstration projects have proven themselves. These provisions are intended to be a proverbial light at the end of the tunnel.

Now, western Colorado is at the center of the Intermountain Rockies' natural gas boom. The White River BLM field office in

Meeker projected in 1997 that their reasonable, foreseeable development over the next 20 years would consist of 1,100 wells, averaging 55 wells per year.

Now we will just fast forward to 2005, this year, and we see that the White River field office is now preparing to undertake an environmental impact statement which is, I might add, largely funded by companies interested in exploring natural gas in this area, in order to prepare for industry estimates for up to 13,000 wells over the next 20 years.

As this boom of activity continues throughout western Colorado, it will be imperative for BLM to communicate to this and to other committees what sort of needs arise throughout the agency. I believe the unique partnership being entered into with the White River field office and those companies interested in exploring in the Piceance Creek area is a shining example of out-of-the-box thinking, and I am hopeful that your agency will seek out similar partnerships in the future.

While I focused on a few narrow provisions, Mr. Chairman, there are many parts of the Energy Policy Act that are very important to my State and the entire Nation. I look forward to the testimony of these witnesses and the answers to the questions that will be asked of them today.

Senator BURNS. Thank you very much, Senator Allard.

Senator Bennett.

STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman, and welcome to all the witnesses. If anybody does not know, Kathleen Clarke is a product of the State of Utah, and we are all very proud of her and her service and I want to welcome her particularly here today.

The energy bill, I think, was a landmark experience and one that should act as a stimulus for this hearing. The significant thing about the energy bill in my view is that it talks about different sources of energy and power and begins to segment them in ways that make sense. The emphasis is on nuclear power. You use nuclear power to generate electricity, which means that natural gas can be used in another area where it is more efficient. ANWR, which I strongly support, is part of the energy bill. We get oil out of ANWR which is used for transportation and you begin to get some coherence in the way the different sources of energy are allocated.

But I would hope in this hearing, in addition to talking about such things as ANWR, which is years away, and more drilling off of the Gulf of Mexico—we see as a result of Katrina how constrained and small that area was so that it could be damaged by a single hurricane. If we had stretched the drilling out along a larger shore where the energy is, we would not be as vulnerable to hurricanes as we are.

But those are all long-term kinds of things. I would hope today we could talk about some short-term sorts of things that I think the Department is focusing on and could help, such prosaic issues as speeding up the approval of APD's, or is it ADP's? I am dyslexic here. Moving the paperwork faster, looking at the layers within the Department of the Interior where, for all kinds of good intentions,

more and more layers of approval have been put on things that slow everything down. If there is something that could be done to clear some of that out, get approvals faster, we do not need to wait for ANWR to come on line to get the benefit of those kinds of activities.

I have looked through the testimony of our witnesses here and see signs that they are very much on top of this and aware of this. I hope out of today's hearings we can get some indication from them as to what they have in mind.

So I think with the passage of the Energy Policy Act, Congress has finally taken the steps that it needs to take in order to move things forward. I am grateful to you, Mr. Chairman, for calling this oversight hearing so we can see what the administration is doing in a similar fashion.

Senator BURNS. Thank you very much.

It is the taxpayers' money.

I made a rash statement a while ago where the lion's share of our natural gas comes from onshore. 79 percent comes from onshore. Yet, we get all involved in these emotional issues. We have a lot more out there to recover, and where we have got the infrastructure to do it and get it online quickly, that is where we should be focusing our attention.

Thank you, Ms. Clarke, for coming this morning, and we look forward to your testimony.

STATEMENT OF HON. KATHLEEN CLARKE, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

ACCOMPANIED BY:

MIKE TAYLOR, ACTING BUDGET OFFICER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

TOM LONNIE, ASSISTANT DIRECTOR FOR MINERALS, REALTY, AND RESOURCE PROTECTION, BUREU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Ms. CLARKE. Thank you.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear here today to answer your questions, as well as to discuss BLM's oil and gas program, and to consider our efforts to provide responsible and reasonable access to the public lands for energy development. I am accompanied by Mike Taylor, who is the Acting Budget Officer for BLM, and Mr. Tom Lonnie, BLM's Assistant Director for Minerals, Realty, and Resource Protection. I have submitted a written statement for the record.

Senator BURNS. While we are at this point, your complete statement will be made part of the record, and if you all can kind of condense it, keep your statements down to around 5 minutes, we will get a lot of this done this morning before lunch.

Ms. CLARKE. Thank you.

Would you like me to proceed?

Senator BURNS. Yes, please.

Ms. CLARKE. Recent natural disasters and rising gasoline prices have reminded Americans how dependent we are on reliable supplies of energy. Beyond the impact of these events, the United States faces an ever-widening gap between its production and consumption of energy, a gap that, if not closed, poses long-term risks to the U.S. economy and to America's national security.

In response to this challenge, President Bush developed a national energy policy that led to congressional passage of the Energy Policy Act of 2005. The goal of the new law is to ensure a reliable supply of affordable energy for America's families and businesses. This is essential if the United States is to expand its economy, meet the needs of a growing population, enhance Americans' quality of life, and protect national security.

Federal lands and waters, which account for about 30 percent of America's energy production, are critical to addressing the Nation's energy needs. This was made clear by a detailed inventory of Federal lands in five key western geographic basins, which found that these lands contain nearly 140 trillion cubic feet of natural gas. That is enough to heat more than 55 million homes for nearly 30 years.

This same inventory, conducted by the Department of the Interior and Department of Energy under the Energy Policy and Conservation Act, estimated that Federal lands contain about 68 percent of all undiscovered U.S. oil resources and contain 74 percent of undiscovered natural gas resources.

The Bureau of Land Management, as the manager of more public lands than any other Federal agency, clearly plays a key role in the development of the Nation's energy resources. In managing this public land, over 260 million acres of surface and an additional 700 million acres of subsurface acres of mineral estate, the BLM provides for multiple uses of the land, including energy development. The BLM also ensures that activities on the public lands are conducted in a manner that minimizes impacts to the environment.

In the case of oil and gas exploration, less than 1 percent of the land managed by the BLM experiences surface disturbance from oil and gas activity.

During the past 4 years, the BLM has worked diligently to improve oil and gas permitting. I have put charts over here that indicate what the increase is in APD processing and approvals. Received is in dark blue, but actual approved APD's, as you will notice, has nearly doubled from the year I assumed my position.

We have next to that chart a chart which talks about the production of natural gas on BLM lands which has also increased.

In 2005, the fact is we approved over 7,000 APD's, which is, as I said, nearly double what we did in 2002.

The demand for APD's is going up, and we expect to receive about 9,200 applications for permits to drill next year.

The establishment of the seven pilot offices, as authorized by the Energy Policy Act, will certainly facilitate greater coordination among the Federal and State agencies that are all involved and linked to the processing of APD's. These offices will serve both to expedite permit processing and, as well, to increase the number of permits we are able to approve. With the pilot offices in place, it is estimated that an additional 3,000 APD's could be processed over the next 5 years, which is the life of the pilot program. This would result in increased production equivalent to 1,670 billion cubic feet of natural gas over a 15-year period, which would be enough to heat 1.5 million homes over that period. A very significant difference that will come from the establishment of those offices.

As we expand the production of energy on BLM lands, it is important to note that we are also increasing our commitment of resources for inspection, enforcement, and monitoring of the public lands.

BLM has undertaken other initiatives to improve energy development from Federal lands. For example, beginning in 2001, we initiated the largest effort in our history to update land use plans. Most of those plans, I will say, were the first-ever plans that had never been updated from the enactment of FLPMA. The BLM, you should know, uses a community-based and highly collaborative approach to planning that complies with FLPMA, the National Environmental Policy Act, and administration mandates to offer cooperating agency status to State and local governments. We are currently reprioritizing our existing planning schedule to make sure that we are moving to the front of the line any plans that present energy potential and get those to the front of the line and get those done.

As it implements the Energy Policy Act, the Bureau will continue to protect the land by carrying out thorough environmental reviews and analyses of projects. Our reviews are conducted in accordance with the National Environmental Policy Act and the BLM land use plans, which the Bureau develops and updates through a process that involves and engages general public participation. It should be kept in mind that the new energy law does not change the requirements of the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, or the Clean Air Act.

To ensure an effective and orderly implementation of the Energy Policy Act, I have appointed a team of professionals to identify tasks and to track our implementation of this effort. There are over 29 significant tasks that BLM has as a result of the act, and this team has stepped way out and we are well down the road and moving forward with implementation.

In fiscal year 2006 and in future years, we expect to see a continuation of the unprecedented high demand for energy and mineral leases and permits. Providing access for the development of oil, natural gas, oil shale, coal bed natural gas, coal, and renewable energy will help the Nation meet its goals for secure and diverse energy sources. The BLM plans to meet the unprecedented demand through a combination of past appropriations increases, new revenue sources provided by the Energy Act, process improvements demanded by the Energy Act, and a continuing program of innovation and improvement to increase effectiveness and reduce costs.

PREPARED STATEMENT

I appreciate the support of this committee. You certainly have supported our energy programs in the past, and I look forward to a continuing dialogue to identify where we can bring additional improvement to our programs and additional energy to the American people.

I will welcome your questions now or whenever is appropriate.

Senator BURNS. We thank you for coming this morning and taking part in this discussion.

[The statement follows:]

PREPARED STATEMENT OF HON. KATHLEEN CLARKE

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear here today to discuss the Oil and Gas Management Program administered by the Bureau of Land Management (BLM). I am accompanied by Mike Taylor, the BLM's Acting Budget Officer, and Tom Lonnie, the BLM's Assistant Director for Minerals, Realty and Resource Protection.

As you know, in the past few years BLM has placed strong emphasis on addressing the Nation's demand for energy resources through the implementation of the President's National Energy Policy. For example, BLM has made considerable progress in addressing the increasing numbers of Applications for Permits to Drill (APDs) submitted by the oil and gas industry. Funding increases provided by Congress, along with substantial improvements in our approval process, have allowed BLM to process a record number of APDs in 2005.

The recently enacted Energy Policy Act of 2005 has given BLM several important tools that help in this effort. After reviewing our oil and gas program in general, this testimony will review some of the policy changes that allow BLM to more efficiently process APDs, and how BLM is implementing specific sections of the Energy Policy Act of 2005.

The BLM manages wide swaths of public land in the western United States, both surface and subsurface. Our mandate from Congress through the Federal Land Policy and Management Act of 1976 (FLPMA) is to manage the public lands for multiple uses and to sustain the health, diversity and productivity of these lands for the use and enjoyment of present and future generations.

The range of activities on the public lands managed by the BLM is as diverse as the land itself. Commercial uses, such as oil and gas production, mineral development, livestock grazing, and timber harvest coexist with various other uses, such as recreation, and cultural and historic preservation. Responsible stewardship of the public lands means the BLM must balance multiple and potentially conflicting uses, including increased demands for recreation and open space and energy production.

Demand for energy in this country has outstripped domestic energy production. Although domestic energy production has nearly doubled in the past 50 years, population growth, increased economic activity and more intensive use of energy in the residential transportation sectors, have resulted in significantly higher demands for energy. Today the United States imports close to 60 per cent of the oil used. The Energy Information Agency projects that number to grow to 70 percent in 20 years. Natural gas demand will grow by 40 percent in that same time period.

We must find ways to reduce our energy consumption and increase our energy efficiency and domestic energy production. Further, our energy production needs to be secure, affordable, and environmentally-sound.

OVERVIEW OF THE ONSHORE OIL AND GAS PROGRAM

The Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands of 1947, as amended, vest responsibility with the BLM for managing oil and gas leasing on approximately 700 million acres of BLM, national forest, and other Federal lands, as well as private lands where the mineral rights have been retained by the Federal Government. The BLM works to ensure that development of mineral resources is in the best interest of the Nation.

The BLM's Oil and Gas Management program is one of the major mineral leasing programs in the Federal government. The BLM administers over 45,000 oil and gas leases, of which 21,000 are currently producing. Less than one percent of the surface Federal mineral estate is disturbed by oil and gas production operations. The 74,000 Federal and Indian onshore oil and gas wells account for eleven percent of the Nation's natural gas and five percent of the Nation's oil, with sales values exceeding $15.4 billion in fiscal year 2004. Domestic production of natural gas has been increasing over the last three years. In fiscal year 2002, 2.1 trillion cubic feet (Tcf) of natural gas were produced from Federal (non-Indian) lands. In fiscal years 2003 and 2004, 2.2 Tcf and 3.1 Tcf, respectively, were produced. In addition to the Federal onshore leases, the BLM supervises the operational activities of 3,700 producing Indian oil and gas leases. In fiscal year 2004, 308 million cubic feet (MMcf) of natural gas was produced from American Indian lands.

In 2003, the Department of the Interior released an Energy Policy and Conservation Act (EPCA) report. This joint study by the BLM, USGS, DOE, and USFS examined five basins in Montana, Wyoming, Utah, Colorado, and New Mexico. The report found that these basins contain the largest on-shore resource of natural gas in the lower 48 states. These on-shore basins contain an estimated 139 trillion cubic feet of gas on Federal lands—enough to heat 55 million homes for almost 30 years.

RESOURCE MANAGEMENT PLAN AMENDMENTS

Before any leasing, APD issuance or actual oil and gas production can occur on public land, the BLM must have a land use plan that allows for that use in that area. All 261 million acres of BLM lands are covered by one of 162 land use plans. Beginning in 2001, with the direction and support of Congress, the BLM initiated the largest effort in its history to revise or update its original plans where needed, based on plan evaluations. To date, the BLM has completed 33 amendments or revisions, with another 60 currently in various stages of completion. Twenty-five of these on-going plans have a significant oil and gas component, and approximately 25 of the 60 on-going plans will be complete in 2006. BLM will continue to prioritize plan efforts in areas with high energy potential as identified in the EPCA report.

The BLM uses a community-based and highly collaborative approach to planning that complies with the FLPMA, the National Environmental Policy Act (NEPA), and the President's requirements for cooperating agency status for state and local governments. This includes collaboration with specific working groups that focus on resource management plan development. The collaborative process is one in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public lands, including issues related to the development of oil and natural gas resources on BLM-managed lands. Resource Advisory Councils (RACs) or their functional equivalents are integral to public involvement and collaboration. The BLM recently revised its planning regulations to require the involvement of State, local and tribal governments as cooperating agencies in the development of its land use plans. Normally, BLM serves as the lead agency, though in some cases, other governmental entities serve with the BLM as joint leads.

LEASING PROGRAM OVERVIEW

Public lands are available for oil and gas leasing only after they are evaluated through the BLM's multiple-use planning process. In areas where development of oil and gas resources would conflict with the management of other resources or public land uses, we consider the use of mitigating measures and in some cases we attach mitigation measures to leases as either stipulations requiring certain actions or as restrictions on surface occupancy.

Types of Oil and Gas Leases.—The BLM issues two types of leases for oil and gas exploration and development on lands owned or controlled by the Federal Government—competitive and noncompetitive. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 requires that all public lands available for oil and gas leasing be offered first by competitive oral auction. Noncompetitive oil and gas leases may be issued only after the lands have been offered competitively and failed to receive a bid. For a period of two years after the lease sale, unleased parcels may be acquired on a noncompetitive basis.

Lease Terms and Conditions.—Leases grant the lessees the right to explore and drill for, extract, remove, and dispose of oil and gas deposits, except helium, that may be found in the leased lands. The leases are granted on the condition that the lessees will obtain BLM approval before conducting any surface-disturbing activities. The oil and gas lease conveys the right to develop those resources on the leased land. The lessee or his operator cannot build a house on the land, cultivate the land, or remove any minerals other than oil and gas from the leased land.

Lease Expiration or Termination.—Oil and gas leases expire at the end of their primary term—the 10th year—unless diligent drilling operations are in progress on or for the benefit of the lease; the lease contains a well capable of producing oil or gas in paying quantities; or the lease is receiving or is entitled to receive an allocation of production under the terms of an approved communitization agreement or unit agreement.

Leases without a producible well automatically terminate if the lessee fails to make full and timely payment of the annual rental. The rental must be received by the Minerals Management Service on or before the anniversary date of the lease. There is a short reinstatement period for certain situations where the rental is received late.

The owner of a lease also may surrender the lease in whole or in part by filing a written relinquishment with the proper BLM State Office having jurisdiction over the lands. A relinquishment takes effect on the date it is filed. However, the lessee must plug any abandoned well, perform other work as may be required by the BLM to place a leasehold in proper condition for abandonment, and bring his account into good standing. If the lessee fails to perform the necessary work, the lessee's bond will be used to do so, and the lessee will be prohibited from leasing additional Federal lands.

A nonproducing lease may be cancelled for failure to comply with lease terms.

PROCESSING OF APPLICATIONS FOR PERMITS TO DRILL (APDS)

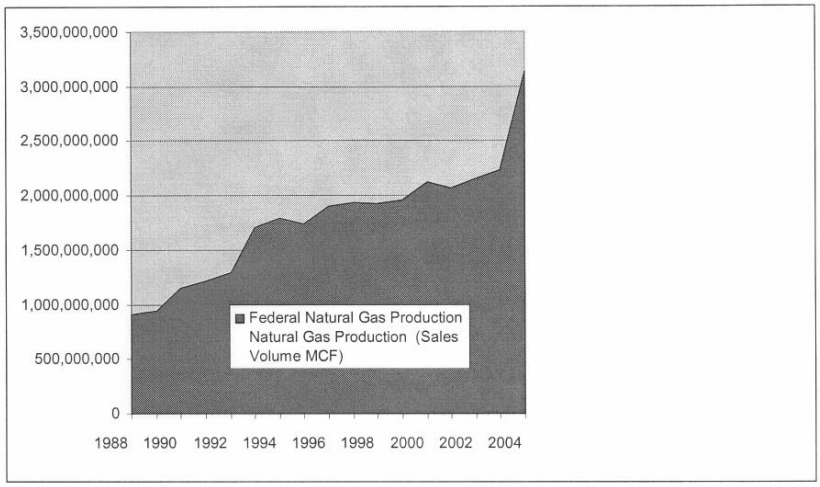
In the past two years, the BLM has experienced a sharp increase in demand for natural gas drilling permits, and expects that demand to continue, especially in the EPCA basins: Powder River Basin in Wyoming and Montana, the San Juan Basin in New Mexico and Colorado, and the Uinta/Piceance Basins in Colorado and Utah. In addition, recent discoveries in the Greater Green River Basin in southwestern Wyoming and northwestern Colorado will result in additional demand for drilling permits in these areas. BLM now expects to receive 9,200 new permit applications in 2006, a 32 percent increase over 2004. In contrast, last winter when BLM prepared the 2006 President's Budget Request, we anticipated receiving only 6,700 new permits in 2006. BLM estimates that another 10,000 new permit applications will be submitted in 2007. This demand for drilling permits is being driven largely by natural gas prices, which have roughly doubled in the last twelve months.

It has been necessary to adjust BLM's workload planning for new APDs to keep up with the accelerated demand for energy which has accompanied the increase in commodity prices. The processing of Applications for Permits to Drill (APDs) and offering parcels of Federal land for oil and gas leasing will be BLM's major priority in the effort to increase the production of energy from Federal lands. Increased funding provided by Congress and management improvements have enabled the BLM to make significant progress in responding to increasing demand. In 2006, Congress provided an additional $2.0 million in discretionary funding. In addition, BLM has also made adjustments within the existing budget to address the demand for APDs. For example, in 2005, BLM identified and reprogrammed an additional $2.5 million to the oil and gas program to respond to the demand for APDs.

One example of BLM management improvements over the past few years that have resulted in processing APDs at a lower cost is the policy of encouraging the industry to develop Plans of Development (PODs) for groups of APDs, which allows for more efficient analysis of multiple APDs in one area to comply with NEPA and other environmental laws. A July 21, 2005, Government Accountability Office report on oil and gas development found this and other BLM strategies to be effective, stating that the bundling of permit applications "can encourage companies to plan their drilling operations more carefully and help BLM better assess the cumulative environmental impacts of drilling activities." BLM has also applied several innovations, such as the use of Quality Assurance Teams. These innovations and other policy changes have had the effect of streamlining APD processing and lowering BLM's average cost to process an APD in 2005 to $3,730, from a cost of $4,000 that was estimated at the beginning of 2005.

BLM began making these management improvements in fiscal year 2004, and in that year BLM approved 6,452 (on both Federal and Indian lands). Additional funding in fiscal year 2005 and more experience with various management improvements resulted in approving 7,018 APDs in fiscal year 2005. By the end of fiscal year 2006, the BLM plans to substantially reduce the inventory of APDs pending for more than 60 days to 1,226, a reduction of 45 percent from 2004 and a reduction of 50 percent from the end of fiscal year 2005. The anticipated backlog at the end of fiscal year 2006 is larger than anticipated this past winter when BLM presented the fiscal year 2006 President's Budget Request, but that estimate was based on a lower estimate of the number of applications that industry would submit, and prior to the most recent increase in natural gas prices.

BLM's effort to process more APDs in recent years is having a significant effect on the nation's natural gas production as shown in the chart below.



When the final 2005 production data becomes available, BLM expects to see a further increase in natural gas production as a result of the increase in APD approvals.

APD Processing at Pilot Offices.—Section 365 of the Energy Policy Act establishes a pilot program at seven offices, called the Pilot offices, to test new management strategies designed to further expedite the processing of APDs. These strategies include placing employees of other Federal agencies in the BLM offices to provide an increased focus on processing the APDs.

The Act requires the Secretary, within 90 days of enactment, to enter into a Memorandum of Understanding (MOU) with the Secretary of Agriculture, the Administrator of EPA and the Chief of the U.S. Army Corps of Engineers in order to implement this improved process. We anticipate that this MOU will be signed within the next few days.

The BLM is working with other regulatory agencies, and State partners, to develop the most effective and efficient permitting process for each of the seven pilot offices, where currently 70 percent of all APDs are processed. The Act established the BLM Permit Processing Improvement Fund (Fund) and provided that the Federal share of all mineral rental revenue would be deposited into the Fund. Monies in this Fund can be used to support the coordination and processing of oil and gas use authorizations at the Pilot Project Offices: Rawlins, Buffalo, Miles City, Farmington, Carlsbad, Grand Junction/Glenwood Springs, and Vernal.

The estimated $19.0 million in rental revenue in 2006 will add capability at these offices to improve their ability to keep up with demand for APDs, will support the permitting processing arrangements with other agencies, including State partners, and will help meet the higher inspection and monitoring workload, which has followed the sustained increase in approved APDs. New Treasury accounts have been established so that the Pilot offices will be able to access these funds. BLM is also developing goals, and a process to measure and report on the Pilot offices' progress toward those goals.

In order to implement this more effective and efficient permitting process, BLM managers, along with our partner agencies, are also engaged in intensive planning and recruitment efforts, which will ensure staff and support are in place to meet the growing demand for APDs at these offices. BLM recently issued a nationwide vacancy announcement to recruit Petroleum Engineering Technicians and Natural Resource Specialists in the Pilot Offices.

I look forward to keeping you informed of our progress toward implementing the goals of this section of the Act and the lessons learned as we implement the Pilot office concept.

APD Processing at Non-Pilot Offices.—Like the Pilot offices, the non-Pilot offices are experiencing a sharp and sustained demand for APDs. In 2006, BLM expects to receive 2,500 new applications for permits at these offices, a 29 percent increase over 2004. However, due to the language in Section 365 of the Energy Policy Act delaying the implementation of APD cost recovery until 2015, these offices will not receive any additional funds in 2006 to meet this demand. I am asking my staff to

identify opportunities to direct base funding to process additional APDs at these offices. I also anticipate the need to propose a reprogramming of some of BLM's base funding. My staff is currently evaluating allocations of funding to the State Offices and will have a recommendation to me regarding this potential reprogramming soon.

Summary of BLM's APD Processing in 2006.—The base funding provided by Congress in 2006, the mineral rental revenue provided to Pilot offices by the Energy Act, and the efficiencies gained from management improvements will enable the BLM to process an estimated 10,326 APDs in 2006, a level that is 40 percent more than the number processed in 2004 and 31 percent more than the 7,900 APDs that BLM estimated for 2006 when preparing the fiscal year 2006 President's Budget Request. BLM expects to receive 9,200 new APDs in 2006, a 32 percent increase over 2004. The additional funding and the management improvements will allow BLM to respond to this sharp increase in demand for new APDs, and allow the BLM to substantially reduce, by the end of fiscal year 2006, the inventory of APDs pending for more than 60 days to 1,226 applications. This is a 50 percent reduction from the number pending over 60 days at the end of 2005. The table below displays the 2006 estimated APDs compared with prior year actuals.

OIL AND GAS APDs

	2004 actual	2005 actual	2006 estimate
Pending APDs less than 60 days old at start of year	888	1,082	1,450
Pending APDs greater than 60 days old at start of year	2,780	2,214	2,461
Total Pending APDs at start of year	3,668	3,296	3,911
New APDs Received	6,979	8,351	9,186
Total APDs Processed	6,452	7,018	TBD
Pending APDs less than 60 days old at end of year	7,351	7,736	10,326
Pending APDs greater than 60 days old at end of year	1,082	1,450	1,545
Total Pending APDs at end of year	2,214	2,461	1,226

INSPECTION AND ENFORCEMENT FUNCTIONS

In addition to processing APDs, the BLM also inspects oil and gas operations. This function is critical to verifying the proper payment of royalties and ensuring necessary environmental protection. In 2004, BLM inspectors performed nearly 19,000 inspections to ensure compliance with permit stipulations, thereby protecting the environment and human health and safety, and verifying the proper accounting of production from Federal and Indian lands. The BLM finds that with rare exceptions, oil and gas operators diligently comply with lease stipulations, conditions or approvals, and operate effective, environmentally-sound exploration and development facilities.

The Government Accountability Office recently issued a report on the BLM's inspection and enforcement program, concluding that BLM is behind in inspections due to heavy APD workloads. However, the Inspection and Enforcement staff continues to grow, with the budget for enforcement up $4.8 million during the period of 2002 to 2004. We also allocated an additional $1.0 million in 2005 to help with compliance with inspection and monitoring activities. Field managers are working to prioritize their workforce to meet their environmental inspection and enforcement obligations.

LOOKING TO THE FUTURE: THE ALASKA NATURAL GAS PIPELINE

In 2006, the BLM will continue leasing, exploration and development activities in the National Petroleum Reserve-Alaska (NPR–A), an area covering more than 23 million acres in the northwest corner of the State. Development of these oil and gas resources is an important component of the President's National Energy Policy. The first significant commercial production from the NPR–A is expected as early as 2008.

The BLM will also participate in the inter-agency activities relating to the siting of an Alaska Natural Gas Pipeline. On October 13, 2004, the President signed into law the Alaska Natural Gas Pipeline Act, (ANGPA), legislation that greatly enhances the prospects for construction of the Alaska Natural Gas Pipeline, which will provide enhanced access to the natural gas supplies on the North Slope of Alaska.

There are currently two Federal rights-of-way granted for an Alaskan gas pipeline: (1) the Alaska Natural Gas Transportation System (ANGTS) project, sponsored by Trans-Canada and issued in 1980; and (2) the Trans-Alaska Gas System (TAGS) project, sponsored by Yukon Pacific Corporation and issued in 1988. Other proposed projects include one sponsored by the North Slope Producers (ConocoPhillips, BP, and ExxonMobil) and another proposed by the Alaska Gasline Port Authority referred to as the "All Alaska" project.

In order to meet the intent and provisions of the Alaska Natural Gas Pipeline Act, the Federal agencies with jurisdiction have been meeting regularly and are developing an interagency Memorandum of Understanding to define roles and responsibilities in the authorization of the Alaska Natural Gas Pipeline.

BLM'S OIL AND GAS MANAGEMENT PROGRAM AND THE ENERGY POLICY ACT OF 2005

The Energy Policy Act of 2005 is a comprehensive piece of energy legislation addressing conservation; energy supply from oil, gas, coal and renewable sources (wind, biomass, geothermal and solar); distribution of energy; and research into future sources of energy. The BLM has a role to play in each of these areas. Most immediately, however, the Energy Policy Act of 2005 contains several provisions through which the BLM can work to improve the APD permit approval process, expand its capacity to process APDs, expedite oil and gas leasing on public lands, and ensure natural gas production on public lands occurs in an environmentally-responsible manner. The Act also establishes a new funding source to support these activities. BLM will continue its streamlining efforts in leasing and permitting through implementation of the Act; for example, the BLM is working with other regulating agencies, including State partners, to develop the most effective and efficient permitting process for each of the Pilot offices. The objective of these arrangements is to shorten the length of time required to issue permits for oil and gas activities to interested parties while ensuring that the Nation's energy resources are developed in an environmentally-responsible manner.

Immediately following passage of the Act, the Director of the BLM designated a team to guide BLM's implementation of the Act. During the last several weeks, this team has been closely coordinating the analysis and implementation of the bill with the other Department of the Interior bureaus such as the Minerals Management Service, the U.S. Fish and Wildlife Service and the U.S. Geologic Survey. In addition, BLM has been meeting with other interested Federal and State agencies to develop the framework of agreements that are needed to move forward on the various provisions.

Implementation of the Pilot Offices is discussed above in relation to APDs. Some of the other key sections in the Act related to BLM's Oil and Gas Management Program, and the actions that BLM is currently taking to implement each of these important provisions include:

—*Management of Federal Oil and Gas Leasing (Section 362)*.—Section 362 requires BLM to ensure timely action on leases and permits, to ensure expeditious NEPA compliance, to improve consultation and coordination with the States and the public, to improve the management of oil and gas leasing information and to improve inspection and enforcement. This applies to all BLM offices, including offices that are not designated as Pilot offices in Section 365 of the Energy Act. The BLM will strive to meet the objectives of Section 362 by continuing ongoing efforts to improve efficiencies and cost effectiveness in its Oil and Gas Program and strategic management of its budget resources.

—*Deadline for Consideration of Applications for Permits (Section 366)*.—This section requires BLM to notify applicants within ten days that an APD is complete or notify the applicant of any additional information needed for the application to be complete. The Act further requires BLM to issue the permit within 30 days if NEPA requirements have been met, or to defer the permit and notify the applicant of reasons for the deferral. The BLM issued guidance to BLM Field Offices on September 15, 2005, to implement these provisions of the Act. In addition, these provisions will be included in a reissuance of Oil and Gas Onshore Order Number 1.

—*Naval Petroleum Reserve Number 2 (NPR–2) (Sections 331–334)*.—This section transferred administrative jurisdiction of NPR–2 in California from the Department of Energy to the BLM. BLM management of NPR–2 allows for effective development of potentially significant energy reserves. The transfer potentially increases access to Federal oil and gas resources by placing approximately 2,500 acres of unleased Federal mineral estate up for competitive lease bids. BLM has begun a land use plan amendment and environmental analysis for these lands,

with publication of the first planning effort in the Federal Register on September 26, 2005.

—*North Slope Science Initiative (NSSI) (Section 348)*.—To implement Section 348 of the Energy Act, BLM will continue its ongoing participation in the NSSI organization, and to the extent possible, support high priority research, inventory and monitoring projects in Alaska's North Slope identified by and under the direction of the NSSI. The NSSI is an organized, chartered, and jointly-funded entity that guides inventory, monitoring, and research efforts at the Federal, state and local levels in support of resource management on the north slope. This research will greatly assist the BLM in identifying environmentally sensitive, technically feasible means of production. The BLM anticipates that non-Federal partners will contribute substantial resources to this effort, which promises to result in a solid scientific basis for land use decisions. A call for nominations for members to serve on the NSSI Technical Advisory Panel was published in the Federal Register on September 12, 2005.

—*Orphaned, Abandoned and Idle Wells (Section 349)*.—BLM has an ongoing program to monitor and remediate orphaned, abandoned and idle wells. The Energy Policy Act provides new tools and direction to manage these wells. In 2005, BLM remediated one government-owned well in the National Petroleum Reserve-Alaska in order to prevent a spill of contaminants into the Beaufort Sea. In 2006, BLM is preparing a risk assessment of other wells in the area and developing plans to further respond to accelerated shoreline erosion issues in this area, and will use $750,000 provided by Congress in 2006 to continue this remediation effort in Alaska.

Section 349 of the Energy Policy Act of 2005 also provides new authority to contract with oil and gas lessees to complete well abandonment and remediation. The Secretary is authorized to issue rules that would establish this new program and to allow a credit against royalty payments to offset the cost of these remediations. BLM is currently analyzing the potential application of this new authority to complete the necessary well remediations in Alaska and other States and is identifying rule revisions needed to implement this section of the Act. Once regulations are in place, oil and gas operators will be able to assist in remediating wells on leases they hold.

—*Gas Hydrates (Section 353)*.—Section 353 of the Energy Policy Act of 2005 contains provisions intended to promote natural gas production from natural gas hydrate resources through royalty incentives. The Act requires the Secretary to review opportunities to enhance production of natural gas from gas hydrate resources. BLM, in cooperation with USGS, and industry partners is actively engaged in this project and will continue to assist with the development of the information base which would be needed to prepare a gas hydrate leasing program. BLM's current gas hydrate effort is located in Alaska. Non-Federal partners are also providing contributions to this project.

—*Consultation Regarding Oil and Gas Leasing (Section 363)*.—Section 363 requires BLM and the Forest Service to establish two joint mineral leasing systems. A database system will track applications and the status of applications. A second system using GIS will track surface resource values and will provide information in support of processing mining plans of operations and oil and gas APDs. There are a number of security and operating system technical issues that must be resolved in order to meet the requirements of Section 363. BLM plans to implement the system over the next two years.

—*Estimates of Oil and Gas Resources Underlying Onshore Federal Land (Section 364)*.—This section modified Section 604 of the Energy Policy Act of 2000 to require BLM to evaluate post-lease restrictions on development of energy resources, and to look at issues that restrict the transportation of energy resources to markets. BLM will issue a report on the second phase of the project shortly, which will include a review of the post-lease restrictions. BLM will examine transportation issues in future phases of the project.

—*Energy Right-of-Way Corridors on Federal Land (Section 368)*.—This section requires BLM to consult with Federal agencies and other interested parties, and then designate corridors for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities for western States. The Act requires the BLM to complete the environmental analyses and amendments to land use plans that support these corridors, within two years. BLM has already begun the process to designate these corridors, publishing a public notice regarding the corridor planning effort in the Federal Register on September 7, 2005. In addition, we will hold a series of public scoping meetings in 11 locations in the western States between October 26 and November 3, 2005, and we have established a web site http.//corridoreis.anl.gov for this project. BLM is in the process

of sending letters to the western governors which will explain the corridor designation process and ask for their involvement. The Department of Energy and the U.S. Forest Service are partners in this effort.

—*Oil Shale, Tar Sands and Other Strategic Unconventional Fuels (Section 369).*—This section complements BLM's recent progress in making oil shale resources available for research and development activities, a process the BLM began in 2004. The Act requires the BLM to make public lands available for the conduct of oil shale research and development activities. In response to its announcement of an oil shale research, development, and demonstration program, the BLM has received 20 nominations for parcels of public land to be leased in Colorado, Utah, and Wyoming. An interdisciplinary team is considering the potential of each nomination to advance oil shale technology and the economic viability and environmental effects. The team will then make recommendations for awarding leases. Representatives from the three States, the Department of Energy, and the Department of Defense have been invited to participate on the team, as have BLM staff members from the affected States. In addition to furthering development of oil shale resources, the oil shale research and development program will assist the BLM in developing appropriate regulations for commercial oil shale leasing, which the Energy Policy Act calls for beginning in 2007.

In addition to leasing lands for oil shale research and development purposes, the Act requires BLM to complete a programmatic EIS for a commercial leasing program for both oil shale and tar sands resources on public lands. In 2006, BLM plans to use a $1.0 million funding increase provided by Congress to manage the oil shale research and development leasing program and to take the initial steps leading to the preparation of the oil shale and tar sands programmatic EIS.

—*NEPA Review (Section 390).*—This section allows BLM to authorize certain oil and gas activities under NEPA's categorical exclusion provision rather than a more costly and time consuming environmental analysis. The Act's statutory categorical exclusions apply to five categories of oil and gas exploration and development on Federal oil and gas leases. For example, individual surface disturbances of less than five acres are within the categorical exclusions so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed. Guidance was issued to BLM Field Offices on September 30, 2005, to implement this provision of the Act. In addition, this provision will be included in a reissuance of Oil and Gas Onshore Order Number 1.

CONCLUSION

In fiscal year 2006 and in future years, we expect to see a continuation of the unprecedented high demand for energy and minerals leases and permits. Providing access for the development of oil, natural gas, oil shale, coal bed natural gas, coal and renewable energy will help the Nation meet its goals for secure and diverse energy sources. The BLM plans to meet this unprecedented demand, through a combination of past appropriations increases, new revenue sources provided by the Energy Act, process improvements provided by the Energy Policy Act and a continuing program of innovations to increase effectiveness and reduce costs.

I appreciate the support this subcommittee has provided for our energy programs in past years and I look forward to continuing a dialogue with you in the months and years ahead. Thank you for the opportunity to testify today about the BLM's Oil and Gas Management and the Energy Policy Act. I would be happy to answer any questions you have.

Senator BURNS. Mr. Logan Magruder, President of the Independent Petroleum Association of the Mountain States, is pretty familiar with my end of the world out there. We look forward to your testimony. If you want to condense that a little bit, but your full statement will be made part of the record. Thank you for coming this morning.

STATEMENT OF LOGAN MAGRUDER, PRESIDENT, INDEPENDENT PETROLEUM ASSOCIATION OF THE MOUNTAIN STATES

Mr. MAGRUDER. After listening to your introductions, I do not feel like I really need to testify today. I think everybody is on point with the issues.

But I would like to thank you for the opportunity to testify on behalf of IPAMS, which is a 13-State regional organization in the Rocky Mountain region, along with six other cooperating trade associations. They include the Domestic Petroleum Council, IPAA, U.S. Oil and Gas Association, API, IADC, and the Natural Gas Supply Association. All have weighed in on this testimony today.

What I would like to do is just make some overarching comments.

I can assure you the producing community is very much aware of the need and demand for natural gas. We feel that the Rocky Mountain region—and it is said time and time again—is unique. It is located in the center of the United States. The production level is about 22 percent of that that we use in the United States, and it is on par with the Gulf of Mexico. It is unique in that it is not concentrated, as someone mentioned earlier. Plus, the profile of the production stream is a long-lived profile. So it is a very dependable source of natural gas, a very clean commodity that can be distributed from basically all corners of the United States.

The gas that we produce from the Rocky Mountain region supplies about 62 million households throughout the United States. So it is providing fuel to a lot of consumers throughout the United States. It is unique also in the fact that it is the only geographic area in the United States that has shown any production growth over the past 10 years. Production from the Rocky Mountain region has grown 45 percent. This is in the wake of other more mature basins that we are familiar with that have shown significant declines. So it is a very key source of natural gas, and I can assure you the producing community is poised and prepared to do more.

Adequate funding for the Government's energy development programs—and I am not talking just specifically BLM. Unfortunately, we do not have a full, diverse representation. We really need the Forest Service at the table and we need the BIA. Oil and gas are derived from all sources of lands that are controlled by the Federal Government. Kathleen Clarke's group is certainly in the sights of everyone, but you have got the Forest Service and you have got the BIA and I really encourage you to maybe host another hearing similar to this and challenge the Forest Service and the BIA. I will cite a couple of examples in just a few minutes.

But we are talking about we desperately need to increase the supply from non-park, non-wilderness Intermountain West lands and it can be accomplished with a process improvement and appropriate funding.

An analysis done for the Domestic Petroleum Council, which we believe to be similar to that of the Department of the Interior's, demonstrates that adequate funding to process backlogged pending applications for permits—and that is APD—which I understand is greater than 3,000 at this time, can unleash about 105 billion cubic feet of gas. That is significant.

Two years ago I prepared for one of your hearings and I recall that our consumption only increased a half a percent, a very, very small margin, but natural gas prices doubled. We were talking about natural gas prices going to $6 at that time, as you will recall. Today we are looking at $12 to $13. This 105 billion cubic feet a day is about that same amount, about a half a percent. It can have an impact on pricing. So that is directly related to a Federal process and making sure that it has adequate funding.

Is it wise for the Federal Government to appropriate sufficient funds? Someone said earlier you were going to make $100 million available. I do not know how that compares to what we did this past year, but I certainly would expect they need much more than what they have available to them right now. So maybe during the course of this hearing, I can try to understand the significance of the $100 million that was mentioned earlier. But they desperately need more.

Many people will question whether or not you can actually execute with the rig availability issue, with take-away capacity in the Rocky Mountain region. All these things are excellent questions and we are prepared to answer some of those questions, and I will not go through those right now.

Based on 2004 numbers, each dollar invested through the BLM for oil and gas management yielded $19. That is in 2004 numbers. We have not really run the numbers in today's dollars, but I would imagine that there is probably twice that amount today. So tremendous leveraging for every dollar spent within this process.

Positive results out of the Buffalo, Wyoming office, along with an industry hosted worker program piloted in Vernal, Utah this past year, are testaments to what can be accomplished with adequate funding. There seems to be a real disconnect at times, which I do not understand. For example, funding of the BIA office in Fort Duchesne, which processes one well for each three wells processed at the BLM office. Their budget is being cut by 10 percent. It is going to be a critical path item in the process. We cannot drill on Indian tribal lands without the BIA being in sync with the BLM. So earlier I mentioned the Forest Service, the BIA, the BLM. They are all attached at the hip and we have to have some type of consensus across the board. So it does not make sense to cut 10 percent out of the Fort Duchesne office, and the Uintah Basin is probably arguably the busiest BLM office in the country.

Buffalo, Wyoming gets the credit because of the sheer numbers, a lot of the numbers you will see on these charts, but you get multiple wells approved with each APD or POD process. In Vernal, Utah, those gentlemen and ladies are faced with approving individual well permits. That could be a process improvement if we were able to alter that process a little bit.

The APD backlog increased dramatically from 2004 to 2005. We have approximately 3,700 pending APD's in the system today. Ninty-eight percent of those pending APD's lie in the Intermountain West region. The industry is motivated to drill more wells but is limited by regulatory constraints.

The decisions made by this committee can have real impacts on natural gas consumers across the Nation. Ensuring adequate funding for approval and oversight of energy projects through appro-

priations will help encourage further development to meet the Nation's energy demand. My company, Berry Petroleum—I can assure you we can do much more given leeway on the Federal permitting process side.

The energy pilot program created in the energy bill. We have all mentioned that, and I am glad to see that that is on each one of your radar screens. I think if you look through our 300 member companies within IPAMS, that is the number one issue. What is the deliverable out of the energy bill? What do we really get? It all sounds great, but we really have not seen anything put in motion yet. We understand a lot of things have been teed up and we may see some action at the field level, but that is really key. I would encourage you. You talk about quarterly oversight. Hold them accountable. Find out what progress we have made over the past quarter. The next quarter find out what progress we have made. It is very high on everybody's expectations list right now. That is the number one item in the energy bill that we were expecting to see some type of improvement in the overall process.

I think the Buffalo office is a testament. Kathleen can tell you how much effort went into that, and it does not happen overnight. I personally worked through that process in early 2000. It takes a long time to tee these things up through the appropriations process. But it does have measurable results, and that is a good pilot for you analyze.

I think if you dip into the Vernal, Utah office and see what was accomplished with just the addition of five people this past year, it had measurable results. You really need to talk to those individuals to see what type of impact.

I understand the Vernal office is in the process of hiring approximately 20 people. The Rock Springs office is in the process of hiring about 20 people. It is all in discussion. The I's have not been dotted and the T's have not been crossed. But there is a real concern that if they hire these people, they will not have the resources to actually function. That is in the way of office space, vehicles, computers, everything it takes to exist in today's environment. We just need to make sure that these offices have adequate funding. If you go back to the 19-to-1 leverage ratio I mentioned earlier, which I suspect is probably double now, it is a tremendous investment, and you know the benefits and we have all said it before. So the additional personnel and the additional supporting equipment is really key for these people to sustain over the next 5 years to handle what the industry is prepared to do.

Increased activity adds pressure for each field office to monitor development taking place, and that should not be overlooked. We can increase supply without sacrificing environmental standards, and I think we have proven that time and time again. In my project area in Utah, we submitted over 200 APD's, and to this day, there has not been a measurable change in the initial submission of the process.

I might add early in my career, we used to be able to do this over telephone, essentially request permission to drill a well, and today it is a very large document that requires us going through this process. I will spare you and I will not drag you through that, but that is really the ideal scenario. I did not pad that. That is just the

process starting from point A to point B, to drilling a well. That is what a typical operator has to go through right now, bring all these together. It is a confusing process, and we have tried to clear it up and condense it within our own worlds. We have these mega-spreadsheets to make sure that we try to run these things concurrently. So it is a very complicated process, but we are able to get it done. My hat is off to those in the BLM office that can put up with this mine damage. So we get it done.

In closing, I would like to say natural gas prices are not set by a cartel refusing to produce more natural gas. They are the direct result of a continuous neglect of the regulatory process that governs oil and gas on American soil. The Intermountain West offers a near-term solution that we have all mentioned and is also part of a longer-term solution because of the long-term nature of that production profile.

PREPARED STATEMENT

I encourage policymakers to provide adequate resources to the Federal agencies—and that includes the BLM, the BIA, the Forest Service—to develop natural gas resources that are owned by Americans, produced by Americans, and consumed by Americans.

Thank you for the opportunity to testify today, and I welcome any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF LOGAN MAGRUDER

Mr. Chairman and members of the subcommittee, my name is Logan Magruder and I am the President of the Independent Petroleum Association of Mountain States (IPAMS). Today, I am testifying on behalf of IPAMS as well as the following cooperating trade associations: the Domestic Petroleum Council, Independent Petroleum Association of America, U.S. Oil and Gas Association, American Petroleum Institute, International Association of Drilling Contractors and the Natural Gas Supply Association. We want to thank this subcommittee for holding a hearing about the resource needs of the BLM in the upcoming year. The decisions made by this subcommittee can have very real impacts on natural gas consumers across the nation.

The main points I would like to make today are that:

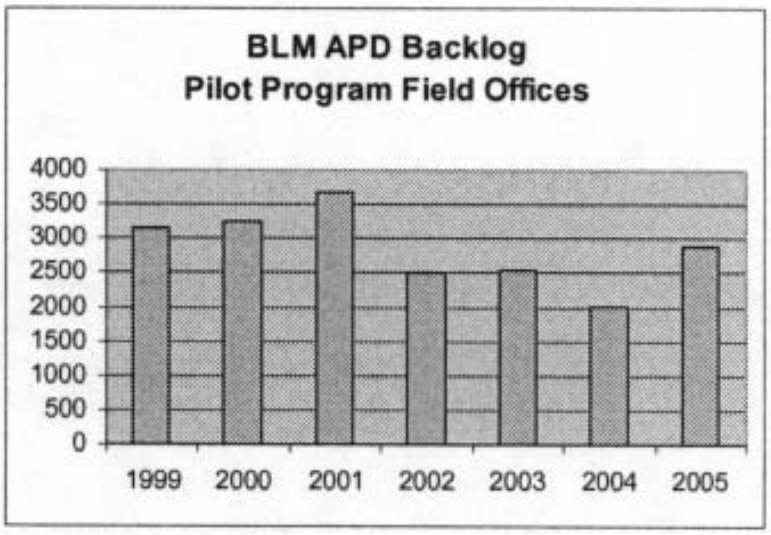
—Adequately funding the government's energy development programs (Bureau of Land Management (BLM), Forest Service (FS) and Bureau of Indian Affairs (BIA) and improving the regulatory processes can increase the development of federally owned energy resources for the benefit of consumers.

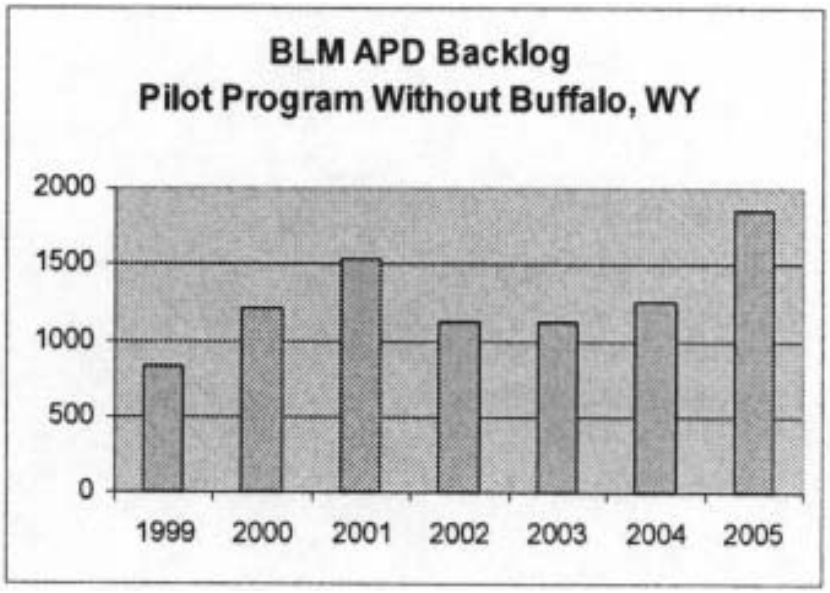
—An analysis done for the Domestic Petroleum Council—and we believe a similar analysis done for the Department of the Interior that may be released later this week—demonstrates that adequate funding and resources to process backlogged pending Applications for Permits to Drill (APDs) (estimated to be greater than 3,000), can lead to as much as 105 Billion Cubic Feet of additional natural gas supply in the first year alone—with higher additional production increases in subsequent years. That's enough natural gas to supply one and a quarter million additional households in that first year alone.

—The revenues generated by additional oil and gas development will more than offset the government's investment needed to ensure that public land energy development receives proper compliance and environmental attention, both before and after a permit—plus return significant additional dollars to the Treasury.

In fiscal year 2004, oil and gas development on BLM and FS lands generated $1,648,896,000 in royalty revenues. This translates into almost $19 of revenue for every dollar spent to manage the program (Source: BLM). Ensuring adequate funding for approval and oversight of energy projects through appropriations will help encourage further development to meet the nation's growing energy demand. Under the existing regulatory structure, the backlog of permits (both applications for permits to drill (APDs) and rights of way) and the current price environment underscore the need for a comprehensive oil and gas program with the proper resources.

The backlog of permits in field offices across the Intermountain West represents, most importantly, natural gas and oil supplies that could be helping consumers by making energy more affordable.



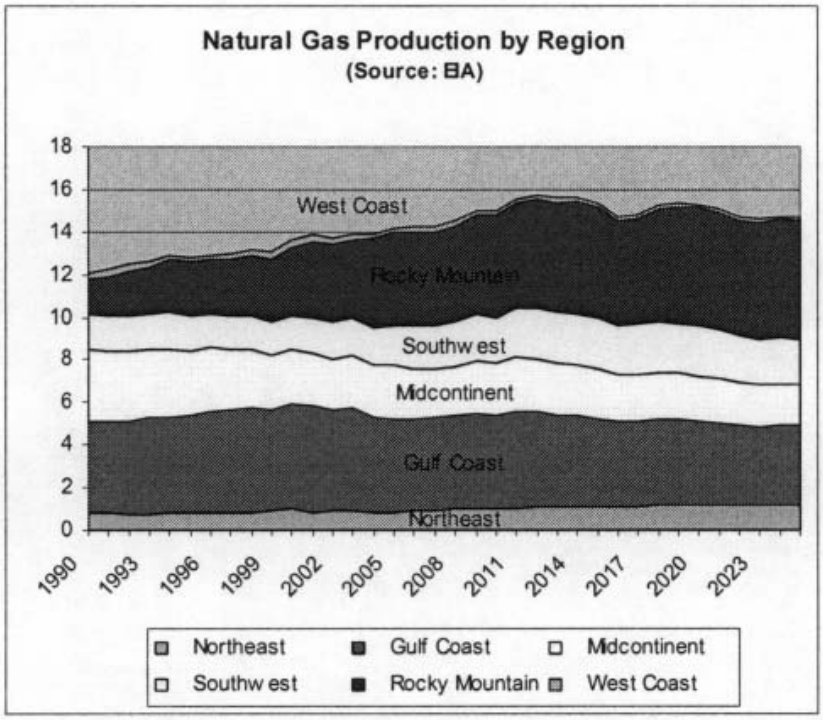


The importance of adequate funding.—The charts above show the backlog of APDs in the BLM field offices that are part of the pilot program created by the Energy Policy Act. While it illustrates overall progress on the backlog, it doesn't tell the entire story. The Buffalo field office received focused appropriations the past and has successfully addressed part of its backlog. However, isolating the backlog at other field offices reveals the mounting backlog needing attention.

As of September 17, 2005 there were more than 3,700 permits pending at BLM in the Intermountain West. Ninety-eight percent (98 percent) of BLM's pending permits are in the Intermountain West. Each permit represents an opportunity to in-

crease natural gas supplies heading toward consumers. Approximately seventy percent (70 percent) of all permits waiting for approval have been pending for more than 35 days even though they're considered complete by the agency. In some cases, the FS process can take longer. While the process—including unnecessary and duplicative pre drilling studies and unnecessary permit restrictions—are the main causes of the backlog, the resource agencies are stretched too thin and need more people with proper training and that means adequately funding the agency.

Federal natural gas resources play a significant role in supplying natural gas to the public. In 2004, the Intermountain West provided 22 percent of the Nation's natural gas.[1] The Energy Information Administration predicts natural gas production in the Intermountain West will increase 26 percent by 2025.[2] With nearly 201 trillion cubic feet of natural gas beneath onshore federal lands this is the only region capable of providing significant near-term production increases.[3] Achieving this goal requires a comprehensive effort by the Federal Agencies to promote natural gas development backed by adequate funding to ensure these resources are developed in compliance with the laws. Eliminating delays within the regulatory system won't reduce environmental protections, but it will help deliver more natural gas to the 62 million households that rely on natural gas. Doesn't it make sense that natural gas resources owned by the American public should be developed to benefit the American public?



Looking to the future.—The Rocky Mountains are projected to be one of the top areas contributing to our Nation's natural gas supply. More than half of the production from this region currently comes from public lands. In the future, production from public lands will become more critical for our Nation's natural gas supply. Proper funding for BlM to eliminate the backlog and improve the process will ensure that public lands can continue supplying their share of domestic production.

[1] Source: America's Energy for America's Future, The Department of the Interior.
[2] Source: Energy Information Administration.
[3] Source: America's Energy for America's Future, The Department of the Interior.

Because the government also plays such a critical role in our nation's energy development—through its ownership and control over development—it's important to ensure that the programs impacting consumer's energy prices are adequately funded. Hurricanes Katrina and Rita clearly illustrated the importance this nation places on the government for its energy. These hurricanes also show the nation how supply disruptions create real impacts for consumers. Indeed, because of the price environment we're experiencing now, funding these programs is especially critical so these supplies—owned by Americans, produced by Americans and consumed by Americans—can be developed for the consumer's benefit.

In order to help consumers, the Federal Government must increase production from public lands. Today's natural gas market is tightly balanced with supply struggling to keep pace with demand. In such volatile markets, it is particularly important for all market participants to be attuned to, and able to react to, market signals. Increasing supplies from public lands requires a thorough examination of public land energy development to improve the existing regulatory processes allowing the government and industry to adapt to changes in the market for natural gas. It takes time to react to changes and operators in every basin in the Intermountain West are ready to commit the necessary resources to increase production. However, Congress must do its part through funding the agencies responsible for developing federal resources to address the corresponding increase in permit applications.

In places like the San Juan Basin of New Mexico and Colorado, a robust drilling program is needed to maintain production levels. Each day this basin produces approximately 4 billion cubic feet of natural gas to meet consumer energy needs in California to the west and to a number of markets to the east. The drilling program needed in the Basin means dealing with tight supply of drilling rigs, trained people and pipeline infrastructure issues. Industry is willing and able to do so, but such action depends on acceleration of APD approvals.

The Energy Policy Act of 2005 contains positive policy changes that provide an opportunity for the Bureau of Land Management to improve its permitting practices. This opportunity was backed up by a direct funding source to ensure that America's natural gas resources are developed for the benefit of the nation. Ensuring these dollars reach their intended source should be a primary consideration of this subcommittee in order to forestall anticipated offsets in the upcoming budget.

The Energy Pilot Program created in the Energy Policy Act of 2005 will yield benefits to consumers if BLM takes this opportunity to comprehensively review the process for approving permits. To estimate resource needs in the future for this program, BLM should examine the current production coming from federal lands then determine how much natural gas needs to come from public lands in order to supply the demands of the nation. After the agencies understand their role, then they can begin planning for that level of natural gas production in terms of process and manpower needed to reach this goal. The result should be a program ready to fulfill the permitting obligations of the agency.

In the Uintah Basin of northeast Utah, the Vernal Field Office is now the second busiest field office in terms of permit volume. The field office manager in that office does a fantastic job within the system and manpower available. However, good management can only take us so far. Industry had to temporarily fund 5 hosted workers to help eliminate the backlog in that office. Recognizing the value of these workers, the Field Office Manager eventually found the resources to continue paying for these workers under its budget. But 5 workers still falls short of the staff needed to process permits and perform the necessary on-site inspections throughout the area.

While emphasis is placed on applications for permits to drill (APDs), there also exists a large delay in receiving other approvals for natural gas development. Delays in processing rights of way to transport natural gas from the lease to the market pipeline leaves natural gas stranded. In some offices, natural gas producers are waiting to drill approved APDs because the associated right of way has not been approved.

In addition, BLM needs adequate resources to monitor the development taking place to ensure operators are complying with conditions of approval and lease stipulations—and to monitor and adjust these as justified. An improved process would free up manpower for these functions which are arguably more important than the procedural requirements. However, increasing resources and improving the process will yield more benefits to consumers.

In closing, let me remind this committee that high natural gas prices are not the result of a cartel refusing to produce more natural gas. They are the direct result of a continuous neglect of the regulatory process that governs oil and natural gas development on federal lands and of restrictions on access to key energy resources. The Intermountain West offers a near-term solution and is also part of a longer-

term solution for the supply-side of the equation. However, in order to develop these supplies in a sustainable manner, Congress must provide adequate resources to the federal agencies to reach a defined goal—supplying the public demand with natural gas. The Federal Government, as owner of the largest reserves of natural gas, has the responsibility to ensure that adequate supplies of this domestic resource—owned by Americans, produced by Americans, and consumed by Americans—is developed for the benefit of the public. Thank you for the opportunity to testify and I look forward to answering any questions you have.

RECOMMENDATIONS

Increased Funding to Improve the Process.—Funding for oil and natural gas programs (both BLM and FS) should be increased across the board. This allows the agency to use the momentum from the Energy Policy Act of 2005 to improve the permitting process. Top down reviews of the process will provide the information needed for the agency to improve the overall development process that has become too cumbersome.

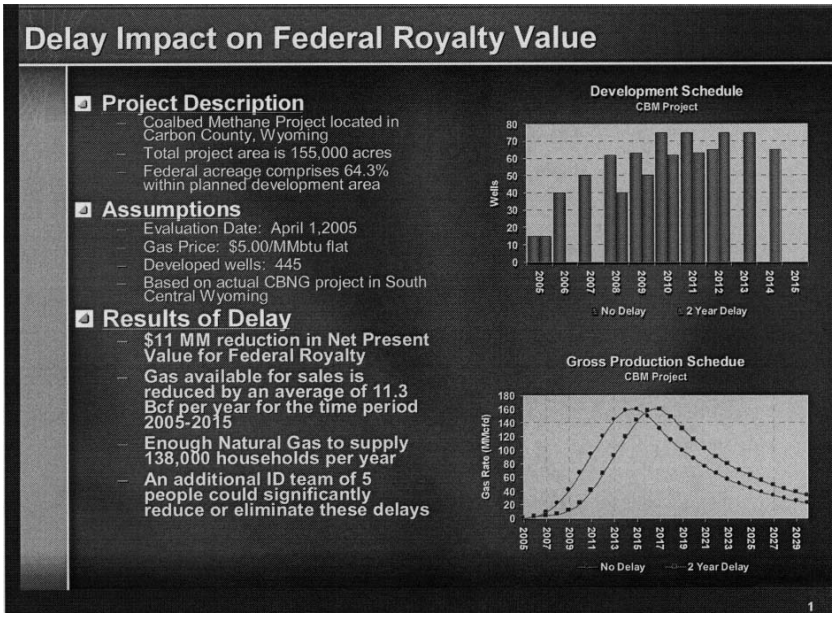
Prevent Offsets.—With the Administration's budget due out soon, this subcommittee should look for offsets of new funding sources from the Energy Policy Act of 2005. Offsets will set the program back by preventing BLM from eliminating the backlog of permits.

Eliminate the Backlog of Rights of Ways.—Drilling the well is the first step, getting the product to the consumer is the next step. Funding should help address eliminating the mounting backlog for rights of way.

Provide Resources for Follow Up Surface Compliance.—BLM needs the resources to ensure that operators are complying with their lease terms and conditions of approval.

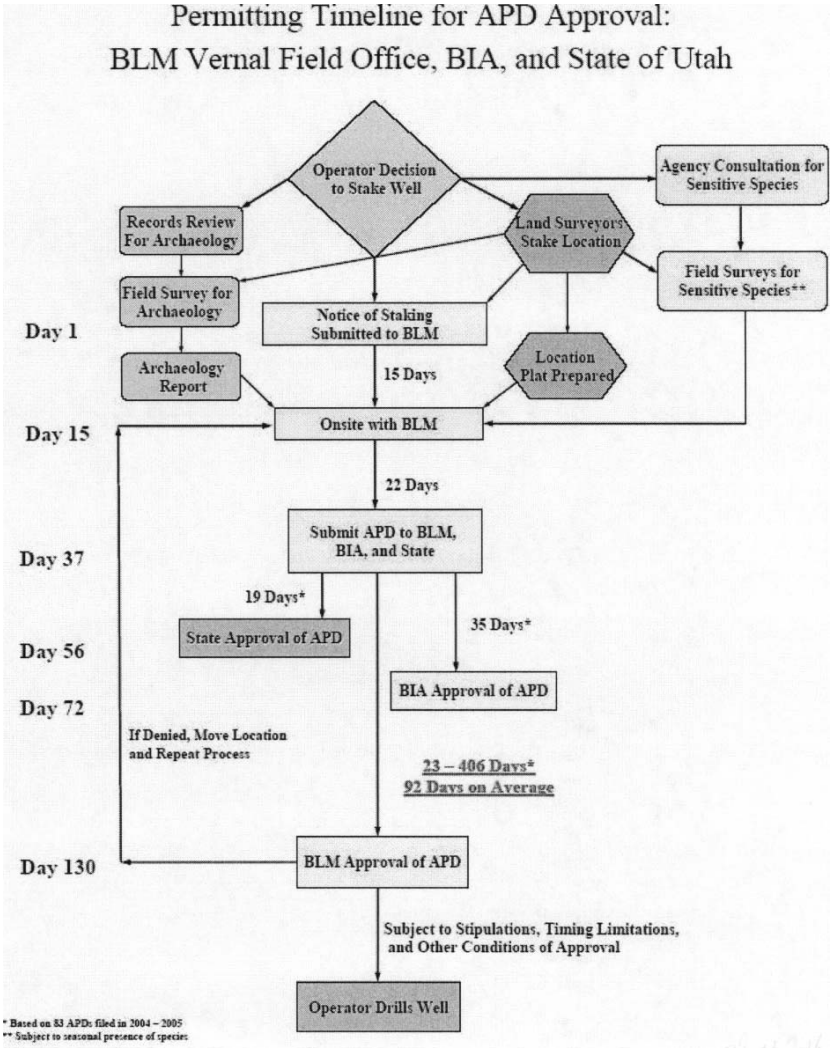
Encourage Concurrent Reviews of Exploration and Development Proposals.—E&P proposals are frequently reviewed in a consecutive fashion where the paper moves from one desk to the next. The process is cumbersome and inefficient. Where possible proposals should be distributed to the proper personnel for concurrent reviews.

ATTACHMENT 1: THE IMPACT ON THE FEDERAL TREASURY



As you see here, in one project area of Wyoming alone, increased permitting could lead to an increase in average annual natural gas production of more than 11 billion cubic feet, or enough to supply 138,000 households. That also means an additional $11 million in Federal royalty receipts.

ATTACHMENT 2: THE PERMITTING PROCESS



Senator BURNS. Mr. Magruder, do you have a handout with that schematic?

Mr. MAGRUDER. I am going to leave this. I brought three of them. It is in the testimony as well.

Senator BURNS. We have been joined by the ranking member here this morning, Senator Dorgan. If you have an opening statement, we would welcome it at this time.

Senator DORGAN. Mr. Chairman, I am sorry for the delay, but I have read the testimony and appreciate your calling this hearing. I will wait until after you question. I will ask a couple of questions.

Senator BURNS. We have the President pro tempore of the U.S. Senate here, Senator Stevens. Do you have anything, any statement you want to put in the record?

Senator STEVENS. I merely want to ask Ms. Clarke one question, if I can, and that is the Energy Policy and Conservation Act directed Interior, Agriculture, and Energy to inventory oil and gas resources. But Interior only opened a study on five basins, Montana, Wyoming, Utah, Colorado, and New Mexico. Now, we have almost half of the public lands of the country. Why was Alaska not included?

Ms. CLARKE. Sir, I know that we have inventoried in different phases, and I know that that first phase was looking at the lower 48, basically the Rockies, to determine what opportunities existed there. The second phase was really looking at conditions of approval and obstacles to the development.

I confess I will have to get back and find out why Alaska was not included in that original inventory, but I know we have a very good inventory of the resources in Alaska.

[The information follows:]

OIL AND GAS INVENTORY

Alaska was included in the second phase of the EPCA assessments. The contract for the EPCA phase II inventory for six more basins was issued in 2004, maintaining BLM's planned schedule of inventories of technically recoverable oil and gas resources. The basins covered include Northern Alaska (NPRA and ANWR 1002 only), the Wyoming Thrust Belt, the Denver, Black Warrior and Appalachian Basins, and the Florida Peninsula. The Phase II inventory is scheduled for release in January 2006.

ALASKA APPLICATIONS FOR PERMITS TO DRILL

The requested information on APDs in Alaska is presented in the table below.

ALASKA APDs

Fiscal year	TOTAL APDs pending at beginning of fiscal year	APDs received during fiscal year	TOTAL APDs processed during fiscal year
1994	14	.....	1
1995	13	1	3
1996	11	.....	5
1997	6	1	1
1998	6	2	3
1999	5	14	7
2000	12	11	9
2001	14	23	13
2002	24	12	33
2003	3	6	9
2004	.....	18	15
2005	[1] 2	8	8

[1] One of the APDs was withdrawn in 2005.

Senator STEVENS. I think if Mr. Magruder prepared a chart like that for Alaska, it would take two charts.

Ms. CLARKE. I am sure it would. We have many positive activities going on on BLM resources in Alaska that I think are contributing to the well-being of the lower 48.

Senator STEVENS. Have any oil and gas applications been granted since the 2000 act?

Ms. CLARKE. Pardon?

Senator STEVENS. Have any applications to drill on Federal lands in Alaska been——

Ms. CLARKE. Yes, there have been some. The numbers are not as significant. There have and I will get that number for you. It is very small.

Senator STEVENS. I do not know of. Since 2000 I am talking about.

Ms. CLARKE. I was told there was a very small number and I will double check and get back to you on that.

Senator STEVENS. Thank you very much, Mr. Chairman.

Senator BURNS. We have been joined also by the chairman of the Energy Committee. Senator Domenici, do you have a statement you want to make?

Senator DOMENICI. No. I know everybody has raised the issue of the pilot projects that had to be established, and I will inquire of those when my time comes.

Thank you for holding the hearing.

Senator BURNS. Well, thank you.

Mr. Ford West, who represents the ag community and The Fertilizer Institute. We are looking forward to your testimony today.

STATEMENT OF FORD B. WEST, PRESIDENT, THE FERTILIZER INSTITUTE

Mr. WEST. Thank you, Mr. Chairman. I appreciate the opportunity to be here, and I will be brief.

Our reality is real simple. I guess the reason I am here to represent agriculture is we use natural gas as a feedstock to make nitrogen fertilizer. It takes about 33,000 cubic feet to make a ton of ammonia. We think natural gas is too valuable a feedstock to use it to make electricity, especially when we have a lot of coal available for that purpose.

The use of fertilizer accounts for about 4 percent of the world's food production. It is a vital component of any nation's production agriculture, and it is a vital component of the Nation's food security and certainly national security.

Fertilizer is traded worldwide, and the current rise in natural gas prices—and today it is around $13.50—means that we are not competitive in world markets. Our hard reality is that we have shut down 21 nitrogen fertilizer production plants in the United States, 16 of them permanently closed. Five plants are currently idle. Many plants that are remaining are running at about 50 percent of production, and that is just kind of the reality we have to deal with, looking at $14 natural gas prices.

That is not just us. Any chemical company that is using natural gas as a feedstock has to deal with those numbers. Seventy chemical plants have closed in the United States, according to the American Chemical Council, and about 40 more are destined to be shut down.

Currently right now, because of these high natural gas prices, farmers are paying the highest prices ever recorded by USDA for nitrogen fertilizer.

Imports are trying to replace our lost production, and wholesalers and retailers are moving as quickly as possible and strug-

gling with new logistics that imports bring into the marketplace. But nitrogen imports now account for about 45 percent of our use.

Our reality is being transferred over to the farmers' reality because, as we finish this fall harvest season and look to the spring planting, there is a really big cloud of uncertainty hanging over American agriculture. The uncertainty is, is nitrogen going to be available. There is uncertainty over what the cost is going to be, the uncertainty of how to explain this to the bankers so they can get a production loan, the uncertainty of lease agreements, should I enter into new lease agreements and try to pencil out the cost of production, and the uncertainty of commodity prices, and the uncertainty of what is the Government going to do about it, if anything.

I think all this uncertainty certainly is due to the cost of energy and natural gas. Certainly in the United States the demand for natural gas exceeds the supply, and that is creating this high energy crisis and the high prices. Even though Congress deregulated natural gas in the late 1970's, Government policy is certainly manipulating the price of natural gas, and it has created a demand that is artificially high due to policies like the Clean Air Act that forced the utilities into producing electricity from natural gas and moving away from coal because of the emission standards. The supply of natural gas is artificially low due to Federal policies that prevent certain moratoria in certain States and where you can drill. The supply/demand balance is really having an impact in our industry and on energy policy in the United States.

Like I said, we use natural gas as a feedstock. We think it is too valuable to use it to produce electricity, especially when we have this abundance of coal or nuclear that we have in America that we could be using to produce electricity. Using natural gas as a feedstock, you can produce anything from fertilizer to face cream, and we think it is very valuable. If you look at some of the statistics, it is only going to get worse because 95 percent of all the new electric power capacity coming on stream is going to be using natural gas. Now, these plans may change because $14 gas has an impact on that decision.

The hard realities that we are facing in fertilizer in ag is going to go on to the American consumer this winter, if you look at what the suggestions of what natural gas prices are going to do, up 60 to 90 percent.

We have to realize that Government policy kind of got us into this, in our opinion. There is no silver bullet here, as you said, Mr. Chairman, and we are going to have to change some Government policy to get us out of this. Certainly we need more supply of natural gas. As an industry and a user of natural gas, we hope that increase in supply comes from onshore, offshore, wherever we can get LNG.

But we understand that this is not going to be tomorrow. It is going to take some time, and probably the challenges that we have in our industry are going to stay there, and we may not see any action that could be taken today to bring back those ammonia plants that have closed.

What we can suggest, certainly 12 percent of our natural gas production is still offline because of the hurricanes. Anything we can

do to help bring that capacity on stream as quickly as possible, certainly looking at bringing on as many onshore permits as possible. We also are looking for 181 offshore, whatever we can do there.

PREPARED STATMENT

I think another thing is the energy bill created a lot of incentives for coal gasification that is in that legislation. Anything that we can do with the Department of Energy to move quickly to bring those loan guarantees on. We have plants that want to use that technology, if we can get a loan guarantee. I appreciate that, and look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF FORD B. WEST

INTRODUCTION

Mr. Chairman and members of the subcommittee, I am Ford B. West, president of The Fertilizer Institute (TFI). On behalf of TFI, I appreciate the opportunity to testify before the Senate Appropriations Interior and Related Agencies Subcommittee regarding "The High Price of Natural Gas and its Impact on the U.S. fertilizer industry." Furthermore, I would like to thank you Mr. Chairman for scheduling this important hearing and for your leadership in addressing this critical issue impacting the U.S. plant food industry, its many local retail agribusiness outlets and the farmers and livestock producers they serve.

TFI is the leading voice of the nation's fertilizer industry, representing the public policy, communication and statistical needs of fertilizer producers, retailers and transporters. In addition to energy policy, issues of interest to TFI members include the environment, international trade, security, transportation and worker health and safety.

FERTILIZER AND ENERGY

The United States needs reliable and plentiful supplies of natural gas to produce nitrogen and meet critical agriculture and food production needs. Natural gas is the fundamental feedstock ingredient for the production of nitrogen fertilizer and represents 70 to 90 percent of the production cost of one ton of anhydrous ammonia—the building block for most other forms of commercial nitrogen plant nutrients. The nitrogen fertilizer industry accounts for approximately three percent of the total natural gas consumed in the nation.

THE NATIONAL IMPACT

The current U.S. natural gas crisis is exacting a heavy toll on America's nitrogen fertilizer producers and the farmer customers they supply. The resulting negative financial impact on the North American fertilizer industry is unprecedented and threatens to irreversibly cripple the U.S. nitrogen fertilizer manufacturing industry, which supplies approximately one-half of U.S. farmers' nitrogen fertilizer needs. America's food security, and by extension, our national security will be jeopardized if action is not taken to address our country's current natural gas crisis.

IMPACT OF HIGH NATURAL GAS PRICES

Due to the U.S. natural gas crisis, the cost of nitrogen fertilizer production has reached an all-time high forcing many U.S. plants to shut down. Jobs are being exported to China, Russia, the Middle East and the Caribbean, as U.S. farmers are becoming increasingly dependent on foreign sources of fertilizers.

As a world market commodity, fertilizer prices are determined much like the prices of most agricultural commodities. The fact that fertilizer is a commodity means that supply and demand factors in major markets around the world impact the price U.S. farmers pay for fertilizer. The prices paid by farmers for the major fertilizer materials reached the highest level on record during the spring of 2005.

NITROGEN

Anhydrous ammonia is the source of nearly all the nitrogen fertilizer produced in the world. Ammonia is produced by combining nitrogen with hydrogen. The nitrogen is obtained from the atmosphere, while the hydrogen is obtained from natural gas.

At today's gas prices, the cost of natural gas accounts for 70–90 percent of the production cost of ammonia. Thus, when U.S. natural gas prices increased significantly beginning in the year 2000, the cost of domestically produced ammonia also rose significantly. Average U.S. ammonia production costs doubled from 1999 to 2003, the latest year for which data are available, and are sure to have increased again in 2004 as natural gas prices have continued to rise.

While fertilizer producers can try to pass along these cost increases, the commodity nature of the business and competition from producers in nitrogen exporting countries, with access to lower priced gas, limits this option. As a result, a rise in U.S. natural gas prices causes producer margins to shrink. Eventually, margins turn negative as gas prices continue to increase. Consequently, companies are forced to reduce production, temporarily idle, or even permanently close plants depending on the specific economic situation they face.

As a result of the ongoing natural gas crisis in America, 21 nitrogen fertilizer (ammonia) production facilities have closed since fiscal year 1998/99 (July 1998-June 1999). Sixteen of those plants have closed permanently, representing a 20 percent drop in total production capacity, while five plants remain idle. Operating rates for the U.S. ammonia industry have also declined significantly from historical levels. The permanent and temporary closures in combination with the drop in operating rates have resulted in a 35 percent decline in U.S. ammonia production from 17.85 million tons of material in fiscal year 1998/99 to 11.70 million tons in fiscal year 2003/04. U.S. nitrogen imports have increased from 6.11 million tons in fiscal year 1998/99 to 10.36 million tons in fiscal year 2003/04. As a result, U.S. ammonia production fell by over six million tons or 34 percent in only five years. Consequently, the U.S. fertilizer industry, which typically supplied 85 percent of its domestic needs from U.S. based production during the 1990s, now relies on imports for nearly 45 percent of nitrogen supplies.

In the past few weeks alone, three of the largest remaining U.S. nitrogen fertilizer producers have announced they are again shutting in or idling a significant portion of their facilities and reducing production by as much as 50 percent or more. Last week, TFI and a number of its nitrogen producing member company CEOs met with U.S. Department of Energy Secretary Samuel W. Bodman, as well as a number of key farm-state senators and congressmen. After describing agriculture's natural gas crisis situation, in all honesty I cannot say that we left any of those meetings encouraged about the short or long term energy future for our producers, retailers, farm customers or our nation. Energy conservation, renewable fuels and increased imports of Liquefied Natural Gas (LNG), while important, will not save this nation's nitrogen fertilizer industry from being forced to idle remaining U.S. production capacity because of cost pressures from high natural gas prices. Increasing U.S. supplies of natural gas in a significant manner and as soon as possible is the only way to avoid the further decline of the U.S. fertilizer industry and a nationwide economic disaster in farm country.

THE CURRENT CRISIS THREATENS OTHER FERTILIZERS

Phosphate production is natural resource based and begins with the mining of phosphate rock. The United States is the world's largest producer and exporter of phosphate fertilizer. Thus increased global demand has been the driving factor behind the recent rise in phosphate fertilizer prices. However, significantly higher costs for major production inputs like ammonia produced with natural gas, and sulfur have also placed upward pressure on the prices of the major phosphate fertilizers. Average U.S. production costs for ammonium phosphates increased by 20 percent from 1999 to 2003, the latest year for which data are available, and are expected to have increased again in 2004 as ammonia prices have continued to rise.

CONCLUSION

Mr. Chairman, allow me to relay recommendations, which we believe should be immediately included in federal energy legislation and policy. These recommendations include: opening additional federal lands and off-shore areas to oil and gas exploration and production, especially the lease/sale area 181 in the Gulf of Mexico and other coastal areas on the Outer Continental Shelf (OCS).

Currently, 85 to 90 percent of the OCS is off-limits to natural gas exploration due to a combination of congressional and state moratoria. Industry estimates suggest that the OCS contains gas reserves large enough to supply all current U.S. industrial and commercial needs for 40 years. Regarding "Lease Sale 181," the U.S. Interior Department estimates that the 6 million acre area contains natural gas reserves of 1.3 trillion cubic feet. TFI strongly believes that opening these areas to

natural gas drilling is the fastest way to bring new natural gas to market and bring much needed relief to our industry and our nation's food producers.

Also, any federal policies that can be implemented to make it easier to get permitting and to build new LNG terminals in the United States as quickly as possible are vital. We believe these federal policy initiatives are critically important to the energy security, food security and national security of this nation.

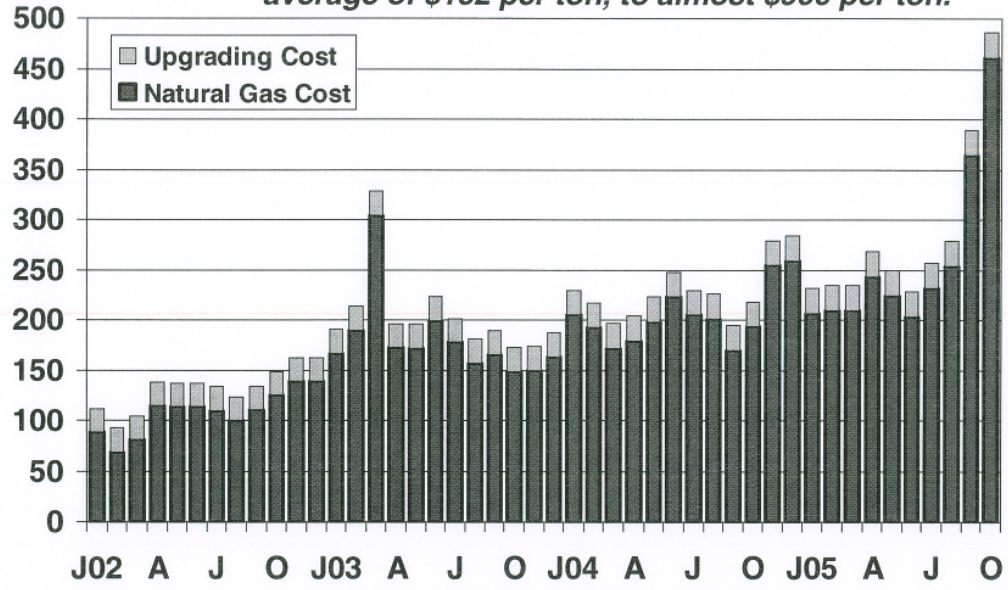
Finally, TFI urges members of this subcommittee and all members of Congress concerned about the ongoing U.S. natural gas crisis, to contact Secretary Bodman and request the U.S. Department of Energy move quickly to promulgate rules and regulations for loan guarantees and investment tax credits for construction of coal gasification facilities as authorized by Congress in the recently enacted federal energy bill.

To conclude, allow me to again thank you Mr. Chairman and members of the subcommittee for your leadership in addressing the critically important issue of the high natural gas price in this country and its impact on the U.S. fertilizer industry and its farmer customers. Thank you for the opportunity to testify today.

U.S. Nitrogen Producer Cost - Ammonia

$ Per Ton

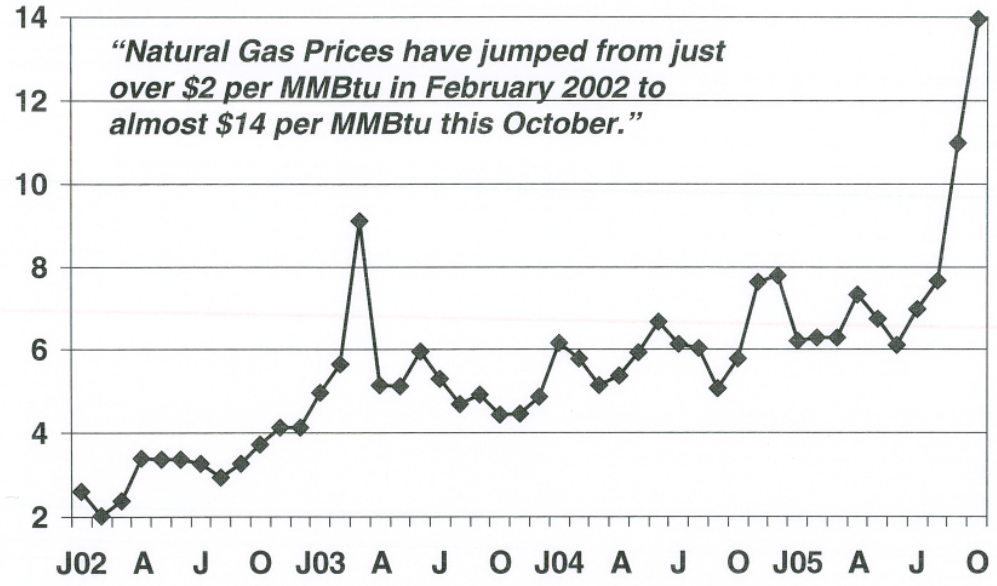
"Cash costs for ammonia have jumped from a 2002 average of $132 per ton, to almost $500 per ton."



January 2002 – October 2005

U.S. Natural Gas Prices

$ Per MMBtu at Henry Hub



January 2002 – October 2005

Senator BURNS. Thank you very much, Mr. West.

I am going to ask for the testimony of Mr. Cicio, and then after that testimony, then we will go vote and come back. Yes, sir?

Senator BENNETT. Mr. Chairman, just a note. Senator Frist notified us that he is going to be cutting the vote off at 20 minutes. Yesterday, for the first time in recent memory, two Senators were denied the right to vote and they showed up 1 minute after the cutoff. I think we better be careful, lest this entire subcommittee——

Senator BURNS. How much time do we have left?

Senator BENNETT. It started at 10:45.

Senator BURNS. Let us go vote and we will come back for Mr. Cicio. I do not want anybody to miss a vote.

We will call the committee back to order. Sorry about the vote, but we made it as fast as we could make it. I do not know how many reporters are allowed on the Hill, but they are everywhere.

How you make it through that maze is beyond me.

Mr. Cicio, thank you for coming this morning. He is the Executive Director of the Industrial Energy Consumers of America. We look forward to your testimony.

STATEMENT OF PAUL N. CICIO, EXECUTIVE DIRECTOR, INDUSTRIAL ENERGY CONSUMERS OF AMERICA

Mr. CICIO. Thank you, Chairman Burns, members of the subcommittee. Good morning. I am Paul Cicio. We are the only cross-sector, nonprofit trade association in the country that is dedicated exclusively to development of sound energy and environmental policy whose membership is exclusively energy consumers.

The natural gas crisis and the resulting record-high prices that are more than twice that of Europe, three times that of the Far East and China, are not market or hurricane induced. It is Government induced. There is no shortage of natural gas in the United States. It is an access issue and Congress and the administration are accountable.

Over 5 years, the price has increased more than 400 percent, which is far higher than crude oil or gasoline, and the situation continues to worsen.

Even before hurricane Katrina, the price of U.S. natural gas was the highest and the most volatile in the world. Should we have a cold winter, prices promise to go higher.

Almost without an exception, there has not been a single grassroot manufacturing facility built in this country in 5 years. The United States is no longer an attractive place to invest manufacturing capital because of the comparatively high prices and uncertain reliability of energy. High natural gas prices have resulted in significant industrial demand destruction. According to the Energy Information Administration, industrial demand for natural gas has decreased 9.1 percent in the time period of 2000 to 2004. In that time period, 3 million manufacturing jobs were lost.

In October 2005, this month, IECA conducted a random survey of 31 large manufacturing companies from diverse sectors that indicates demand destruction is accelerating. The survey indicates that 55 percent of those surveyed would decrease their natural gas demand this winter anywhere from 5 to 40 percent. If this survey is reflective of the U.S. industrial demand profile, natural gas de-

mand by manufacturing is falling significantly, along with good jobs.

In this regard, we believe this subcommittee could help increase natural gas supply. Eliminating the backlog of applications for permits to drill is our best near-term supply option over the next 1 to 2 years. We are very concerned that the BLM and the Forest Service are not adequately funded and thus lack the capacity to process the growing number of applications for drilling permits.

We do know that the Bureau of Land Management has successfully increased the number of drilling permits it has processed year over year, and they are to be congratulated for that. However, we continue to hear from a significant number of natural gas producers that the backlog of unprocessed drilling permits continues to grow and is delaying their ability to produce natural gas.

We also encourage this subcommittee to increase accountability of BLM by requiring quarterly progress reports and quarterly congressional hearings that would allow this committee and consumers to monitor and ensure that significant progress is being made until the entire drilling permit backlog is removed.

PREPARED STATEMENT

In closing, to solve our natural gas crisis, we need access to areas currently off limits to natural gas production and, most importantly for this committee, we need increased capacity to process drilling permits in areas where we can produce today.

Mr. Chairman, we ask for your assurances that the drilling permit backlog matter will be resolved very quickly.

Thank you. We look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF PAUL N. CICIO

The Industrial Energy Consumers of America (IECA) is grateful for the opportunity to provide testimony on this important topic that impacts the well-being of every home owner; determines the competitiveness and the future of the manufacturing sector in this country; and is critical to ensuring national security and economic growth.

IECA is a nonprofit organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or hydrocarbon feedstock play a significant role in their ability to compete in domestic and world markets. IECA is the only cross sector non-profit trade association in the country dedicated exclusively to the development of sound energy and environmental policy and whose membership are exclusively consumers of energy.

ELIMINATING THE BACKLOG OF APPLICATIONS FOR PERMITS TO DRILL (APDS) IS OUR BEST NEAR-TERM SUPPLY OPTION OVER THE NEXT 1–2 YEARS

We are very concerned that the BLM and Forest Service are not adequately funded to process the growing number of applications for permit to drill (APDs). We do know that the BLM has successfully increased the number of drilling permits it has processed year over year and they are to be congratulated for it. However, we continue to hear from a significant number of natural gas producers that the backlog of unprocessed drilling permits continues to grow and are delaying their ability to produce natural gas.

We understand that these agencies lack the necessary funding of $10 million each to hire and train the needed personnel to keep up with the additional volume of APD's. If these permits were already processed we would be enjoying the impact of greater supply and lower price.

This being the case, the most important action this subcommittee can take to increase short-term natural gas supply is by accelerating the capacity of the BLM and the Forest Service to process drilling permits. From our perspective, action by this

subcommittee to ensure that these agencies receive this very small amount of increased funding is an important insurance policy to the American public that we may not run out of natural gas in the near term.

We also encourage this subcommittee to increase accountability of the BLM by requiring quarterly progress reports and quarterly Congressional hearings that would allow this committee and consumers to monitor and ensure that significant progress is being made until the entire drilling permit backlog is removed.

OTHER KEY POINTS ABOUT THE NATURAL GAS CRISIS

1. The natural gas crisis is government induced and is caused by the failure of the Congress and the Administration to remove barriers to access over 400 trillion cubic feet of natural gas reserves under federal control and particularly the area recognized as Lease 181 in the Gulf of Mexico.

2. IECA recommends swift action on the part of Congress and the Administration to prevent potential supply disruptions this winter. These actions may also reduce the price of natural gas.

—Increase natural gas supply by removing barriers to areas currently off-limits;
—Optimize use of non-natural gas energy sources for power generation;
—Work with State officials to dispatch natural gas fired power generation only as needed and on a economic and energy efficiency basis;
—Encourage the public to conserve energy and improve energy efficiency across the entire economy.

THE NATURAL GAS CRISIS IS GOVERNMENT INDUCED

The natural gas crisis and the resulting record high prices that are more than twice that of Europe and three times that of the Far East and China are not market or hurricane induced. It is government induced. There is no shortage of natural gas in the United States. It is an "access" issue and Congress and the Administration are accountable.

The natural gas crisis has been in full swing for five years and neither the Congress nor the Administration has acted appropriately to deal with the access issue. For five years manufacturers, homeowners, farmers and other consumers have been adversely affected by the significant impact of high natural gas prices. During that time the price has increased more than 400 percent, which is far higher than crude oil or gasoline, and the situation continues to worsen. Even before Hurricane Katrina, the price of U.S. natural gas was the highest and most volatile in the world—and should we have a cold winter—prices promise to go even higher.

HIGH NATURAL GAS PRICES HAVE SEVERE IMPACTS ON THE MANUFACTURING SECTOR

While gasoline prices hurt consumers by increasing the cost of transportation and reducing disposable income, high natural gas prices have a much larger and lasting impact because they not only increase the cost of heating and cooling, but also affect the competitiveness of industry and the retention of good jobs. Since 2001, natural gas prices have significantly contributed to the loss of 3.0 million manufacturing jobs and the shifting of future investment overseas.

Almost without an exception, there has not been a single grass-root manufacturing facility built in this country in five years! The United States is no longer an attractive place to invest manufacturing capital because of the comparatively high energy prices and uncertain reliability. Low-cost reliable energy has historically been one of our country's real strengths that fostered growth in our once powerful, but now dwindling manufacturing sector.

OCTOBER, 2005 IECA SURVEY INDICATES THAT INDUSTRIAL DEMAND DESTRUCTION IS ACCELERATING

High natural gas prices have resulted in significant industrial demand destruction. According to the Energy Information Administration, industrial demand for natural gas has decreased 9.1 percent from 8,142,240 mmcf in year 2000 to 7,398,630 mmcf in year 2004. The decreased demand by the industrial sector is the primary reason the United States does not have shortages of natural gas at this time. As the price goes up, manufacturing loses competitiveness and shuts facilities down, freeing up natural gas for other sectors.

An October 2005 IECA random survey of 31 large manufacturing companies from diverse sectors indicates that demand destruction is accelerating. Each company was asked whether their natural gas demand would increase or decrease this winter versus last. The profile of the manufacturing sectors and the number of partici-

pating companies are as follows: chemical/plastics (11); glass (3); steel (6); paper (5); fertilizer (1); brick (1); food processing (3); cement (1).

42 percent said their demand would not change.
22.6 percent said their demand would decrease by 5 percent
16.1 percent said their demand would decrease by 10 percent
6.5 percent said their demand would decrease by 15 percent
3.2 percent said their demand would decrease by 20 percent
3.2 percent said their demand would decrease by 25 percent
3.2 percent said their demand would decrease by 40 percent
3.2 percent said their demand would increase by 5 percent

The survey indicates that 54.8 percent of those surveyed would decrease their natural gas demand this winter anywhere from 5 to 40 percent ! If this survey is reflective of the US industrial demand profile, natural gas demand by manufacturing is significantly falling along with good jobs.

"LET MARKETS WORK" STATEMENTS . . . FAILS TO RECOGNIZE THE FEDERAL GOVERNMENT IS CONSTRAINING SUPPLY

Too often we hear members of Congress say we should "Let markets work." This statement is not an "energy policy" and fails to recognize the federal government is constraining supply by preventing access to areas that are under federal control that contains some 400 TCF of natural gas. United States annual consumption is only 22 TCF and even a small portion of that supply would have a dramatic impact on reducing record high prices. At the same time, the federal government has enacted numerous environmental laws that lead to increased demand for natural gas. How can "the markets work" when government increases demand and restricts supply?

The statement also does not reflect the reality that we have stringent government environmental regulations in place that control the regulatory process by which natural gas production companies receive approval to drill. And, if these government agencies are not adequately funded or well managed, slow the process of drilling permit approvals.

In closing, we need access to areas currently off-limits to natural gas production and increased capacity to process drilling permits. Mr. Chairman, we ask for your assurances that the drilling permit backlog matter will be resolved.

Thank you for the opportunity to provide this testimony.

Senator BURNS. Thank you.

I will start the questioning here. I would ask Director Clarke. You have had a little time, but not maybe ample time to set up these pilot projects to increase your ability to issue these APDs. I would like some sort of a report on that on how you are doing. Where are you in the process?

Ms. CLARKE. Senator, we are very grateful for the authority granted to the BLM under the Energy Policy Act to establish these pilot offices. I think that they hold great promise for us in being able to deal with the backlog.

Immediately upon passage of the act, I identified a team and a single individual that we asked to lead this effort. We are ahead of schedule in getting the MOU between all of the Federal participants in place and have already contacted many of the States and are working on outreach to them to bring those partners along.

We anticipate hiring 10 Fish and Wildlife individuals. The recruitments are already out to fill those slots, I believe about four Forest Service slots, and we are working well with the EPA and other partners to make sure that staff is dedicated to the processing of APDs. Clearly, that does hold the opportunity for us to most swiftly get natural gas to the marketplace. So we are ahead of schedule on this. We anticipate hiring 130 individuals under the authorities of the pilot program.

The additional funds that will come to us from rental receipts put about $19 million into the program, of which nearly $11 million

is going to go directly to APD processing in the BLM ranks. An additional $6 million or $7 million will be funding the Federal partners' participation. Some of that money will be dedicated to inspection and enforcement to make sure that we are managing our program in balance.

Senator BURNS. Thank you very much.

Ms. CLARKE. Could I just tell you we expect to have these offices operational in January? The legislation gives us until March. So we recognize there are urgencies and we are seeking to expedite implementation of the pilot offices.

Senator BURNS. It has been claimed by the industry that there is a lack of communication. I will fill that in. The industry contends the problem is that the BLM is not identifying incomplete applications—in other words, you will have applications that have been laying around that are marked incomplete—and has guidelines that do not allow a standardization application process to prevent incomplete APDs. But also, there is a problem that once an APD is discovered to be incomplete, the applicants are not notified immediately upon that. Can you clear that up for us?

Ms. CLARKE. Senator, we have been working diligently throughout my tenure as Director of the BLM to deal with the challenge of APDs and to improve our processes. In July 2002, I pulled together all of the field managers and petroleum technicians, State directors, and others to talk about the problems with APD processing.

At that time, we put into place numerous actions to improve our responsiveness to requests for permits to drill. One of the things we did was to create quality assurance teams, which have been routinely going out to field offices, to make sure that we are consistently applying our rules and our program to each of those offices and to also improve the way we approach processing.

We have begun accepting applications in packages where they cover an area or a plan of development. That allows us to go in and do one NEPA process and approve all of the applications at once.

We are also working to make sure that we do improve our procedures in dealing with industry. We have done a lot of outreach to improve communication. There are directions given to us in the Energy Policy Act which give us very clear guidance on the Congress' expectation in regards to timing and communications, what constitutes a complete package.

As you know and as the pilot programs identify, we have other participants, other Federal and State players, that need to partner with us, and I do believe that by coalescing all of those in some one-stop shopping kind of locations, we will have the full attention of those players that need to assist us in moving these permits forward.

So we are committed to being on time and on deadline, and guidance has already gone out to the field identifying the new expectations for time lines on the APD processing.

Senator BURNS. Well, Mr. Magruder has indicated that there are two players in this that are not here today, the Forest Service and, of course, on Indian lands. Indian lands have jumped 50 percent in their production in the last 3 years. Why would that show such an increase and yet we seem to be lagging off reservation?

Ms. CLARKE. I think we are doing well across the board in increasing production. Senator, that is not to say there is not opportunity for continued improvement and expansion of energy production. I believe that we have been given some great new tools, authorities, and certainly we all have the incentive.

Senator Craig asked if we were managing the situation as a priority. Let me assure you that it absolutely is a priority. We have a daily meeting on all things to do with energy and energy development at the BLM. It is front and center on my screen. We recognize the needs of the Nation for reliable energy sources and we recognize the capability BLM has to contribute to the supply. We want to be part of the solution, not part of this problem.

Senator BURNS. At one time we tried to work out a one-stop shop that would work for the Forest Service and the BLM and Indian country. I do not know where that is right now, but I will think about that.

So, I have got a question. Mr. Magruder, would you agree that a 50 percent increase on Indian lands, even though they are not here, is a bit better than off-reservation production?

Mr. MAGRUDER. There is a huge resource that needs to be tapped on Indian lands. I was fortunate to participate in a program sponsored by the DOE just last week. We brought in—I will be there were—30 tribes represented in Denver and a good communication, good exchange between industry, referred to as developers from a tribal perspective, and the tribal nations, and trying to find out what business expectations are acceptable. I think it was a good exchange. But there is a large, large resource there.

That is where I picked up on the fact that Fort Duchesne office is being cut in the wake of all these increases, and they are coupled at the hip. One-third of the permits have to go through the Fort Duchesne office for us to put the bit in the ground.

It seems to me like there needs to be some integrated team, committee, call it what you want, but there needs to be an integration of people that truly understand oil and gas. There is a difference, and you need that integrated team right now. Otherwise, I do not know if we are really changing the process much.

Senator BURNS. Even on these pilot programs, Ms. Clarke, when you hire new people, how long does it take to train them and can you get people qualified that, like Mr. Magruder says, are acutely aware and know a little bit about the oil and gas business?

Ms. CLARKE. We are recruiting to all sources to fill the positions that are going to be available in those pilot offices, and we will be looking for the most qualified individuals. Once they get in those offices, they will have some time learning what they need to know about the local area, the geography, the resource that they are going to be overseeing. But we are absolutely committed and confident that we can pull this together and make it work and make those pilot offices produce success and results.

Senator BURNS. Senator Craig.

Senator CRAIG. Thank you, Mr. Chairman.

Kathleen, in my opening statement, I said tell me it ain't so, and in part, you have done that. Obviously, there has been a tremendous effort on the part of you and the BLM to get this underway. Your record of improvement is impressive. Is it good enough in re-

lation to the marketplace? No, it is not. The pilot projects are underway, and I think it is important we monitor them with you to make sure that we stay on that course.

I guess my question to you, in looking at the demand that is currently out there, the APD's that are current, do you have enough resource today to get the work done in a timely fashion? We all measure time in different ways. Or do you need our help in getting greater resource? If you do, should that come in direct appropriation, or can that come with giving you some authority, as we do other agencies, to reprogram within the agency to say that for the next 2 years, it will be our high priority to do the following things and we will lessen priorities in other areas?

Ms. CLARKE. Senator, with the additional funding that is going to be coming to the BLM, specifically to those pilot offices, I do believe we are going to have the capability of dealing with what has been referred to as the backlog or the pending applications. Those clearly provide the opportunity for us to most readily respond to the needs of this Nation for energy right now.

I think there are always opportunities for us to address the prioritization of activities within the bureau, and we are going through a very robust exercise right now to take a look at internal policies, as well as program priorities and funding allocation, to make sure that we are pooling resources where they are available to the highest priorities, which, as I have indicated, are the production of energy.

We would look forward to working with your committee, if we identify opportunities for legislative action to assist us in that effort, or to reprogram dollars that we have to meet those higher priority needs.

Senator CRAIG. Clearly for us I think and for you, while there are many efforts underway to increase overall availability of supply in the United States, being able to produce it domestically and get it into the current system is the easier response, the quicker way of getting part of this overall supply issue down a little bit. We have got what is known as demand destruction going on at this moment. It has been spoken to. With the increased demand, we have lost about 9 percent of the use. That is all jobs. It may be gas being delivered, but it is jobs lost that is really very significant in all of the industries associated.

If you meet the targets that are out there and we stay on course toward moving these applications in a more timely way, then my question may not be to you but may be to any one of these three gentlemen. Do we have the delivery system in place, or is that the next problem? Are we working as robustly on that with FERC and other agencies as we are working with Kathleen on the wellhead issue, if you will? So we increase our capability at the wellhead, but we have not delivered it or we have no capacity to deliver it. Does anyone wish to respond to that particular side of the equation?

Mr. MAGRUDER. I will be glad to take a shot at it just to start with, and I am not professing to be a natural gas expert in any way other than the fact I live within the framework.

Senator CRAIG. Well, you are our current expert.

Mr. MAGRUDER. That is right.

The take-away capacity going to the west coast out of the Rocky Mountain region is approximately 85 percent utilized. The take-away capacity going out east of the Rocky Mountain region is about 85 percent utilized. So they are approaching that point.

But in the last 2 weeks, two significant things have occurred. Encana has announced the pipeline and the commitment of that gas which is half a bcf. So our take-away capacity in the Rocky Mountain region has stayed ahead of the production growth for the first time in a long time. Three years ago, producers were faced with a $2.50 differential. Natural gas prices at the city gate here on the east coast may have appeared high, but I can guarantee you a producer like myself—we were receiving 62 cents for natural gas in July. So talk about destruction. There was a lot of destruction because of lack of take-away. That has reversed.

Kinder Morgan has announced a major pipeline system that will source in the center of the Rocky Mountain region and deliver natural gas into Ohio. That is going to be a straight ticket, $1.10, whatever the fee is. Nobody is really certain right now, but that is going to be a huge value-add and will provide additional take-away that has not been available in the Rocky Mountain region. So that is a 30-month project that is out on the horizon that is going to be a major artery of natural gas out of the Intermountain West area directly into the east coast. So that is significant.

You probably need to get the right individuals in here to talk about the dynamics associated with take-away. My position is it is there, and the developers like myself are doing everything possible to get wells drilled and add supply into the marketplace.

Senator CRAIG. Does anyone else wish to comment on that?

Mr. WEST. I would just add this. Running an ammonia plant, we have about a 12-inch gas line going into an ammonia plant because we use so much natural gas. As far as I know, we have not had anyone who has been turned down gas that we cannot get it to you if you are going to pay for it.

I have had phone calls from utility companies in the east saying, could you tell us how many more ammonia plants are going to go down? So we want you to ease up. We are planning how much gas that will bring into the marketplace that will be available for us. So that is kind of the change in the distribution I think that is going on as people are trying to fill up their pipeline capacity going in their direction.

Mr. MAGRUDER. I need to reinforce one item. When we talk about pipeline, it requires right-of-way procurement to be able to do that. Some of that will be across Federal lands, which is a much lengthier process than across private or State lands. As we talk about the APD process and we look to Kathleen's group to create process improvement, we really need to address right-of-way too. It is just as critical and as important as the ability to drill a well. It does not make sense to drill a well—you are talking about getting it to the market. If you cannot get the resource from point A to point B, it does not make a lot of sense. So we need to make sure that, when we are talking about the APD and the permitting process, we are addressing right-of-way needs too.

That requires a different skill set. I think Kathleen will tell you that the people that address the right-of-ways are slightly different

than those that address the mechanical integrity of a well or whatever may be their role in the APD approval process.

Senator CRAIG. If I could, Mr. Chairman, let me come back to Kathleen to address that right-of-way issue because out West, as you well know, a lot of that land is Federal land and BLM land predominantly in many instances.

Ms. CLARKE. We have been working with the western governments to identify appropriate energy corridors for some time. However, it has been most helpful that the Energy Policy Act in section 368 pulls together the Department of Energy, the Department of Agriculture, and the Department of the Interior to do an EIS and get those corridors identified and in place. I am pleased to report that the scoping period started with the formal notice on September 28. So we are moving ahead. There will be public meetings beginning October 25. So we are right in the middle of it today just getting started, and we will be working very diligently to make that happen as quickly as possible.

I think some of the frustration in the past has been that BLM would identify a corridor that would not match up with the corridor the Forest Service had identified, and we certainly are not going to be helpful to one another if we do not get our corridors and our vision for development of energy resources into alignment.

Senator BURNS. We had a road like that that came out of Canada and did not hook up with the road in Montana one time and had a little argument about that.

Senator CRAIG. Thank you, Mr. Chairman. Thank you all.

Senator BURNS. Senator Allard.

Senator ALLARD. Thank you, Mr. Chairman.

I would just associate myself with many of the questions that have already been asked. I am going to change over to oil shale and then come back, time permitting.

But on the oil shale, how are you moving along as far as implementing the provisions that are in the energy bill, and are you doing anything beyond the energy bill to facilitate the development of that potentially very generous resource?

Ms. CLARKE. Senator Allard, as I am sure you are aware, we put out a request for proposals to come forward for our research and development proposals for oil shale. We have received 20 proposals. As a matter of fact, today we have the committees that we have put in place to review and assess those to make sure that they meet the criteria of our solicitation and to really come up with a quality set for further review. So we will be authorizing and granting permits for several of those high quality proposals to move forward.

In the meantime, we are taking the direction from the Energy Policy Act, have identified a project manager, and are beginning an EIS so that we can have appropriate NEPA work to oversee commercial development of this resource. So we are on target and being very aggressive in trying to tap into that to date unutilized resource.

Senator ALLARD. Well, I am pleased with what you have done up to this point.

When do you think you will have these demonstration projects identified?

Ms. CLARKE. Identified and authorized?

Senator ALLARD. Yes.

Ms. CLARKE. Spring is our date. Like I say, we are doing an initial analysis. We will sort of do a first cutoff to determine those that are responsive to the request and then going through a little more in-depth review to make sure that we are moving forward those nominations which we believe have opportunity to really make a difference and that are feasible in terms of their science and technology.

Senator ALLARD. Very good. Thank you.

I would like to go back to the permit drilling. You say 130 days, Mr. Magruder, is an average, or is it a minimal time?

Mr. MAGRUDER. Well, they really range anywhere from—I would say it is a good average.

Senator ALLARD. Of that permitting process, if you are a small driller and want to go in and put a bit in the ground, what is the most frustrating part of that permitting process?

Mr. MAGRUDER. I was just telling someone during the break. Really it is a combination of three things. It is the NEPA process that has grown to what it is today, and that is what is demonstrated right here. That is adhering to NEPA, the Historic Preservation Act, and the Endangered Species Act. Those three things are what create the guidelines that we have to adhere to in the permitting process. So I think that certainly all the preliminary NEPA work that goes into the botanical study, the visual impact, all those sorts of things that have to be performed—and you have to go through it for each site, every one that we submit. So it is a very onerous process.

Unfortunately, it seems like just exercising good judgment is not allowed anymore, but in reality that is what we do. Every permit that we have submitted is really exercising best management practices that are essentially approved by the BLM, the BIA, or the tribe or the Forest Service, whichever agency you are working with. All we do is just cut that template over and over and over, but we have to go through the physical effort of recreating those documents and that study each time.

So in my opinion—you know, the comment I made earlier—in given areas, I think that the field managers who have a balanced view of how to develop these resources and all the multiple use activities they have to adhere to—I am not an expert in those fields. My job is to try to drill wells and produce them as efficiently and as environmentally as possible. Those people know the answers. What takes us 2 years to do an EIS, I would venture to say that there are people who can do it in a matter of 6 hours in an afternoon if they close the door. They know the area. They know the botanical conditions, and they know the historic conditions.

Senator ALLARD. That is because they have already made applications before and gone through the process.

Mr. MAGRUDER. Yes, they have already been through it over and over and over. They go through a lot of this that appears to me to be a real waste of time.

Senator ALLARD. From your view, what would be an appropriate distance between wells and areas to make these kind of studies?

Mr. MAGRUDER. It is all a function of technology. The resource is not the same. Natural gas resources in the Rocky Mountains change depending on the reservoir type. Oil resources change depending on the reservoir type. Oil shales. The Department is going to have to come up with a new skill set to be able to handle that.

But just developing oil and gas, you want to focus on natural gas. That is why we are here today. Technology has allowed us to drill many more wells. Colorado is an example. Piceance Basin. We started off drilling one well per section there. Now we are able to drill 64 wells per section because of completion technologies, drilling techniques, everything has changed. But we really have not changed in lock step with the Federal process.

I challenge. As an example, what is so sacred about a 30-day public notice? That was put in the regs many, many years ago before the Internet, before mobile phones, before our whole connectivity that we have today. Why would not 5 days be acceptable for public notice? That would compress the cycle time. If you made that one decision, that would compress the whole permitting cycle time tremendously. It is just questions like that that have to be addressed and have to be asked. How can we take this entire cycle, not sacrifice the environmental and all the other deliverables that should come out of this process? Can we end up with the same pristine location in the process but do it in half the amount of time? That is the question we need to ask.

Senator ALLARD. Now, Ms. Clarke, you have heard his concerns. What can you do, if anything, or what are you doing, and what suggestions would you make to this committee to meet some of his concerns?

Ms. CLARKE. I think he is absolutely correct, that our response to the mandates of NEPA have grown over the years. We are accustomed to being challenged in court or through protests or——

Senator ALLARD. This is not new legislation. It is lawsuits that has driven this.

Ms. CLARKE. Yes. Well, we have so many different things that play on us. For example, since I have been here, there is an over 600 percent increase in the leases that are protested. In the State of Utah, my home State, 100 percent of leases issued by BLM are protested. It is approaching 80 percent in Colorado, and on average it is——

Senator BURNS. Who is protesting them?

Ms. CLARKE. It is being protested by various interests. Environmental groups, others do not want the oil and gas activity there. We have challenges to the issuance of APD's. It is a lengthy process to get a land management plan in place that really provides the framework for development. In our collaboration with partners, you get many differing voices and views together, and it is not easy to manage lands for multiple use. So I think a lot of the process predicament that we are in is real.

We would welcome the opportunity to sit down with the committee and examine what some opportunities might be to simplify. I think we are all committed to good environmental stewardship. We all want to leave the land that we enjoy to the next generation. But clearly there are opportunities for us to improve the develop-

ment of oil and gas and energy resources while being good stewards of the land.

Senator ALLARD. So you think there is an opportunity for us to improve that permitting process.

Ms. CLARKE. I think there probably are some opportunities. I think we are doing everything that we can within the legal framework, or at least everything we have seen. Let me suggest that I do not pretend that all wisdom resides at the BLM. We work with industry. We invite their suggestions. We appreciate the guidance of this committee and others and remain open to ideas and opportunities to improve. I think there are also opportunities for the Congress to consider streamlining some of the processes that we find ourselves committed to.

Senator ALLARD. Well, Mr. Chairman, I would just suggest I think there might be some staff time that could be spent both on the committees and maybe on our individual staff to kind of sit down with BLM and see what kind of opportunities there might be out there.

Senator BURNS. Well, we did put one thing in the energy bill, Senator Allard, that has not been mentioned here today, and that was the categorical exclusions, and if they will be used.

I want to recognize Senator Domenici.

Senator DOMENICI. Well, I sit here, Mr. Chairman, in total frustration. I just do not know where to start.

It looks to me like that idea of categorical exclusions that we put in the energy bill is a good one. It also looks to me like the idea of the pilot project offices is a good one. But all of these are going to take time. The problem we have is we are being asked by the American people and by our fellow Senators to come up with something that will give some relief now and cause some production of new large quantities of natural gas quickly. I have not heard anybody suggest any yet, which disturbs me greatly. Whoever it was that said we really got off base when we decided, at one point in our history, that we apparently had plenty of natural gas and we just let natural gas be used for everything which is a good free market concept. But what happened is that nobody did anything innovative with reference to the production of power for electricity by any other means. They just all floated to the softest spot, and 98 percent of the powerplants in the last 15 years are all natural gas and I assume there are more coming on.

I was going to ask Mr. Cicio. You represent the industrial users. Does that mean that you can speak a little bit about powerplants, or is that out of your area?

Mr. CICIO. Possibly.

Senator DOMENICI. Well, I am just wondering. I know that there are going to be proposals around soon to put caps on natural gas, to freeze the price, and most of us do not think those kinds of things will work, but they are going to sound good.

But I wonder what you would think about a law that would gradually reduce, by a percentage, the natural gas that utilities could use to produce electricity.

Mr. CICIO. That is a very good question, Senator. I believe my membership, which are exclusively large consumers, would——

Senator DOMENICI. Large consumers but not necessarily powerplants?

Mr. CICIO. Large consumers of energy. We use large amounts of natural gas as fuel and feedstock, large amounts of electricity. My membership represent all the industries that cogenerate their own electricity too.

I would suspect that as much as they would like to support something like that, they would not because it is a mandate. The reason that the electric utility industry used natural gas is buried in Government regulation.

Senator DOMENICI. I understand.

Mr. CICIO. We would want to fix that problem rather than put a band aid on it which may cause other problems that we cannot foresee.

Senator DOMENICI. So if we did not allow some change in the standards for which they could use alternatives, they would state that they were being put in a bind where they just would not have energy. Right?

Mr. CICIO. That is correct.

Senator DOMENICI. But I am just feeling around. We have got to try something.

With reference to the EIS's that are site-specific, Mr. Magruder, aren't there some areas where the BLM is trying to pool and do more than one well site, by doing an area including more than one well site?

Mr. MAGRUDER. That is correct. I think in the Powder River basin, it has been proven that that is an acceptable practice, areas on the western slope of Colorado where you have high density drilling now from central pads, which seem to appeal to everyone because we are able to concentrate a lot of equipment in one location as opposed to the leopard spots that some people complain about. But that is done there. It is done in the Green River basin. So, yes, it is a practice that can be applied in other areas.

Senator DOMENICI. Is there anything, Ms. Clarke, that we could do to help you so that process would be more broadly used?

Ms. CLARKE. Senator, we have sent directions, guidance, if you will, to all of our field offices to instruct them to employ some of these tools such as areas of development and processing them as one. I believe I also indicated that we have quality assurance teams that are going out and visiting field offices to make sure that they are paying attention to the guidance and that they are incorporating those.

We do have opportunities for improvement, and I have learned anecdotally that some of those offices still have not moved into these new opportunities.

I am having a meeting with all of the primary field offices that manage oil and gas production and State directors the first week in November, and we will sort of drill down on what these tools are and insist that they start overseeing them.

We are also building into our management reviews and performance plans elements that will hold our managers accountable for assisting us in getting the best management practices employed.

Senator DOMENICI. When you look at that chart, is there more than one EIS that occurs in that chart?

Mr. MAGRUDER. Really I think you are referring to the term EA, environmental assessment. EIS is an overarching or large impact study area. An EA is typically a site-specific situation.

Senator DOMENICI. I understand. You are correct.

Mr. MAGRUDER. That is just for one well right there, but I could, off the record, tell you all sorts of stories of multiple EA's that take place on the same given study area.

The Forest Service is a great example. We have not really addressed the Forest Service, but there is a tremendous amount of resource in areas. I am not talking about your typical redwood stands. I am talking about areas that are common and similar to areas that are being developed just across lease lines that have the ability to be leased. My company, as an example, drilled the first well in 25 years on a forest in Utah, but it took us hiring the individual that wrote the initial NEPA document to basically get everybody in the same room and explain the intent of that initial language because after 25 years, you have nobody in the Forest Service who has ever seen a well drilled. They do not know how to process paperwork. They do not understand the terminology. They do not understand the impact. You have got people that are almost retired without seeing a well drilled on their property.

I do not know if that answers your question.

Senator DOMENICI. Yes, sir, that is fine.

Did anybody ask the question about winter drilling restrictions? Was that asked? What about that, Ms. Clarke?

Ms. CLARKE. As we work with State and local governments, we are often asked, during the course of developing a land use plan, to accommodate the presence of wildlife that may need to have their habitat protected during certain seasons. So we do have situations where either in the environmental impact statement or as a condition of approval to a permit to drill, there are limitations that are placed there to deal with either sensitive species or typically big game species.

Senator DOMENICI. Well, I guess the question is, are winter limitations a significant limitation on producing in your jurisdictional areas?

Ms. CLARKE. It probably is different from office to office and State to State.

Senator DOMENICI. Well, but just tell me is it an important issue?

Ms. CLARKE. In some locations, it is an issue; in others, it is not at all.

Senator DOMENICI. Could you give the committee some indication later about winter limitations? We might want to look at that. It was certainly done in an era when we were not as concerned about this as now, and maybe it ought to be looked at again.

Ms. CLARKE. I would be happy to work with the committee to better understand what those stipulations are and what opportunities there are to mobilize and get energy produced. Thank you.

Senator DOMENICI. Mr. Magruder, did we identify the right offices when we identified the pilot project offices?

Mr. MAGRUDER. Yes, you did.

Senator DOMENICI. We will try to monitor BLM's implementation, but you all will know whether they are putting something to-

gether that will work. I mean, you will be able to tell us, will you not?

Mr. MAGRUDER. We will.

Senator DOMENICI. Because it does not do any good to put an office together if, within the office, they do not do something to accelerate the process.

Mr. MAGRUDER. That is correct.

Senator DOMENICI. I am interested in hearing a little bit more about the additional 100 billion cubic feet of new natural gas supply that you spoke of. What is it going to take to access that? Does industry have the rigs and capacity to do that?

Mr. MAGRUDER. I need to clarify one point. I do not know if it was very clear, but that 105 bcf incremental impact is in the first year alone. So that is just in the initial year. So in the out-years, that number gets much larger. But I was just referring to a near-term impact.

With respect to the rigs, that is always a big question, and I am glad we are addressing that in public right now. I would like to just say that in 1980, when I got out of school, there were about 4,000 rigs running and the infrastructure was there. But over time, because of the cyclic nature of our industry, it has declined down to as low as 500 to 600 rigs active. But today there are about 2,000 rigs that are active in the United States. In 2005, 211 new rigs are scheduled to move into the market. Now, they can be in the form of a refurbishment or a new rig.

In my company, as an example, last April I woke up about 3 o'clock in the morning and I realized I was not going to get a rig and I needed one. So we went as far as El Salvador, Singapore, and Greece, and we found rigs. We have two refurbished rigs coming into the market right now. It takes about 120 days to get them here and refurbished and crewed. Roughnecks are making anywhere from $65,000 to $95,000. So the argument that they are not making enough money and we cannot attract them, at that age I would work for those wages.

Senator BURNS. It sounds better than cowboying, I will tell you.

Mr. MAGRUDER. So anyway, in 2006, 270 rigs are scheduled to enter the market again. Somebody asked me at the break, what about this rig situation? In the Rocky Mountain region, I can tell you there are a lot of mid-continent and gulf coast drillers that will not come up here because of the winter stipulation. The rigs are in the air and then they are down 5 months out of the year. They are not going to do that. They cannot mobilize all their people in here and do that.

So, they have got to work with companies like ourselves that have a balanced portfolio on Federal fee and State lands, and you drill in those periods where the winter stips do not affect you. But you can do the math. If it takes, let us say, 130 days or if it takes 8 months to get a drilling permit, that takes anywhere from, in the Powder, 2 days to drill, in Uintah basin, anywhere from 5 days to 20 days, the same as the Piceance, you have to have an inventory of permits. Drilling contractors are not stupid. They are going to align with those people that have the drilling inventory in front of them.

Now, the days of just picking up the phone and calling a drilling contractor and saying, hey, can we go out next week and drill a well together, are long gone. There is a huge supply chain effort behind all of these drilling programs from the standpoint of steel. They are rationing cement now. Drilling contractors, crews, the list goes on. It is not just the NEPA game. We are having to balance everything when we do a project management program.

So the ideal scenario is to have a continuous drilling program. Some will argue that the BLM issues more permits than you actually drill. Well, I would say they are right. In the past year or 2, we have exercised at least 60 percent of those permits granted, but because of the process itself, if it takes 5 to 20 days to drill a well and it takes 6 months to get a permit, you have to have an inventory in the event that you are successful because you have got an annual commitment on the rig in a lot of cases. It can range anywhere from $5 million to $20 million as far as your annual commitment. You use it and you pay for it. If you do not use it, you still pay for it.

So the issue on not having enough permits, we have exercised at least on 60 percent of those permits. The drilling rigs, it is just a function of the market. Once we define the demand, our market always seems to respond to it, and we are doing everything possible to be able to execute within our portfolio. We have taken our own destiny in control by acquiring and buying our own rigs in some cases or making arrangements to buy those rigs.

Senator BURNS. Can I follow up with a question?

Senator DOMENICI. I am finished, Senator.

Senator BURNS. Mr. Magruder, we hear about the rent that you pay on your leases and how long. We hear of instances where a rig has to be moved before completed in order to maintain your rental or your lease or whatever. Bring us up to date on that, would you please?

Mr. MAGRUDER. I just had an example a couple weeks ago in the Utah area where we had to be out for winter stips by October 1. Each area applies different stipulations, and generally, we can work with—you know, elk hunting season only lasts a couple of weeks out of each year. And we are very sensitive. Most of the people——

Senator BURNS. We are sitting here and I am missing mine.

Mr. MAGRUDER. That is right. I am going Friday.

But most people are very sensitive to that and we work around those conditions. I just feel that a total lockout of 5 months in winter stips, you are shutting down the methane manufacturing business for 5 months, and that is a period in time where we can continue to develop. A prime example just took place last week where we had to rush and get a rig down a mountain and over to another location because the lockout period was being imposed.

A lot of operators deal with those situations. Kathleen can comment as to what happens in the Pinedale and Jonah areas when the winter stips hit. There is just an influx of rigs. All the drilling contractors are trying to figure out what to do with all those drilling rigs that are going to be locked out for a period of time.

Senator BURNS. It was about 10 years ago on the Energy Committee—and I think Senator Craig will remember this—and also a

follow-up hearing that was held in Commerce where Senator Hutchison of Texas said if we do not do something about stripper wells and a lot of other issues out there, we are going to lose the entire infrastructure in order to explore and develop. She was right.

It just sounds like that this winter restriction, Director Clarke, is maybe a bigger issue than we have thought before prior to this. Is that correct?

Ms. CLARKE. I think that there are some significant reductions to potential for development with winter stips. Those are put in place as we cooperate very closely with fish and game in the various States and with other partners to really identify how to balance the competing interests and multiple uses that come under the charge of the BLM. So Senator Domenici suggested perhaps we ought to have a discussion about how significant those issues are.

We have invited a pilot program in the Pinedale area where we are testing the impact on some of those wildlife species from having winter activity. We are not yet through the studies on that to determine how significant or acceptable or unacceptable those impacts are, but I think we are open to examining possibilities.

There are also waivers available or exceptions. We have had some companies come in this year, and we are working with them to determine if it is appropriate to except some of those restrictions so that they can proceed to develop through the winter. So we are willing to work with the Congress and with companies to improve production of energy resources on BLM lands.

Senator BURNS. Well, to the untrained eye, such as I am, but I can give it from a practical standpoint where—and I never thought about these restrictions. I am glad it came up. I will be a little more attentive to that now, I would imagine. But where they have shut down drilling before—I have been out across that country, and I have never seen any wildlife out there in the dead of winter to be right honest with you. You have got frozen roads. It seems like the only time that you really have environmental damage—and most of it is surface—is in the spring of the year, spring breakup, and we know how to deal with those.

Mr. Cicio, I just want to ask a question. We had testimony from a lot of the chemical companies in Energy the other day that said this issue is so vital that the loss of our commercial chemical production in this country is on the edge right now. That is the reason that you and Mr. West are here because of the vital interest in this thing and what we are talking about as far as the economy of the country is concerned and how important Ms. Clarke and her responsibilities and the representative of the companies that can get us more production. That is why this whole discussion is being held this morning at that table. That testimony was very, very revealing and I thought very important.

Mr. CICIO. Senator Burns, I cannot impress upon this committee enough the critical nature of this issue. The comment you made earlier by the chemical industry is right on target. What is very interesting is the recent survey we did. It was informal and it was random, but what it does do is cover every major sector of natural gas consumers in the country. It was frightening because we found out, if this is a representative sample, that demand destruction is

happening in a relatively short period of time at better than twice the rate that occurred over a 4-year period of time. Of course, we are at over $13 gas.

But on an anecdotal basis, the stories that I received from all of these different manufacturers talks about companies being on the fringe of shutting down plants. A very important point. At high prices, everyone says, well, look that is great. We are going to do a lot of energy efficiency. Without question, energy efficiency projects are occurring, but this survey taught me that there are a lot of energy efficiency projects that have gone on hold because a lot of manufacturing plants have been designated as potential shutdown units, and companies will not do energy efficiency projects on plants that may be shut down permanently. We are on the fringe of another significant turndown.

A key point is that this 105 bcf that was mentioned—it is actually in the grand scheme, compared to our national consumption of 22 tcf of gas, 105 bcf is not a lot. But this amount relatively is a significant psychological improvement. There is a lot of fear built into this marketplace. If you look at the NYMEX natural gas contract strip, the prices of natural gas are high and stay high for 18 months and beyond. That means that there are expectations for continued high prices. The CEO's look at that strip and those continued high relative prices, relative to anywhere in the world. They are making decisions today about what they are going to do with these existing plants and what they are going to do with their new capital. As I have already said, there are no new plants here. There are just plant shutdowns. So the urgency of this committee—and we are so happy that you decided to hold this hearing. Small amounts of additional gas mean a great deal to the fierce psychology of the marketplace to begin to bring that NYMEX natural gas futures strip price down and bring some confidence back into this marketplace.

Senator BURNS. Well, that fear has not been reflected in the wellhead prices, though, as much as it has in the end user. We have figures to show that. So in order to get these fellows in production, they are going to have to see some reflective work in their efforts in order to spur that production.

The American taxpayer has got to understand that schematic up there. All of America is paying for that through the prices of their energy, of delay, of a lot of things, the winter exemptions. All of this is costing everybody in the United States, and the end user prices are the reflection of it.

So we are going to have to take a good look at this thing. I just wish more cooperation between the BLM and the Forest Service, and we will talk to the Forest Service. We will have the chief in and talk to him. We will do that kind of privately, Mr. Magruder. You made some very good points here today on the challenges that we have in front of us and with the response of Ms. Clarke and these pilot projects.

We do not have a lot of time. This is time-sensitive. The American public has got to understand that. Sometimes with the grant of waivers—do you plan to use those categorical exclusions that were given the BLM with regard to energy production? That is a

small step. What are your plans with regard to how you use those categorical exclusions?

Senator CRAIG. Kathleen, before you answer that, would you answer it also in context of the judge's decision as it relates to categorical exclusions and his constant enhancement of his decision. Does that impact BLM?

Ms. CLARKE. We are still trying to sort out how the impact of the judge's decision relative to the Forest Service categorical exclusions affects us. But we are proceeding as though it has no effect, and we have sent direction to the field that they should immediately start utilizing the categorical exclusions. I am aware of at least one company that is coming in with some request for winter activity and utilizing those categorical exclusions. We are anxious to put them to use and demonstrate to others that they are an effective tool for us to help facilitate increased production.

Senator CRAIG. Good.

Senator BURNS. Well, I would ask the BLM—of course, I have yet to ever see a compassionate bureaucracy, and they have got rules and regulations. They have got stacks of books. But I think we as the Government who have responsibility to oversee those lands, we also have a responsibility to the taxpayer. We have a responsibility to the consumer, to all Americans. We should be in a mind set at all of these offices of facilitating and looking for ways to provide faster—the 30-day comment, Mr. Magruder, I have mixed feelings on that. But it would not take me a half hour, but it takes other folks. But nonetheless, it is in the law. Maybe we should take a look at that, Ms. Clarke, and maybe speed that process up.

But we in the Government ought to be in the business of aiding and facilitating more production any place that we can find a way to streamline the process and to get these folks in the business of production because, I will tell you, nobody can produce it faster than we can if we have gotten the incentives. Well, the incentive is already out there. Right now it just appears to me that the rules and regulations—we have a hard time cutting through that red tape. Is that a good assumption?

Ms. CLARKE. That is a fair assumption, absolutely.

Senator BURNS. Well, let us get a mind set within the BLM that we are going to help these folks wherever we can.

Do you have any more questions?

There are some Senators that did not make it back. There is so much going on up here it is unbelievable. But they will have some questions for this panel, something that we probably forgot to cover or whatever.

We are going to take a look at another—I am going to sit down and talk with some people about the difference between the wellhead and the delivered price. We will talk about that one of these days, but that is different. What we wanted to talk about today is to identify and tell the American people that all these rules and regulations cost money and it costs them when they pay their bill to heat their houses, when they drive their cars.

We have coalbed methane in Montana. We just have a terrible time, it seems like, getting those permits and the ability to recover that energy resource. I will tell you, we have been blessed with some pretty good BLM administrators in the State of Montana, and

they have worked hard. But they have got their rules to go by. We have got to find a way to facilitate that and to make it work.

Mr. Magruder, thank you for your figures and facts this morning. I appreciate that very much.

Just make sure that the American people have got to understand most of these rules and regulations—and some of them do not mean a darned thing. If this is a correct assumption, we are stirring old soup here. We already know what is in it. We just have to stir it again, and it takes time to do that. Is that a correct assumption?

Mr. MAGRUDER. I think you are right on the mark and everybody is expecting LNG to facilitate some of the gap by 2008 to 2010, but we cannot sit and do nothing during that time period. When we talk about a near-term solution, I think the Rockies offers a near-term solution and we can do it.

Senator BURNS. Well, I say that because the infrastructure is there. It does not take us very long to react. We do not have to build a platform or worry about a hurricane.

Mr. MAGRUDER. Exactly.

Senator CRAIG. I have got one more question. We should not stay, you see.

Kathleen, in existing right-of-ways that cross public lands, i.e., BLM lands, how much greater flexibility do you have in an existing right-of-way, or do you know if there is language within the existing right-of-way permits to allow additional pipeline? I know there is a distance relationship between one pipeline and another. Can you facilitate more pipelines in an existing right-of-way, or can you reduce the overall time it takes to permit in existing right-of-ways?

Ms. CLARKE. In general, I would say the answer is yes. Where we have an existing right-of-way or a utility corridor or a pipeline, we do not have nearly the environmental hoops to jump through.

Senator DOMENICI. Because you have already jumped through them primarily.

Ms. CLARKE. Yes, right.

The categorical exclusions talk about disturbances of small areas. So I think we are in better shape there, and certainly doing our energy corridor effort with our Federal partners is going to further facilitate movement forward without so much process and so much environmental review.

Senator CRAIG. Thank you. Thank you, Mr. Chairman.

ADDITIONAL MATERIAL FOR THE RECORD

Senator BURNS. We have received additional material that will be inserted at this time.

[The letter and statement follows:]

AMERICAN PETROLEUM INSTITUTE,
Washington, DC, October 26, 2005.

Hon. CONRAD BURNS,
Chairman, Senate Committee on Appropriations, Subcommittee on Interior and Related Agencies, Dirksen Senate Office Building.

DEAR MR. CHAIRMAN: The American Petroleum Institute (API) is pleased to have this opportunity to comment on the permitting process for energy projects on federal lands. API represents more than 400 companies involved in all aspects of the oil and natural gas industry. We are committed to continuing to supply the energy that American consumers and businesses rely on to keep our economy growing. However,

permitting difficulties and process impediments can delay and discourage the responsible development of these energy supplies. Now, more than ever, we should be encouraging the growth in domestic energy supplies. We applaud your own and this committee's interest in this vital matter and hope our policy suggestions prove helpful.

For too long, we have encouraged the use of energy, such as clean-burning natural gas, while discouraging the responsible development of new supplies. Potential supplies from our offshore areas have been placed "off limits" through moratoria in the Atlantic, Pacific, most of the Eastern Gulf of Mexico and off Alaska's coasts. It has been estimated that these areas contain 420 trillion cubic feet (Tcf) of natural gas—enough to heat more than 100 million homes for more than 60 years. For additional perspective, this is three times the natural gas resources of Canada and Mexico combined.

In addition, in the Mountain West, vast areas of multiple use federal lands have been withdrawn from development either directly or indirectly through restrictions and constraints on operations that delay development and/or make it uneconomic. These non-park, non-wilderness federal lands are resource-rich. The 2003 natural gas study by the National Petroleum Council (NPC) for the Secretary of Energy indicated that: ". . . the trend toward increasing leasing and regulatory land restrictions in the Rocky Mountain region . . . is occurring in precisely the areas that hold significant potential for natural gas production." The NPC study concluded that 125 Tcf of natural gas was effectively off limits and/or significantly affected by access-related regulatory requirements.

Regulatory improvements are needed to enhance our domestic supplies to meet America's growing demand. The Bureau of Land Management has taken a number of important steps to clarify requirements and reduce permit approval backlogs, but more needs to be done. Adequate funding is essential for adequate staffing levels to increase permit review performance, revise and streamline processes as well as address the provisions of the recently enacted energy bill, while continuing strong oversight and enforcement of requirements on operators.

We look forward to working with this committee on these important issues. Please let us know if you have any questions or need additional information on the issues addressed in our attached comments.

Sincerely,

BETTY ANTHONY.

PREPARED STATEMENT OF THE AMERICAN PETROLEUM INSTITUTE

The Energy Policy Act of 2005 was an important first step in addressing our national energy policy. However, there is much more to be done. Demand for oil and natural gas has been growing, while energy policy has discouraged the development of new domestic supplies of these critically important fuels. As a result, even before the recent hurricanes and their impact on production, there was a very tight supply/demand balance, resulting in higher prices for consumers, greater market volatility and concerns about the impact on economic growth.

We did not arrive at this juncture overnight. For far too long, barriers to development have been erected and maintained and process impediments have slowed efforts to bring new domestic supplies to consumers and a wide array of businesses, both large and small.

Government policies have largely limited offshore exploration and production to the Central and Western Gulf that was so heavily affected by Hurricanes Katrina and Rita. At the same time, development was prohibited elsewhere—including the eastern half of the Gulf of Mexico and the Atlantic and Pacific Coasts and off Alaska's coasts. These moratoria should be removed so that the substantial oil and gas resources can be developed using advanced technology that ensures they will be developed in an environmentally responsible manner.

There are also vast onshore oil and gas resources. However, in one of the most resource-rich regions, the Mountain West, development has been severely restricted by permitting delays, process impediments and not-in-my-backyard (NIMBY) sentiments that often lead to litigation for the sole purpose of delaying or deterring development.

Federal lands hold the promise for obtaining these much needed domestic supplies. According to the latest published estimates, there are more than 131 billion barrels of oil and more than 1000 TCF of natural gas remaining to be discovered in the United States. However, 78 percent of this oil and 62 percent of this gas are expected to be found beneath non-park, non-wilderness federal lands and coastal waters.

In order to increase supply, API's policy suggestions start with the urgent need to implement the policy recommendations in the National Petroleum Council's (NPC) study, "Balancing Natural Gas Policy: Fueling the Demands of a Growing Economy" (2003). Key NPC recommendations include:

—*Increasing access to non-park, non-wilderness onshore areas and reducing permitting costs and delays.*—More than half the technically recoverable resources in the Mountain West are either off limits or highly restricted—that is enough natural gas [about 125 trillion cubic feet (Tcf)] to heat the 60 million homes currently using natural gas for 30 years. And, the resources in the Arctic National Wildlife Refuge could provide the equivalent of current imports from Saudi Arabia for 20 years.

—*Lifting constraints on key offshore areas with high-resource potential.*—Only 11 percent of the offshore submerged lands under U.S. jurisdiction are available for leasing. Administrative moratoria preclude exploration and development in many Outer Continental Shelf (OCS) areas until 2012—at least 79 Tcf is off limits off the East and West Coasts and in the Eastern Gulf of Mexico plus about 120 Tcf in federal waters off Alaska's coasts. (It is important to note that these estimates may be low as they are based on older and limited data).

However, perhaps of more direct interest for this hearing, the NPC also highlighted the federal restrictions on leasing that have put significant volumes of U.S. resources off limits, as well as post-lease restrictions on operations that effectively preclude development of domestic energy resources. The NPC study, which is the most comprehensive study of the effects of such constraints, included an analysis of federal constraints on U.S. gas supply in the Mountain West. The study found that in key areas of greatest supply potential, federal policy precludes or seriously constrains development. For instance, of the 209 TCF of estimated undiscovered gas in the Mountain West, 69 TCF is completely off limits, while another 56 TCF is seriously constrained by federal policy. Not only are there lease stipulations prescribed, but additionally there are conditions of approval (COAs) that can, for example, restrict access during certain times of the year or impose other constraints that can add substantial costs and delay the development of new energy supplies. And, when the moratoria on development on the Outer Continental Shelf (OCS) are included, the NPC found that sustaining these constraints over the next 20 years would cost U.S. consumers more than $300 billion in increased energy costs.

The Bureau of Land Management has been working hard to reduce the backlog of Applications for Permits to Drill (APDs) and they have made considerable progress. BLM has also tried to improve its own management processes and apply new and innovative approaches. For instance, by creating a hosted worker program, they have thought outside the box in trying to address the problem of APD backlogs. This program allows for technically competent people to efficiently process permits and may free up BLM staff to focus on the other issues of importance such as updating resource management plans. However, BLM remains constrained by staff availability and is facing increased demands due to increased energy development activity. Adequate funding that recognizes their increased needs is essential if we are to develop sorely needed domestic oil and natural gas supplies in the future.

Congress by enacting the Energy Policy Act of 2005 also has taken several positive steps to streamline the permitting of onshore oil and gas projects. However, it will be critical to follow up and ensure that federal land management agencies are funded adequately to enable them to implement these key provisions. For example focusing on the onshore permitting process, BLM currently faces a backlog of APDs which is a necessary regulatory requirement before development can commence. Prompt review and approval is especially important in areas with a short seasonal operating "window." The new law requires that the BLM improve the process significantly by requiring drilling permits to be issued within 30 days. This is a positive step in the right direction, but unless BLM has the staff allocated to focus on this increased workload, oil and natural gas operators may continue to see slowed response time from the agency.

One area of concern is the volume of comments that BLM must assess. Public comment and debate should be encouraged but, in some cases, the comments are not substantive and are directed at slowing down or canceling energy projects even those that were already approved. The BLM, in some cases, has received over 60,000 comments on development projects which because of the overwhelming volume can result in diversion of BLM staff from other projects in order to address these comments.

Polices related to onshore energy development that we recommend that the Department of the Interior address fall into several categories:

—Opening lands to responsible development;

—Providing adequate funding for agencies to update land use plans and administer lands as well as ensure compliance with environmental and other regulatory requirements;
—Streamlining permitting and approval processes for development; and
—Removing unnecessary impediments to development.

Overall in the Mountain West, the NPC indicated there is either no access to, or high cost regulatory requirements imposed on, more one-half of the region's technically recoverable resources (Table S6–3, NPC Volume 4). Such restrictions come in many forms—requirements ("stipulations") imposed when leases are granted, as well as the conditions of approval later imposed through the environmental analysis process associated with approval of a permit to drill. It is in this area of work, where BLM can make additional strides in addressing the supply issue.

The attached flowchart shows the "Federal Onshore Oil and Gas Leasing and Permitting Process. This process outlines the requirements of an operator by either the BLM or the Forest Service if the operator wishes to lease and/or develop resources on federal lands. Industry and government have reached the same conclusion: the process is complicated and duplicative and constitutes an impediment to production of the nation's energy resources. These steps are intended to protect the environment and historical and cultural properties but, while we support this goal, the process itself could and should be streamlined. Some specific ways to streamline this process include:

—Joint filing of Right of Way and drilling permits for federal lands to expedite the permitting process.
—Expanded use of categorical exclusions or sundry notices for minimal disturbance activities, including categorical exclusions for wells and rights of way with minimal surface disturbance in existing fields and sundry notices instead of APDs for successive wells on multi-well drill pads.
—Implementation of BLM's 2003 Process Improvement Memoranda.
—Independent review of agency practice and interpretation of criteria for determining site significance, including establishment of standards for cultural resource report standards and elimination of duplicate survey requirements.
—Monitoring by BLM of lease stipulations and conditions of approval to determine their effectiveness and their removal as appropriate.

However, BLM must have the necessary funding to improve this process.

Other steps that could be taken to improve government land use planning include:

—Adequate funding for agency personnel to update resource management plans (RMPs). All activity on BLM lands is managed through RMPs and an activity not anticipated in an RMP cannot occur until the plan is updated or amended.
—Use of reasonably foreseeable development scenarios as planning tools not to establish caps on the number of wells or other limits on surface activities.
—Improvements in data sharing by federal and state land management agencies.
—Encouraging the use of joint APD/Right-of-Way applications for wells.
—Use of sundry notices instead of APDs for successive wells on multi-well drill pads.

Additionally, adequate agency funding is needed to:

—Administer the National Environmental Protection Act (NEPA) process effectively; and
—Provide timely resolution of appeals and protests.

BLM recently issued guidance to its field offices on implementing the requirements of the Energy Policy Act of 2005 including the NEPA related provisions of the law. One of these was direction on the use of categorical exclusions. These categorical exclusions are important to prompt development of domestic energy resources. Categorical exclusions do not remove the required environmental protections but rather apply to those minimal surface operations where an impact is negligible.

The above policy suggestions, if backed with proper funding, will help produce additional future oil and natural gas supplies essential to our energy security and economic growth. However, with significant amounts of oil and gas production still shut down in the Gulf of Mexico in the aftermath of the recent hurricanes, there are additional measures that could be taken by BLM expedite onshore production. These include:

—Exercising existing authority to allow year-round drilling and completions to proceed;
—Issuing permits immediately for all applications in areas where existing NEPA requirements have been met;
—Proposing new fast track, emergency response rules when there is a national energy emergency in order to significantly reduce permit review and approval times.

If pursued, these would be added responsibilities and so would require resources and budget flexibility to implement.

In order to have a sound national energy policy that enhances domestic energy supplies, federal land management agencies need to have the necessary funding and appropriate staffing levels. We urge this committee to assess the Department of Interior's current funding status and compare it to the important task of administering government oversight of the development of America's most vital energy resources on federal lands. Thank you for the opportunity to comment on this and we look forward to working with this subcommittee and answering any questions about this submission.

CONCLUSION OF HEARING

Senator BURNS. Thank you and we thank the witnesses. These hearings are closed.

[Whereupon, at 12:05 p.m., Tuesday, October 25, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

○