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ARE EXCESSIVE ENERGY REGULATIONS AND POLICIES LIMITING ENERGY INDEPENDENCE, KILLING JOBS AND INCREASING PRICES FOR CONSUMERS?

HEARING

BEFORE THE

SUBCOMMITTEE ON
AGRICULTURE, ENERGY AND TRADE

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

SEPTEMBER 19, 2011

Small Business Committee Document Number 112–035
Available via the GPO Website: www.fdsys.gov

U.S. GOVERNMENT PRINTING OFFICE

71–325 WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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ARE EXCESSIVE ENERGY REGULATIONS AND POLICIES LIMITING ENERGY INDEPENDENCE, KILLING JOBS AND INCREASING PRICES FOR CONSUMERS?

MONDAY, SEPTEMBER 19, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:02 a.m., in City Hall Auditorium, 250 North 5th Street, Hon. Scott Tipton (chairman of the Subcommittee) presiding.

Present: Representatives Tipton and Critz.

Chairman TIPTON. Well, good morning, everyone. We thank you for joining us this morning, and our hearing will now come to order.

I want to especially today thank each of our witnesses for being with us and taking time out of their busy schedules, and I look forward to your testimony.

Also joining us today is the Ranking Member of the Subcommittee on Small Business over at Energy, Ag and Trade, Representative Mark Critz of Pennsylvania. Although Mark and I come from different parts of the country and we are of different parties, I know that he shares my passion for removing the hurdles that limit the growth and prosperity of America's entrepreneurs, and both of our districts have vast amounts of natural resources that make our country's uses of productive energy just that much more important.

Mark, I really appreciate you making the trip out here today.

And I do want to recognize, as Mark came in to Colorado, he was looking forward to having a good dinner, and by the time he got here last night he had to go to a gas station and get wiener schnitzel. [Laughter.]

But he said it was great.

So welcome to Western Colorado, Mark. We appreciate that.

The purpose of today's hearing is to examine excessive Federal regulations and policies that are harming energy production in our country, killing jobs and increasing costs on all small businesses and consumers. The United States has been blessed with abundant energy resources and the technological capabilities to utilize these resources in an environmentally sound manner. Our growing dependence on foreign sources of energy, combined with intolerably high unemployment, demands that policymakers adopt an all-of-

the-above approach to harness our domestic energy potential and create hundreds of thousands of desperately needed jobs in our country.

Just last week, the House Resources Water and Power Subcommittee held a hearing on legislation that I recently introduced, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act, that I believe is just one part of the all-of-the-above solution.

The people and small businesses of the 3rd Congressional District need jobs and affordable energy, and we need them now. Last Tuesday, the United States Bureau of Economic Analysis released a report ranking the unemployment situation in Grand Junction 362 out of 366, among the worst for the U.S. metropolitan areas in 2010.

Unfortunately, there seems to be a disconnect between what's going on in Washington and on the ground in our communities. Several witnesses testifying before the Committee today will discuss how they would create jobs if only the government agencies would stop standing in the way.

Additionally, business owners need long-term certainty from government in order to take the risks and to be able to make the investments necessary to create new jobs. More needs to be done to provide that certainty, because right now small businesses are scared to hire new employees, and investors are sitting on the sidelines.

Congress and President Obama have our roles to play as well, and I am sincere in saying that it is important that we work together on real solutions to our nation's job and energy challenges. The President could contribute to this process by coming to terms with promises that he has made to reduce regulatory burdens on small businesses, with the onslaught of regulations that he and his administration keep proposing.

More than 43 new major regulations were proposed last year, and another 219 regulations are in the pipeline, each costing more than $100 million. Additionally, the Administration proposed this year seven new regulations that would cost the United States economy, if implemented, more than $1 billion or more annually. Four of these were put forward by the EPA. A recent study showed regulation burdens to the American people cost about $1.75 trillion annually, with the cost to U.S. businesses of any size being approximately $160,000 each year, and the costs associated with small businesses for each employee to be on average $10,585 annually.

Clearly, in too many instances, these regulations impose onerous burdens and costs on small businesses.

Recently, my Colorado colleague, Congressman Corey Gardner, asked Assistant Administrator Mathy Stanislaus of the EPA if the agency's economic analysis appropriately considered the impact of proposed regulations on jobs. His answer? "Not directly." Unfortunately, this is not the only instance, nor is the EPA the only government agency to have failed adequately to consider the effect of their proposals on small businesses and jobs.

In Western Colorado, a number of small energy firms, including renewable energy firms, have reported that the Bureau of Land Management is implementing new regulatory burdens and barriers

to producing energy on Federal lands. In a chart that I have submitted for the record from the BLM website, you will see that the number of new leases in Colorado in 2009 and 2010 were the lowest totals in a 26-year analysis. The same trend can be seen nationally.

[The information follows on page 54.]

Experts in the industry tell me that this permitting process is slow, costly, and burdensome, often taking several years to be able to complete. Certain policies and procedures have held up development seven to eight months on an 11-month lease. This defies common sense. You wouldn't lease a car for 11 months that you could only drive for the last three months of the year.

I would now like to point out an article that I submitted for the record from the Durango Herald that featured unemployed oil and gas workers who used to earn upwards of $80,000 a year and were laid off as a result of new government regulations and policies.

[The information follows on page 50.]

These workers ate at our local restaurants, stayed at our local hotels, purchased pick-up trucks at our local dealerships and, most importantly, provided good-paying jobs for our local residents.

In May of this year, Karen Kerrigan, president and CEO of the Small Business and Entrepreneur Council, testified before a House subcommittee that "nearly three-quarters of small business owners report that hard times at the pump are affecting them and their consumers." Karen also stated that high gas prices are "making it very challenging for small businesses to compete, to grow, and even to be able to survive in what remains a very difficult economic environment."

It is critical that we bring an economic conscience to the debate about environmental regulation. Environmental regulation does not have to kill jobs and raise energy costs for the American people. We all care about the environment, the impact of energy exploration and production. But it is essential, especially during these tough and difficult economic times, that we work toward practical solutions to protecting our environment while decreasing our dependence on foreign sources of energy. The Federal Government should foster an environment for increasing access to America's energy sources that promotes an all-of-the-above response and commonsense growth approach.

We are fortunate to have appearing before the Committee witnesses who will testify to real-world examples of how onerous and duplicative regulations are harming opportunities for small businesses and local communities. The issues they will discuss are very important to small businesses. I would like to remind my colleagues that small businesses create four out of five new jobs in our economy. They are the engine for innovation and job creation.

Again, I would like to thank each of you for being with us here today, and I would now like to yield to Ranking Member Critz for his opening statement.

Mr. CRITZ. Thank you, Mr. Chairman. Just one quick comment. The chili dog and the chili burger I had at the wiener schnitzel was very good. I appreciate the breakfast at the Dream Cafe. I had a nice stay at the Main Street, and you have a wonderful town here. This is a beautiful—I have never been to Colorado, and Grand

Junction is beautiful, a wonderful streetscape, although when you come in at 10:30 at night sometimes, there's not a whole lot open to go see. But with that, I appreciate you having me out here. It's a pleasure to be here.

And with that, promoting a clean environment is critical, and nowhere is that more evident than here in Grand Junction. Like the people in my state of Pennsylvania, it is clear that—I hope I'm saying this right—Coloradoans? Or is it Coloradans?

Chairman TIPTON. Whichever way you'd like.

Mr. CRITZ. Okay. It is clear that the people of Colorado place a high value on protecting land, air and water. This is not only a quality of life issue but also makes good business sense in areas like Colorado, where outdoor activities are integral to the economy. Pursuing these objectives must be done cautiously, making certain we balance benefits against costs.

Unfortunately, in the areas of environmental land management regulation, this has not always been the case. Too often, environmental regulations saddle small businesses with new burdens. Firms with fewer than 20 employees spend more than $4,000 annually complying with environmental regulations. This takes money out of entrepreneurs' pockets, diverting resources from business expansion.

There are laws on the books to address this problem, and while they have mitigated the impact of some rules, more must be done. Today we will examine a few notable examples at both the EPA and BLM.

It has become clear that in developing its recent greenhouse gas rules, the EPA did not follow the law. This shut out small firms from being heard and deprived EPA the benefits of small business perspective. The agency's rationale for skipping this step was that they would instead write the rule in a manner sensitive to small firms.

Despite those efforts, SBA's Office of Advocacy estimates that 1,200 small businesses would still be subject to the greenhouse gas rules. In a few years, this effect and the overall cost on small firms could become even more significant.

This is the case for another critical matter which I know is a concern here in Colorado, as well as my home state of Pennsylvania. The EPA, in its consideration of regulations for coal combustion waste, has failed to consider the impact it could have on firms that recycle and use coal ash. Many entrepreneurs have found ways to incorporate coal ash into building and construction products. If EPA designates this waste stream as hazardous, it would stop such recycling enterprises. I have seen firsthand the benefits, including green spaces, that were replanted and reclaimed, and EPA could not be more wrong on this subject.

While these problems deal with specific regulations, there is another matter I look forward to discussing with EPA and BLM. Like here in Colorado, in Pennsylvania we have discovered large reserves of subterranean natural gas. Bringing these resources online has the potential to make the U.S. less dependent on foreign energy. This, in turn, could reduce energy prices, a top concern for entrepreneurs.

In a recent PNC Economic Outlook survey of small firms, 72 percent responded a sustained rise in energy prices would negatively impact their business, potentially restraining growth. However, two issues could block natural gas from taking hold: continued bureaucratic delays in the issuance of drilling permits, and the potential for Federal preemption of state regulation.

On the latter topic, we need EPA to work with the states, not overrule them in their own backyard. If handled improperly, this could halt gas exploration, leaving our nation more dependent on foreign energy.

Although there are laws on the books, we have recently passed legislation requiring the EPA to examine the full cost of regulations. This would ensure the agency considers the burden not just on those emitting greenhouse gases, but also those that would see higher energy costs. It is critical this information be available as the discussion on greenhouse gases continues.

We also took steps to extend these reviews to land management plans, bringing greater attention to BLM actions. Under the bill, agencies would have to consider the impact of regulations on energy prices for small businesses. By strengthening these protections, we can have regulations that not only protect our communities but also limit costs imposed on businesses.

During today's hearing we will listen not only to regulators, but also to entrepreneurs who can describe their experiences with Federal agencies. Hearing small firms' concerns is critical. I hope EPA and BLM will take similar actions to expand this type of outreach.

With small businesses generating two-thirds of new jobs, or I think Scott said 80 percent, it is essential that the Federal Government carefully balance the costs and benefits of environmental and land management regulations so that economic progress is not slowed.

I want to thank the witnesses for being here, and with that, I yield back the balance of my time.

Chairman TIPTON. Thank you, Congressman Critz.

Now I would like to explain—we have our lighting system in front, and explain how the lights work. Each of you will have five minutes for your testimony. The light will start out as green, and when you have one minute remaining, the light will re-turn yellow, and finally it will turn red, and at the end of your five minutes, if you could wrap up as quickly as possible, we would appreciate it, and we will try to be respectful of your time as well.

Leading off our first panel is James V. Martin, who is Administrator for the EPA's Region 8, comprising Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, and 27 tribal nations. He has worked in the environmental field for nearly 30 years, most recently as the Executive Director of the Colorado Department of Natural Resources and the Executive Director of the Colorado Department of Public Health and Environment.

Prior to his career in public service, he managed a non-profit focused on energy, public lands, and water issues, and spent a decade as a senior attorney for the Environmental Defense Council. He also headed the Natural Resources Law Center at the University of Colorado School of Law. Mr. Martin has a Bachelor's degree

from Knox College and a law degree from Northwestern Law School, Lewis and Clark College.

Thank you for being with us today, Mr. Martin. If you would like to go ahead with your testimony.

STATEMENTS OF JAMES MARTIN, ADMINISTRATOR, REGION 8, U.S. ENVIRONMENTAL PROTECTION AGENCY; HELEN HANKINS, COLORADO STATE DIRECTOR, U.S. BUREAU OF LAND MANAGEMENT

STATEMENT OF JAMES MARTIN

Mr. MARTIN. Chairman Tipton, Ranking Member Critz, thank you for inviting me to testify about the effects on small businesses and communities of certain EPA regulations. And I might add, welcome to Colorado, Congressman Critz. I appreciate the opportunity to discuss some of EPA's proposals and to try to clear up some common misunderstandings about those efforts.

First, with regard to coal combustion residuals, or CCRs, the EPA proposed last year to regulate the disposal of those materials to address the risks from disposal of such wastes in landfills and surface impoundments generated from the combustion of coal at electric utilities and independent power producers. That is an effort that was precipitated in no small part by the breach of a significant impoundment in Tennessee which led to the contamination of many acres and clean-up costs of several hundred million dollars.

The agency proposed for public comment two options for the regulation of those materials. Neither option would change the May 2000 Regulatory Determination, commonly known as the Bevill exclusion, for CCRs or coal combustion residuals that are beneficially used. EPA continues to support the safe and protected, beneficial uses of CCRs.

At this time, the agency is reviewing and evaluating more than 450,000 public comments that were received as a result of that proposal, and we are going to carefully review and examine all of those before deciding on the approach to take in the final rule.

Second, with regard to power plants, EPA has proposed Mercury and Air Toxic Standards to control emissions of toxic air pollutants from power plants. Mercury, depending upon the form and dose, may cause neurological damage, including lost I.Q. points in children who are exposed before birth. As proposed, the Mercury and Air Toxic Standards would prevent 17,000 premature deaths and 12,000 emergency room visits and hospital admissions annually. These proposed standards are affordable, they are achievable within the time for compliance outlined in the proposed rule, and they are roughly a decade behind schedule. Moreover, the investments in a cleaner energy sector required by these standards will keep people working and create jobs.

With regard to greenhouse gas emissions, the agency is taking a commonsense, phased approach to meet our obligations under the Clean Air Act to reduce carbon pollution. Our focus is not on small sources, and I want to emphasize our focus is not on small sources and small businesses but solely on the largest emitters, and for the most part on the sectors that are responsible for the largest share of greenhouse gas emissions to the environment.

Contrary to any claims you may be hearing, small sources are not covered by the greenhouse gas permitting program. In fact, EPA adopted regulations last year that will ensure that small sources are not subject to greenhouse gas permitting requirements.

It is worth noting that the only greenhouse gas standards that EPA has issued under its current or its existing Clean Air Act authority will result in savings rather than increased costs for small businesses. Last year, EPA and the Department of Transportation issued greenhouse gas emissions and fuel efficiency standards for cars and light trucks for model years 2012 through 2016. By ensuring that new vehicles are more fuel efficient, these standards will save American drivers money at the pump while reducing America's gas consumption, or oil consumption rather, by 1.8 billion barrels over the life of those vehicles. We estimate that the average American purchasing one of these vehicles will have a net savings of $3,000 over the lifetime of that vehicle.

Finally, with regard to natural gas extraction, while natural gas is an important and growing part of our energy resource portfolio, we believe it is imperative that we access this resource in a way that protects human health and the environment. EPA has an important role in ensuring environmental protection and in working with Federal, state, and local partners to manage the benefits and risks of unconventional gas production, though I hasten to add only in the case of the use of diesel as part of the fracking fluid do we issue permits.

We are committed to effectively addressing these concerns about the consequences of gas development using the best science and technology available. We believe that by doing so, as a nation we can establish a sound framework that allows for the safe and responsible development of a significant domestic energy resource with important national security, environmental, and climate benefits.

I recognize—I would like you to acknowledge, sir, that I beat your schedule. I look forward to taking your questions. That is the sum and substance of my comments for this morning.

[The statement of Mr. Martin follows on page 55.]

Chairman TIPTON. All right, Mr. Martin. Thank you.

Our next witness is Bureau of Land Management Colorado State Director Helen Hankins. A native of Council, Idaho, Ms. Hankins joined the BLM in Albuquerque, New Mexico, serving as a clerk typist in the agency's student work study program in 1970. She went on to serve in increasingly responsible positions in Durango, Colorado; Anchorage and Fairbanks, Alaska; Washington, D.C.; Elko, Nevada; and Phoenix, Arizona.

Ms. Hankins oversees 800 employees and administers 8.3 million acres of BLM public lands, and 27 million acres of mineral estate, which are concentrated primarily right here in my congressional district.

She earned a Bachelor's degree in geology from the University of New Mexico and was one of the first two women to complete the BLM's five-month-long minerals law school program.

Ms. Hankins, welcome back to our Subcommittee, and I appreciate you taking the time to be here, and we look forward to your testimony.

STATEMENT OF HELEN HANKINS

Ms. HANKINS. Thank you, Representative Tipton. And, Representative Critz, it is a pleasure to meet you also. I appreciate the opportunity to speak before the Subcommittee on Agriculture, Energy and Trade.

BLM is responsible for the management of 240 million surface acres and more than 700 million subsurface acres across the country. Activities on these public lands and associated with Federal mineral resources are very important to the quality of our nation and to the economic health of our country and to rural communities across the West.

Earlier this year, Department of the Interior published a report about the economic impacts of activities on public lands to the country. This is a summary of that report. I would like to address briefly those data related to the country as a whole, and also to Colorado. In my opening remarks, I will also touch very briefly on oil and gas leasing reform. More detailed remarks are in the written testimony previously submitted.

With respect to conventional energy in our country, it is estimated that the economic impact is valued at $100 billion for activities related to coal and oil and gas exploration and development, resulting in some 420,000 jobs. $2.5 billion in royalties were taken in last year, and almost half of that was returned to the states where the activities occurred. In Colorado, that amount was about $112 million.

Hard rock mining is also an important contributor to our country's economy, $14 billion in economic impact and some 59,000 jobs.

Oil and gas development is very important. It is important to us economically, and it is important to our path to energy independence. But economic development must be balanced with environmental concerns. Earlier this year, the BLM initiated oil and gas leasing reform. The purpose of this reform, which is a policy, not a regulation, is to provide a more open and environmentally sound approach to oil and gas leasing on public lands. The public has an opportunity to be involved much earlier in the process of determining whether we will lease or not lease a parcel.

We believe that these reforms will lead to increased certainty for both the public and industry, and will also reduce the number of protests. In the last decade, protests on our oil and gas lease sales have gone from 1 percent to 49 percent of the parcels. I believe you can understand that it is very costly to deal with protests and litigation on this scale.

Early indications of the implementation of these reforms is that we are seeing a reduction in protests and a higher level of leases being able to be successfully issued.

I would like to speak briefly now about Colorado. It is truly, as we all know, an amazing place. Public lands here are used for recreation, and many people gain their livelihood from public lands, whether it is ranchers, people in the mining industry, or in the oil and gas or coal industry.

In Colorado last year, more than 3.8 million barrels of oil were produced, and more than 279 million mcf of natural gas. The economic impact of these activities to our economy was $4.8 billion and some 17,000 direct and indirect jobs.

It is important to note, though, that only about 10 percent of oil and gas exploration and development in Colorado occurs on Federal mineral estate. By far, the majority is on either state or private land.

On the other hand, with respect to coal, 80 percent of the coal produced in Colorado comes from nine mines on Federal lands or Federal mineral estate. The economic impact of coal development in Colorado is about $1.2 billion, resulting in some 5,500 direct and indirect jobs.

Hard rock mining is also important here, contributing some $26 million and some 5,000 jobs.

Clearly, in Colorado, energy development is important, as is recreational use, livestock grazing, and other activities.

In summary, approximately $6 billion is the economic impact of activities on public land in Colorado, and some 28,000 jobs. Thank you for the opportunity to participate in your hearing.

[The statement of Ms. Hankins follows on page 58.]

Chairman TIPTON. Thank you, Ms. Hankins, for your testimony. We appreciate that.

We will now start our question period, and I will begin.

Mr. Martin, I would like to direct my first question to you, if I may. The Craig Power Station in Moffat County, the nuclear power station in Montrose County currently store dry coal ash. Are you aware that the coal ash is regulated as a hazardous material under the Resource Conservation and Recovery Act of the EPA, as they propose to do? The cost to operate these plants would increase significantly.

And also are you aware, concerning these costs, there seems to be actually very little benefit associated with that? This would be passed on to rural electric consumers all over the Western Slope of Colorado in the form of higher electric prices.

Before you answer, I would like to be able to convey to you just how important these facilities are to the Western Slope communities in which they reside. The Craig Power Plant is an example that employs 306 folks and 442 jobs in the Trapper Mine and surrounding area that are directly related to Craig's continued operation. Craig also generates $8.9 million in tax revenue for Moffat County and other local government entities. The nuclear station is one of the largest private employers in Montrose County. It employs 60 people with wages and benefits amounting to about $7.2 million annually. The nuclear generates about $1.1 million for Montrose County and other local government regions in the industry.

Can you see really the benefit of some of this regulation going through, particularly when there is beneficial use for some of that ash?

Mr. MARTIN. Well, Mr. Chairman, you covered a lot of ground in that question. I will do my best to respond.

I visited with both Tristate and Xcel about the proposed rule and the two different avenues that the agency has to choose from in managing these wastes. I visited the Trapper Mine. I think I visited all of those different power plants at one time or another in my career, so I am familiar with their operations.

I have conveyed to my colleagues in Washington, D.C. what I have learned from those conversations. I know that the Administrator is very carefully weighing and considering all of the factors that are involved here. She is committed to assuring that, in fact, we can continue beneficial use of these residuals, and I have explained to her that in most cases in the West we don't use wet scrubbers, we use dry scrubbers, and that makes for a situation different than is encountered elsewhere; for example, at the site in Tennessee where they experienced that very significant breach and the resulting impacts to both land and water resources and the expenditure of several hundred million dollars in clean-up costs.

I know the Administrator is weighing all of those things. I will convey to her again the concerns that you have expressed on behalf of—well, I guess on Tristate's behalf.

Chairman TIPTON. I think that is absolutely critical because we are seeing a continued impact locally here in terms of some of the costs, and a lot of us, myself, and I'm sure Congressman Critz assures this, when it gets down to the ultimate consumer, senior citizens on fixed incomes, struggling families, as we have regulations that are increasing those costs on a per kilowatt hour basis, we are seeing real impacts that are coming through. And so I would appreciate you passing that on.

Next question to you, Mr. Martin, is a number of stakeholders have questioned the agency's findings regarding the health benefits of the utility MACT rule. How does the agency determine the cost versus benefits of the proposed clean air rules?

Mr. MARTIN. With respect, Mr. Chairman, principally to the Air Toxics proposal, or the MACT for utilities?

Chairman TIPTON. Yes.

Mr. MARTIN. Okay. Well, over the course of a long period of time, the agency's process for identifying both costs and benefits associated with rules like this, and often with some significant assistance from the Office of Management and Budget, it has evolved and it has become progressively more sophisticated, I believe, and more precise.

I would like to mention that back in the year 2000, it was a decision from the Environmental Protection Agency at that time that it was necessary to control mercury emissions in power plants. The last administration adopted a proposal for dealing with those emissions, and that was subsequently challenged in the D.C. Circuit. That is where these kinds of challenges are required to go, and the D.C. Circuit vacated that proposal, finding that it was inconsistent with the Clean Air Act.

So we are actually doing our best to try and implement this statutory requirement, that should have gone into effect in 2002, as carefully and thoughtfully as we can. I believe that the science of exposure to mercury and to other toxic gases is clear, and I believe that we have a very clear sense of which facilities are controlled and which are not. Forty percent are not; 56 percent are. We have controlled the other major sources of mercury, both medical, municipal waste combustors and medical waste incinerators. I think we can identify with a fair degree of confidence both the benefits, which range from $59 to $140 billion. So every dollar in investment yields about $5 to $13 in health benefits, and those range from re-

duced number of visits to emergency rooms to preventing that loss of IQ in fetuses that are exposed to mercury before birth.

So there are significant health benefits both locally and at some distance from the source of mercury emissions. I know that during my term, tenure as Director of the Colorado Department of Public Health and Environment, one of my least pleasant tasks was to post lakes and streams, lakes principally, across the State of Colorado with warnings to pregnant women and others to limit their consumption of fish from those lakes. And we know for a fact that long-distance transport of mercury is one of the causes of that problem.

So we are hopeful that as these regulations go into effect, we will be able to protect or prevent those health effects both in the immediate area around these particular sources, as well as some distance downwind.

Chairman TIPTON. I think we would all have unanimity of opinion that that is something we want to address. I was interested reading through some of your written testimony and other information that we have had available in terms of cross-state transportation, some of the heavy metals, and we are doing this on a science-based level.

What is the suspension time for those heavy metals? How long can they stay up in the air? This may be unfair. You may not know the specifics.

Mr. MARTIN. I confess I don't know the answer to that question with any kind of precision. I would be happy to try and find the answer for you.

Chairman TIPTON. I guess what I am really curious about is, you know, when we look at some of the industrial development, we have made great advances, great improvements here in the United States. But when we see some of the industrial development that is going on in China, India, are we seeing some of that residue coming in, and we are paying the price for it in the United States, expecting our industry to pay the bill? It is not ignoring the problem that may exist but putting pressure on those foreign countries to be able to address their operations.

Mr. MARTIN. You may very well be right, Congressman, Mr. Chairman.

Chairman TIPTON. Does that enter into any of the consideration when we are asking our industry to be able to increase their ability to be able to screen out and to be able to filter impacts that are coming in that we simply are not able to control, and we would have a nominal impact in terms of increasing regulations on our industry? Does any of that in consideration?

Mr. MARTIN. Mr. Chairman, with all due deference, I would beg to differ. I think that the proposal for reductions in emissions, air toxins from power plants, will have a significant effect on the burden both near the sites and long-distance from mercury and other toxics that are emitted from coal-fired power plants. So while it is clearly a global problem, these regulations will have a very significant beneficial effect in reducing——

Chairman TIPTON. Do you have a percentage on that?

Mr. MARTIN. I'm sorry, sir?

Chairman TIPTON. Do you have a percentage of impact?

Mr. MARTIN. I don't, but I am happy to get it for you, Mr. Chairman.

Chairman TIPTON. Okay. I think that would be interesting, and I would be interested to know if you can help us maybe achieve some of that, some of the impacts that we are feeling on our country coming in from outside of the United States, and the impacts actually on our businesses.

When we are talking about some of the EPA's greenhouse emissions, during your testimony you were saying that there is going to be some cost/benefit ultimately to the consumer. This goes back a little bit to my opening statement when Gardner had asked the question do we do a cost/benefit analysis, and you were talking about the benefit of increased gas mileage, reducing some of the barrels of oil.

How much will the new regulation be reflected in the cost of a new car that is passed on to the consumer?

Mr. MARTIN. Mr. Chairman, I am not sure I understood your question.

Chairman TIPTON. Well, we are going to have a new regulation that cars are going to have to meet a certain standard. How much is that going to increase the cost of cars? We have $10,000 cars now. Are they going to cost $10,500, $10,250, $11,000? What is the cost to the consumer in terms of that vehicle?

Mr. MARTIN. Mr. Chairman, I confess that I knew the answer to that question at one point, and if you give me a moment, I will try to dig it out. If I cannot find it in my briefing materials, I will submit that for the record as soon as we can find it. I know we have that data.

Chairman TIPTON. Okay. I think that is going to be, when we are looking at cost analysis, cost/benefit analysis, we need to make sure that some of those costs are included as well.

Going on, when you are saying that the regs, going back to some of the mercury, heavy metals and what-not, in your statement you made the comment that the regs, the regulations are going to be affordable. What is going to be the increased cost to the consumer?

Mr. MARTIN. For the Air Toxics Rule, Mr. Chairman?

Chairman TIPTON. Yes.

Mr. MARTIN. For the consumer?

Chairman TIPTON. Yes.

Mr. MARTIN. I don't remember, Mr. Chairman. I am happy to look it up for you if you give me a moment.

Chairman TIPTON. Okay. Yes, if we could find that out, I would appreciate that.

And then when we are going a little bit into some of the fracking issues that are going on, just recently Governor Hickenlooper, he is a former petroleum geologist. He came to the Colorado Oil and Gas annual conference. This is his statement. He said, "Everybody in this room understands that hydraulic fracturing doesn't connect to the groundwater. It's almost inconceivable that we would ever contaminate through the fracking process the groundwater." The governor went on to blame inaccuracies and misinformation on this subject being reported by the media, and he even called out the New York Times.

Is it your opinion, do you agree with the governor? Was he accurate in his comments, and do you have any knowledge of any Federal regulations that may be proposed regarding fracking?

Mr. MARTIN. I'm sorry. What was the last part of your question, Mr. Chairman?

Chairman TIPTON. Are you aware of any regulations that are being proposed or considered under the Federal Government that will be addressing fracking?

Mr. MARTIN. The only regulations of which I am aware, Mr. Chairman—actually, they are not regulations, but we are working to identify the appropriate permitting structure for fracking operations that employ diesel, which is not part of the exemption adopted by the Congress when it otherwise exempted those kinds of activities from coverage under the Safe Drinking Water Act. But I am not aware of any other regulatory programs that are in the offing, Mr. Chairman.

Chairman TIPTON. And would you accept, do you embrace the governor's assessment of that process?

Mr. MARTIN. I would have to take a closer look at what the governor said. I am not in the habit of disagreeing with any of my political leaders, but I have not had a chance to look more precisely at what the governor said. I know that he did accompany his statement with a recommendation that the Oil and Gas Commission here in Colorado adopt some fracking disclosure rules. I do not believe those have yet been proposed in any kind of definitive form, but we look forward to working with all of our state partners in dealing with all of these issues here in the West.

Chairman TIPTON. But would you concur that that probably is something better administered at the state as opposed to the Federal level?

Mr. MARTIN. I believe that Federal, state and local governments all have a role here, and that I believe we are working in partnership with the states on these issues. But there are some issues where, for example, air emissions from the completion that follows fracking that are more likely more amenable to a national standard than to a local standard, Mr. Chairman. So I do not believe it is amenable to a yes or no answer.

Chairman TIPTON. Thank you, and I would like to now yield to Congressman Critz if he wanted to, and I have some questions for Ms. Hankins as well. But I will yield to Congressman Critz.

Mr. CRITZ. Thank you, Mr. Chairman.

And just so you folks know where I come from, I am from Southwest Pennsylvania, a long history of steel-making and coal mining. When I grew up, we had orange skies and orange streams, and we thought it was okay. But at some point, someone realized that that wasn't really good for our health. And in the years since, we have blue skies, we have clean streams that are now fishable, and we are doing really one heck of a job, and I think that you hit on it, Mr. Martin. It is everyone sort of working together. It is the Federal, the state, the local, it is industry, it is environmental, it is academia trying to work together to come up with solutions. And like I said, we have clean streams now. We have trails. Southwest Pennsylvania is a beautiful place to live.

And also, the Clean Air Act actually started because of what was called the Donora smog in Southwest Pennsylvania, when several people died because of some sort of a blow-out at a local plant. So we are sort of the test case, and we have come a long way, and that is where I come to this point.

And I have a couple of quick questions, just to make sure I understand. When we talk about the mercury rules, is the rule going to be that the mercury has to be in parts per billion? Is that correct, that it goes down, it is reduced to a parts per billion number?

Mr. MARTIN. I believe that is correct, Mr. Chairman. We are talking about relatively small quantities. I'm sorry, Mr. Critz.

Mr. CRITZ. That's okay. You can call me Mr. Chairman. [Laughter.]

We have an agreement.

Mr. MARTIN. We are talking about relatively small total quantities of mercury but which have significant effects on both the biology, the biota and humans. So I believe it is measured in parts per billion.

Mr. CRITZ. Now let me ask you this, because what I have been told is that there is no way to measure parts per billion. Is that correct?

Mr. MARTIN. Mr. Chairman, I don't—I'm sorry, Congressman Critz. I'm sorry, I don't believe that is correct. During my time at the Department of Public Health and Environment, we worked with a number of utilities, including Xcel Energy, to install continuous emission monitors, as well as to begin to install mercury controls, principally injected carbon, and I believe they were able to detect the quantities of mercury in the flue stream and to install effective emission controls. And for the benefit of the Coloradans in the room, that is a technology that was developed here in Colorado and which is now being marketed around the world.

Mr. CRITZ. Okay. So it is—okay. So that is misinformation that I received.

Mr. MARTIN. I would hesitate to suggest that it is misinformation. But we believe that you can detect mercury in the flue stream, and you can efficiently and relatively cost-effectively capture the mercury before it is emitted into the atmosphere.

Mr. CRITZ. Okay. I like how you said "relatively cost effective." But anyway, as I told you where I am from, talking about the MACT rule that is going to be implemented, one of the results of a heavy industry which we have had in Western Pennsylvania, we have giant piles of waste coal sitting all around our neighborhoods. And for those of you who don't know, in Pennsylvania what would happen is when a mine would open, a little town would pop up around it, and we would call them patches. So we have lots of patch towns all across Western Pennsylvania, and I know we have waste coal dumps across this country.

And we have actually power plants that use that waste coal to generate electricity. And this MACT rule is going to shut those plants down because there is no way they can get that final—they clean up about 95 percent of the sulfur, but they cannot get the rest to meet the requirement based on the technology and cost-effectiveness. They cannot afford to do it.

And what I would ask you is, is this picking winners and losers? In other words, we are going to shut these plants down because of the sulfur that they emit, but in the interim, or what that means really is that we are going to condemn all those people that live close to those coal ash piles, that they are going to have to live with them for generations to come. Is that a logical process that I thought through there, that those coal ash piles aren't going anywhere when these plants shut down?

Mr. MARTIN. Congressman Critz, this is an issue that I have never been aware of before.

Mr. CRITZ. Okay.

Mr. MARTIN. I appreciate you bringing it to my attention. I will be sure to——

Mr. CRITZ. Do you have waste coal piles out this way? Okay. So there are waste coal piles in your region.

Mr. MARTIN. None that I am aware of, sir.

Mr. CRITZ. Oh, is that right?

Mr. MARTIN. I could be wrong, but none that I am aware of.

Mr. CRITZ. Okay, okay. I thought there was. That is why I brought it up, because we have plants that burn them, but I will just move on.

In answering actually your question, Mr. Chairman, about does the government take into account air quality that is being blown in off of our shores, we are experiencing actually in Western Pennsylvania, especially because we are right on the Ohio border, that a lot of the power plants that are in Ohio, the emissions that they create blow into Pennsylvania, and it actually affects what we are allowed to do in Pennsylvania.

So I can't imagine that we are taking into account what is blowing across the ocean from China and India that is blowing into Washington and Oregon if we can't even do it state to state, because that is an EPA-regulated event as well. So I would investigate that, and I would be curious to hear if EPA is really taking into account what is blowing across the ocean when we talk about China, the pollution that they are creating, because we know that there is an impact in Washington, and I know that across state lines it is impacting what we are allowed to do in Pennsylvania, just what is based in Ohio.

But also moving on to fracking now, when fracking first really became prevalent was in the late '60s, and they used a load of diesel to do the fracking process. Over the years they have really cleaned that up and it is a much more—we will call it a concoction of many, many items, diesel being I think—I don't know if diesel is even a part of it anymore. It might be somewhat of a part of it, but I don't know.

But I was looking through some testimony, and I believe it was in 2004 the EPA reported that the risk was very small for hydraulic fracturing. Are you aware of this report?

Mr. MARTIN. I am, Congressman Critz. It was a report prepared by the Environmental Protection Agency related principally, I believe, if not solely to coal bed methane and the use of fracking to access that particular resource. So it was not examining shale gas or other unconventional gas resources.

Mr. CRITZ. But the fracturing is the same process, though, wouldn't it be?

Mr. MARTIN. It has been my experience, Congressman Critz, having served on the Oil and Gas Conservation Commission in Colorado for almost four years, that different structures, different target zones, different operations all pose different risks and different benefits, and it is difficult to generalize across the spectrum of different unconventional gas resources.

Mr. CRITZ. Okay, okay. Well, the reason I bring it up is that, you know, I try to make sure that, as you may be aware, and I think the Chairman mentioned it, or maybe he didn't, I mentioned it in my testimony that in Western Pennsylvania, actually in New York, Western Pennsylvania, Ohio, West Virginia, through the Appalachian region, we have the Marcellus Shale gas, and fracturing, hydraulic fracturing has become a huge sort of political football. And what I try to tell my constituency is that when you drill a hole—and I think in Western Pennsylvania we have sort of an understanding of this, is that it is heavy industry. This is not—they are not building a drill. They are drilling a hole in the ground to bring up natural gas. It is heavy industry, and there are going to be accidents. There are going to be—probably someone is going to die. Someone is going to get killed at some point or another. I mean, everyone doesn't want that to happen, but it is heavy industry. You don't drill a hole in the ground, flowers come out of it. I mean, that is the way it is.

But it is in the industry's best interest not to have it contaminate the well through the water table or whatever, because it is a $5 to $7 million investment that then goes out the window if it is somehow fouled. So I think that, or my impression and what I have seen is that the industry is working very diligently not to have accidents, but it is going to happen.

And it brings me back to the Tennessee coal ash issue, that that was a terrible issue, a terrible problem. I mean, when that impound burst through and contaminated, and you said $100 million worth of clean-up, I mean, that is absolutely terrible.

Does it make sense to change the regulations for an entire industry because of one incident, or is it smarter to make the enforcement and the penalty for not following the current regulations make more sense? You know, we have a tendency at this level to do a one-size-fits-all solution, and it rarely works at every level.

So my question to you is, because of the Tennessee blow-out, did the regulations need to be changed because of that, or should the enforcement and the penalty for what happened be stronger so that it would prevent people from violating the regulations that already exist?

Mr. MARTIN. Congressman Critz, that is precisely the question that the Administrator, my boss, is struggling with right now. We are going to carefully review all 450,000 comments that we received. We are certainly taking a hard look at the comments we received from industry, as well as the industry that beneficially uses coal ash. There are clearly two, at least two options in front of the Administrator, neither of which will upset the Bevill Amendment, the 2000 Bevill exception for these materials. But I can't, I honestly can't tell you what the Administrator is going to decide be-

cause she has not reached that point. I don't expect her to until into next year.

Mr. CRITZ. Okay, all right. And just one last question and I will turn it back over to the Chairman because, Ms. Hankins, you have had a free ride, so we have got to do something here. [Laughter.]

But I was reading that BLM is congressionally mandated to issue a permit 60 days after a competitive bid process, and I was curious if BLM is meeting that requirement out here in your section. And then I am going to ask both of you to answer a question, because we see sometimes in the industries that we are talking about permits taking multiple years to be issued, which if you are in business, I don't know how you project your costs, what the market is going to be when you get those permits, and I just want to find out from you what is a better way that we can address these ridiculously long permitting times.

Ms. HANKINS. When you say competitive bid process and a 60-day timeframe, are you talking about lease by application for coal, or are you talking about oil and gas? I'm not sure, because——

Mr. CRITZ. Sided with oil and natural gas producers in ruling that while the Department of the Interior Secretary's discretion in issuing oil and gas leases still must comply with a 60-day time deadline established by Congress.

Ms. HANKINS. Okay. I believe you are referring to requirements in the Energy Policy Act of 2005, and there are several factors that affect the rate at which we can issue a permit. The first one is how complete is that permit application when we receive it, and we have 10 days to review it and identify to the applicant if there are any deficiencies in their permit. Once we do that, then they have a 45-day period to address any issues that we raise, and at the end of that time or whenever we get a complete permit from the applicant, we are expected to process that in 30 days.

That includes an environmental review. It can also include litigation. And so sometimes we do not meet that 60-day timeframe for a variety of reasons. But I do understand that that is the requirement in the Energy Policy Act.

Mr. CRITZ. Would you say that you meet it 50 percent of the time?

Ms. HANKINS. You know, I don't have that figure. Some of our offices meet it 100 percent of the time. Some I don't think meet it to that degree. But I can certainly provide you the data.

Mr. CRITZ. Okay. But your estimation is that you do a pretty good job and you don't have ones sitting out there 120, 150 a year?

Ms. HANKINS. There are individual instances for some of the reasons I stated that have been pending for more than the period of time you stated. But generally speaking, there are other factors that cause that. Sometimes, as I said, the application is incomplete. Sometimes there is other information we need. Sometimes there are environmental reviews that need more time. So there are a variety of factors why they may take more time, but there are a few instances where the period is a long time.

Mr. CRITZ. Okay. Mr. Martin.

Mr. MARTIN. Yes, sir.

Mr. CRITZ. I have a lot of coal mining in my district. We have permits that were applied for five, six years ago. I don't under-

stand. I mean, I don't understand how it could take that long to get a permit issued for a coal mine that will probably operate for two years.

So in your region, do you have a set date that you have set that we need permits issued within two years, or we need permits issued—we either deny or we approve permits?

Mr. MARTIN. Congressman Critz, we don't typically issue permits for coal mines other than for——

Mr. CRITZ. Well, I mean any of your permitting issues.

Mr. MARTIN. More generally?

Mr. CRITZ. Yeah.

Mr. MARTIN. The Clean Air Act, I believe, sets an outside limit of one year. We work very hard to efficiently process permit applications. We are a direct implementer in a number of places, including all of the American Indian reservations in our region. We have a significant permit burden, but we are working very hard at eliminating backlogs and processing them as effectively and efficiently as we can.

We are actually the direct implementer for PSD for greenhouse gases in Wyoming, and I believe we are going to meet our goal of processing that part of the PSD permits in tandem with the state as it evaluates conventional air pollutants, and we will assure that there is no delay for those major sources. I think we have objectively been very efficient in evaluating other greenhouse gas air permits within our region.

So that is my goal. We are a customer service agency, and I take that very seriously.

Mr. CRITZ. Thank you.

Mr. Chairman.

Chairman TIPTON. Thank you, Mr. Chairman. [Laughter.]

I would like to drop back just a little bit. Just a couple more questions came to mind here, Mr. Martin. When you were talking about the 450,000 comments that came in, on specific instances were you receiving—if you had a comment on Prake, were you receiving comment coming in from New York on that, or do you give weight to local input more?

Mr. MARTIN. Mr. Chairman, we weigh every comment equally. Sometimes we get the same comment from multiple individuals or multiple entities, and then we count that as a single comment. But we weigh every comment as seriously as every other comment.

And if you don't mind, Mr. Chairman, I found the reference to at least one of the questions you asked me. You were inquiring about the cost impact of the Mercury Air Toxics Standards, and what I discovered is that we did, in fact, analyze that precise question, and our conclusion is that the MATS, the Mercury Air Toxic Standards, would raise electricity rates an average of 3.7 percent in 2015, and that would drop to 2.6 percent by 2020. And as a result of that relatively small change in average retail prices of electricity, they would continue to be at or below 2009 levels even after absorbing those costs.

Chairman TIPTON. Okay. Just kind of curious. Have you ever seen prices go down once they go up, in reality, on your bill? I haven't either. So it's kind of a rhetorical question, I guess.

Let's see. I had one other question, and it is going back to some of the mercury standards. It is a problem. We know there are some issues with mercury and what-not, but I do have a concern in terms of how much we attempt to look to the United States to fix the world's problems when we have a very responsible industry here in this country.

Do we have any percentages of what Congressman Critz had asked on this again? I just wanted to clarify how much is coming in from foreign countries that is in our air impacting us. Is it half of what is up there? Seventy-five percent? Ten percent? Do we have any figures on that?

Mr. MARTIN. Mr. Chairman, I am hesitant to hazard a guess. That is a number that we will get to you. I have written it down. It is a number that we will get to you. From my own experience at the Department of Public Health and Environment, I would say it is a much lower number, that this is principally a national and local issue here in Colorado.

And I would like to add that here in Colorado during the debate during the last administration over how to structure that mercury regulatory package, the State of Colorado moved ahead. We put together a stakeholder process. I believe we had consensus from all of the utilities in the state, and we developed a mercury standard that is in the process of being implemented here in Colorado. We were ahead of the Environmental Protection Agency in that instance, and I don't believe we have encountered any significant obstacles in getting that done.

We have had the ancillary benefit of stimulating the development of that industry here in Colorado that specializes in installing that carbon injection technology that does not require significant changes in the system in order to achieve very significant emissions reductions.

Chairman TIPTON. If you could get that number, I think that is important for us to know and to be able to reflect on.

Mr. MARTIN. Be happy to do it.

Chairman TIPTON. Thank you. Appreciate that.

Ms. Hankins, I don't want you to feel left out either. I did have a couple of questions.

When I was reading through your testimony, you were talking about in terms of onshore production from public lands, in the year 2010 that production had increased by 5 million barrels from the previous fiscal year. More than 114 million barrels of oil were produced from BLM managed mineral estates, the most since fiscal year 1997.

I was kind of curious about that given the comment that we continue to hear, particularly here in the Third Congressional District. Those producing facilities, when were those actually—when were the leases made, and when were they permitted?

Ms. HANKINS. I will respond to your question in a couple of different ways. The figures that you quoted are, of course, national figures, not specific to Colorado.

You know, the main thing that controls how many leases we issue and how many wells are drilled is determined by the market and by the national demand for energy and the price of gas and the price of oil. And so those are factors in why we have seen less

requests for leases and less proposals for applications for permits to drill in the last few years.

And so I think it is important to keep those market conditions in mind. There are many reasons that industry has, and I think you have industry representatives later on your other panels that can talk about that as to when and where they choose to drill. But what we are seeing is that only about 70 percent of the leases issued at the present time are being drilled, and those are choices that industry makes, not the BLM.

So I think there are a range of factors, much driven by industry in terms of when they seek the lease, when they choose to submit an application for permit to drill, and when they decide to actually drill a well.

Chairman TIPTON. Right now, you know, I understand what you are saying. Since we are in the 3rd District in Colorado, this is your area. What are the Colorado numbers?

Ms. HANKINS. In terms of number of leases issued?

Chairman TIPTON. Productivity. In terms of that productivity. You were saying these are national statistics. What do we have for Colorado?

Ms. HANKINS. I don't have those immediately in my head, and I can certainly provide them. But our statistics, overall we have issued fewer leases in the last three or four years than, say, eight or ten years ago. We are also seeing less applications for permit to drill for some of the same reasons that I talked about nationally, and I will be happy to give you those exact numbers.

Chairman TIPTON. I think that is probably not fair for you to even have to comment on because it was a product of Colorado State Legislature in terms of oil and gas regulations. We see our friends in North Dakota with 3 percent unemployment right now. They simply left our state, because I think we can certainly make a profound argument at the gas pump. I filled up my truck the other day, you know, $80 bucks, and it had a quarter of a tank and then topped it off. The costs are there, and given the rationale that it is market driven, that is a way to be able to drive down actually some of those costs.

I would like to go back a little bit to some of your testimony that you submitted to us in regards to coal. You said the BLM is currently processing six applications for competitive coal leases in Colorado. Can you tell us where those are at now?

Ms. HANKINS. I can provide you a detailed table that gives you the status of each one of those, but generally they are in some phase of the environmental review process: Some, the environmental review has been completed; some, it is ongoing. In one case, we completed the review, made the decision, and it is now being litigated. So it is variable, but I can present you a table that gives you the details for each one.

Chairman TIPTON. Okay. Yes, because I think that particularly when we get down to the coal industry, if you have a moving wall—we were talking about that—once you stop, it gets incredibly hard to get that going. So that permitting process and being able to expedite that and do it responsibly is obviously incredibly critical for us there.

Ms. Hankins, a lot of people in our congressional district and across the nation feel that our country, and we see it right here in Mesa County in particular, 10.5 percent unemployment. We are experiencing both a job and an employment crisis, and in terms of an energy crisis as well for this country. A little later, and I would certainly invite and hope that both of you might be able to just listen in to some of the follow-up testimony from our next panel as well, because I think it is going to be insightful. The rules and regulations have real impacts on real people, real jobs, real costs, impacting consumers at home.

But they will be testifying on the second panel, and they claim that we have the potential to rapidly create thousands of jobs and bring new energy supply to the market. But there are onerous and changing Federal policies, including those instituted by the BLM that are a barrier, and I think you understand that. There are issues, and we understand your mission.

But what is the BLM doing to be able to reduce permitting times? We currently have an average of 206 days to the 30 days required, going to your question, Congressman Critz, required by the Energy Policy Act of 2005, 206 days versus the requirement of 30 days in terms of that permitting process. You have the lease. You have to be permitted to eventually turn that into production, a big span of time.

So what is the BLM doing to reduce those permitting times right now, and how can the BLM enable job creation and economic development when we continue to have these extensive bureaucratic delays?

Ms. HANKINS. I will be happy to address that question. I don't believe that the figures that I have seen for the amount of time, once we have a complete application for permit to drill, are as high as you indicate, but I will verify that and send you the information that we have.

With respect to issuing new leases and then subsequently processing applications for permit to drill, I think it is important to think about one of the reasons that we undertook oil and gas leasing reform, and that is that nearly half of the leases that we were offering for sale were being protested and in some cases litigated. When that happens, then we are not able to issue a lease or at least allow the company to exercise their rights under a lease until we resolve that protest or litigation.

And so we were finding nationwide that that was a significant hindrance to issuing these leases because of all the protests and litigation that was occurring. We undertook oil and gas leasing reform with the idea that if we could involve the public earlier in the process and get their input on whether we should recommend a parcel for lease or not, and I stress get their input because the decision still rests with the agency, it has been our hope that that would reduce the number of protests.

We have seen some indications in both Wyoming and Montana that that is the case. The percent of parcels being protested I believe in Wyoming is about 12 percent. In Colorado we are still in the process of implementing oil and gas leasing reform. Our situation is a little bit different than some of the other states because we are doing a lot of land use plans, and some of those are far

enough along that until we actually get to the final decision about resource allocation in those plans, we won't be leasing some areas. So our situation is slightly different.

But I think when we think about what leases we make available and where we can have drilling, first we have to think about oil and gas leasing reform is intended to make that process work better and more efficiently so that when we do put a parcel up for sale, then we don't get the opposition and we are able to proceed with presenting it.

Once those leases are issued, another step I have taken since I have been here in the last 18 months is I have looked at the numbers for how efficient our offices are and have asked for an internal review. I received some of the preliminary feedback last week, although I don't have a report yet, and what that review tells me, as I indicated earlier, is in some of our offices we are doing exceedingly well in the processing of proposed parcels and the processing of APDs. In some other offices, I believe we need to increase our efficiencies, and it is my intention to work with those managers to help them do that.

So it is front-end loading, the leasing process, and it is taking some steps internally to increase our efficiencies. So those are two things we are doing, I think, to help expedite the permitting.

Chairman TIPTON. Since you brought up the litigation end of it, I am just kind of curious. How much of the BLM's budget is consumed by litigation? Do you have a percentage?

Ms. HANKINS. No, I don't, although I wish I did. We have talked about that nationally because I can tell you that it is substantial. When we look at costs associated with responding to Freedom of Information Act requests, and then all the work associated with preparing administrative records, which is all the documentation related to a particular action, and then attorney time, both our solicitors and Department of Justice, plus whatever time in court or trying to work through settlements, it is extensive.

Chairman TIPTON. Is anyone running a study on that to try and find that out, just extract the numbers?

Ms. HANKINS. We have been talking about it at BLM at the national level, and they are starting to put together a database that will help us get at that information, but we don't currently have that. But I can tell you——

Chairman TIPTON. Just maybe one other thought when you are kind of pursuing that number, it might also be interesting, just given your comments in terms of some of the oil and gas reform, to be able to expedite these, if we could label it defensive medicine, to try and inoculate yourself a little bit, not just paying for the lawsuit. How much of your valuable resources which might be better used elsewhere are being drawn off to try and defend yourself, that we could actually get to address some of the permitting, to be able to expedite that, take it from 206 days down to the 30 days, to be able to achieve that.

Ms. HANKINS. That is a good comment.

Chairman TIPTON. Just a bit of a thought that you might want to look at.

In 2007, the Department of Interior established a Federal advisory panel comprised of a number of government and non-govern-

ment stakeholders and made recommendations on siting wind turbines on Federal lands. This advisory panel reached a consensus recommendation in 2010. In its recently issued draft guidance, the agency appears to have jettisoned actually many of the recommendations.

Can you explain to us why the agency took this step and why the Federal agency's advisory committee's consensus recommendations are being ignored?

Ms. HANKINS. I don't have specific information about that. But what I can tell you is that the BLM completed a Wind Energy Programmatic Environmental Impact Statement approximately five years ago, and in that document we identified some 20 million acres of land the BLM manages that are suitable for wind energy development. Here in Colorado, we have had several requests for rights of way to conduct wind testing to put up meteorological towers to evaluate wind velocities in constancy and so forth, and most of those have been in southern Colorado but some in Western Colorado.

To my knowledge, so far we have not received a single application from either an individual or a company to develop a wind farm in Colorado, and we certainly would be open to that. So I don't know that industry has defined that that is something that is economically viable for them here, but I would certainly be interested in seeing a proposal.

Chairman TIPTON. Okay. Again, if you could maybe get back with us in terms of—I guess I would like to know why, when some recommendations are made, it seems that the advisory committee is just going in the other direction.

Ms. HANKINS. Sure, I will be glad to.

Chairman TIPTON. Just one last question for you. I am kind of curious, when we are talking about the big scope, the obligations of your agency and the EPA nationwide. We have an energy project, say, in Colorado, and we receive public comment coming in. I am just curious. When you receive comment from, say, Pennsylvania in regards to a project going on in Colorado—and this is the same question I actually asked Mr. Martin as well—do we give more consideration to the local communities, the local input, as opposed to someone who may live 2,000 miles from us, commenting on whether or not a project should proceed?

Ms. HANKINS. You know, that is a question that I have been asked since I began with the BLM as a geologist and then as I moved into various management positions, because I think there is always a hope and a desire on the part of people who live closest to public lands that they should be the primary determiner for what should happen on those public lands.

But the public lands that the BLM manages, they truly are the lands that belong to all of the American people. It is the taxpayers of all of our country who fund the management of these lands and who pay for improvements; for example, recreational facilities or other amenities.

And so when we manage them, because they do belong to all of the American people, it is important that we get the input and consider, as Mr. Martin said, we consider the input of all Americans in our decisions. Sometimes local people have much more detailed

knowledge of a particular proposal or a particular piece of ground, and so we clearly can factor that in in a different way because it is data and information that people from a distance don't have. But we, like the EPA, must consider all comments equally and evaluate them in the context of any of our actions.

Chairman TIPTON. Okay. I guess when you make the comment that local people have better insight, are more knowledgeable about it, but you are going to give equal value to somebody from wherever—you are right, these are our public lands, they have a right to comment. But I would certainly hope there would be a little more value given to people that are on location and their understanding of the situation that you are dealing with.

So thank you, and I yield to Congressman Critz.

Mr. CRITZ. Thank you. I just have one question. Ms. Hankins, you mentioned something that I think needs clarification, and this is also for you, Mr. Martin, because I guess the way to say this is what you were just commenting on the public lands, that they are the entire nation's, and our job, especially in this Subcommittee where we are looking about small business, is that we represent the people of this country, so we have an obligation to the people to protect, to make sure where things are going, but we also have to look at the big picture. So when you are issuing permits or you are issuing regulations that drive up energy prices, we look at the jobs picture. We look at companies that will not open here because energy prices are too high. So we have to do our best to balance things.

So you made a comment, Ms. Hankins, that from the point when a permit application is complete. Now, I have heard from industry that they say sometimes they don't know when their application is complete only because they will fill out the application and then the agency comes back and says we need this, we need more, more than what they put in their initial application.

And we are trying to be assets to both sides. We want to help you. We want to help industry as well. We are trying to balance these two things. So how do we help? And I am sort of a bare-knuckles brawler kind of guy. Let's get to the answer. What is the answer? If you are not going to issue a permit, then deny it. If you are going to issue a permit, then let's get to it.

So how do we get to the point where it is not this adversarial relationship between the people who are after the permits and those of you who are issuing it? How do we shorten that timeframe efficiently? Not to miss anything, we do not want to miss anything, but how can we help you move that process faster and turn this from this sort of give and take, like okay, the industry applies, you give back comments, they answer the comments, they get more comments. I mean, this is where we find industry really complains, that you say from the time when the permit application is complete. Well, for them, it's from when they started, and that is where you get this protracted timeframe.

So my question is how do we make this better, and how can we help make this better?

Ms. HANKINS. I think there are a few things that can improve the process. One is based on this internal review that I did, I think we need to educate some of our staff. We have a lot of new employ-

ees that are still learning, and I think part of our responsibility is to make sure they have the training and knowledge and understand all of their requirements.

The other thing that I think is important is that old-fashioned thing, communication. One of the things that is sometimes problematic, not even just within the agency but with people in general, is that we don't sit down and have a complete conversation about many things, and I think when we have a permit that we think is incomplete, a permit application, then I think we need to sit down with that company and have a face-to-face discussion, here are the areas that we think need to be addressed in your application, and that needs to be a conversation, not an email or some other impersonal way of communicating.

And then industry has the chance to ask questions, clarify what we want, and we have that same opportunity. So I think that is something that is really important.

It wouldn't hurt to take a look at the regulatory requirements and make sure that they are not ambiguous and so that it is very clear what we want. I say that because I haven't personally looked at those in some time, but I think that is always an option, is to make sure what you are requiring is crystal clear.

So those are three things I think we could all work on to help improve the process, and that communication thing is a two-way street. We have had some companies who have contacted me and some of our district managers and say these are things we think the BLM needs to address in a different fashion, and those kinds of conversations are very helpful to me and to our managers because then we are hearing directly from industry what would be useful to them, and I would encourage that as well.

Mr. CRITZ. Thank you.

Mr. Martin.

Mr. MARTIN. Congressman Critz, I guess I have two observations. One is that under the statutes that the Environmental Protection Agency administers, the vast majority of permits are issued by state agencies under delegated programs from our agency. So while we very carefully monitor the permit backlogs that exist under different programs and in different states, or in some cases on reservations, the majority, the vast majority of the work is done at the state level, and we are responsible for overseeing only the work that they do.

Having done that, for those permits that are issued by the regional office, we strongly encourage permit applicants to do a prepermit application meeting with us so that we can better understand what they are proposing and make sure we do our best to explain what would be required to be contained within a permit. Throughout the permit process, we encourage a dialogue between our staff and staff for the permit applicant. We work as hard as we can to make sure that everybody understands what everybody else is talking about so that once the permit application is complete, we can process it relatively quickly and relatively efficiently.

Sometimes, unfortunately, we have to say no, but we work very hard at saying yes with the appropriate emissions controls so that we can all move forward together.

Mr. CRITZ. Two comments. Do you want to come work at Region 3? No, just kidding. [Laughter.]

But the comment would be is that everyone likes to push blame somewhere else, and one of the things that we try to do is make smart decisions based on knowledge, not based on what he said, she said.

One suggestion I would make, because this happens in my area, is that everyone blames EPA for something that is going on, and it is true, and I had forgotten about that point, that most of the permitting happens at the state level, although they blame EPA for delays because they kick it to EPA and say, hey, EPA has had it for 60 days.

It might not be a bad idea that—I don't know if you can do this—every time you get a permit, let the company know that you just got it so that they know that it wasn't you that was sitting on it, because sometimes the state agency might say, hey, we got to them 30 days ago when, in fact, they didn't do it.

We are trying to get to the bottom of this, and you can obviously see from my questioning I have huge permitting issues. I mean, we are talking about years of permitting, and I don't understand how it could possibly take that long to issue a permit. I mean, all the regulations are in place.

We do have some issues because it seems like regulations seem to be changing, and the Chairman told a story about sausage earlier today that sort of highlights. You have these regulations. Ten years later, we have new regulations. Ten years later, we have new regulations. In the meantime, industry has spent half a billion dollars to upgrade their plant or whatever, to meet regulations, and you come back, by the time you finish that, they are being told they have to do more. It is not a good formula.

But, okay. I am trying to figure this out, and I appreciate your testimony.

That is all I have, Mr. Chairman.

Chairman TIPTON. Well, thank you both very much for your testimony here today. Again, I would invite you, or at least have a member of your staff perhaps stay. I think our next panel can provide, I think, some insights that you may not hear on a regular basis. I appreciate your testimony.

And I would now like to call up our second panel, if we may.

[Pause.]

Chairman TIPTON. Thank you. I appreciate the second panel being able to attend here today, and we will just get right to it.

First up on our second panel is Mr. David White, Montrose County Commissioner. He was elected to his position in 2008. Prior to his service to Montrose County in this capacity, he served as a member of the Montrose City Council from 2004 to 2008, and also served as mayor of Montrose from 2007 to 2008.

Commissioner White holds a Bachelor of Science degree in Business Administration from Auburn University and has attended graduate school in public affairs at the University of Colorado.

So, David, Mr. White, appreciate you being here today.

STATEMENTS OF DAVID WHITE, COUNTY COMMISSIONER, MONTROSE, CO; DAVID LUDLAM, DIRECTOR, WEST SLOPE COGA, GRAND JUNCTION, CO; JENNIFER BREDT, DEVELOPMENT MANAGER, RES AMERICAS, BROOMFIELD, CO; JAMES A. KIGER, ENVIRONMENTAL MANAGER, OXBOW MINING, LLC, ELK CREEK MINE, SOMERSET, CO; DICK WELLE, MANAGER, WHITE RIVER ELECTRIC, MEEKER, CO

STATEMENT OF DAVID WHITE

Mr. WHITE. Thank you. I appreciate the opportunity to speak with both of you.

Briefly, I would like to—I have submitted written testimony, but to briefly go over what is going on in Montrose County at this time.

A little background. Montrose County is home to 42,000 citizens, encompassing 2,242 square miles. We, fortunately or unfortunately, depending on your point of view, see that about 69 percent of our county is controlled by Federal or state agencies, BLM, U.S. Forest Service, et cetera.

Like so many areas of the country, we have experienced a substantial economic downturn, and that is reflected throughout Western Colorado and the 3rd Congressional District. Simply put, we need more private sector employment because we all know that county, city, state, and Federal governments are financially strapped. We have to do things ourselves as local citizens.

I have had the opportunity to hear from many of my constituents firsthand about these problems. A classic example that we are currently faced with, Energy Fuels Resources has proposed building the Pinon Ridge uranium and vanadium processing mill in Western Montrose County, which is in my district. The new mill would create jobs that provide economic prosperity to an area that has been hit hard for many years, and many years before this current downturn.

Energy Fuels demonstrated that it can build and operate a mill in a manner that is both protective of human health and the environment. Montrose County issued a special use permit for the mill after hours and hours of public testimony, after reviewing dozens of documents and having studies performed.

The Colorado Department of Public Health and Environment conducted a comprehensive review considering short and long term impacts of the proposed mill, including radiological and non-radiological impacts to water, air, and wildlife, as well as economic, social, and transportation related impacts. CDPHE approved the radioactive materials license in January of this year.

Despite these findings and permits, the EPA reopened a comment period on this proposal at the behest of an organization based outside of our county. This has held up the mill and caused unnecessary delays. CDPHE acted in conjunction with agreements with the Department of Energy and the Nuclear Regulatory Commission, yet EPA became involved.

This is unfortunate because Energy Fuels Resources has indicated that the mill would directly employ close to 90 people, with annual salaries between $40,000 and $75,000. The company also estimates 250 to 300 additional jobs. Yet we have this conflict with the Environmental Protection Agency and others.

I would like to reemphasize that the Pinon Ridge mill would be built and would enforce safeguards mandated by current regulations. Regulations that govern nuclear power generation and its associated industries have been put into place by the DOE and the NRC.

The point I'm trying to make is that with this, even when businesses are successfully able to comply with mandated regulations, additional interference from Federal agencies can create unnecessary delays in the process and hampers desperately needed job creation.

Next up is solar energy. Our community is home to BrightLeaf Technologies, which is a company that has perfected a new generation of concentrated photovoltaic cells that have three times the efficiency of the chips found in solar flat panel systems. Taken as a package, BrightLeaf Technologies has performed very well with this new technology.

The company currently employs 25 people and expects to staff up to 400 to 500 employees by 2015 in Montrose County. The people of Montrose and the Montrose Economic Development Corporation are excited about this opportunity. Yet again, the biggest contract that BrightLeaf has is with Pinon Ridge Mill, and until that mill is approved, those jobs will not be created.

Lastly, we have in Montrose County Intermountain Resources, which is the largest and last of the large timber mills in Colorado. The Bureau of Land Management and the U.S. Forest Service have, through their policies, created a problem for the operation of the mill in that the mill is unable to obtain the resources that it needs in order to continue to process. Again, my written testimony outlines so much more of this.

I appreciate the opportunity to speak to you all today. Thank you.

[The statement of Mr. White follows on page 63.]

Chairman TIPTON. Thank you.

Our next is Mr. David Ludlam, Executive Director of the Colorado Oil and Gas Association's West Slope chapter. As Executive Director, Mr. Ludlam is responsible for promoting and enhancing oil and natural gas production in the Piceance Basin. In this role, he represents the member companies throughout Western Colorado who operate in or provide services to natural gas and oil production in Piceance Basin.

Prior to his current position, he worked as a public lands consultant in the energy and tourism sectors. Mr. Ludlam is a graduate of Mesa State College and resides here in Grand Junction.

It is a pleasure to have you with us today here. Please proceed.

STATEMENT OF DAVID LUDLAM

Mr. LUDLAM. Thank you, Chairman Tipton and Ranking Member Critz, for this opportunity to testify before you in the 3rd Congressional District.

Congressman Critz, with 10 percent unemployment, I fear you are not the only one who is going to be eating wiener schnitzel here if we don't get these burdensome regulations fixed and get our people here back to work. So thank you for coming to Grand Junction.

Earlier this month the President of the United States submitted to you all a jobs plan for America.

One of the things that really stood out for our organization was that no mention was made, and no meaningful policy was proposed, to allow America's energy sector to get busy doing what we do best, and that's making energy and creating jobs.

Our organization can deliver you a much more practical jobs plan right now. It is simple. Appointed Federal agency heads in Washington should remove and reverse roadblocks to energy development in Western Colorado and throughout the West and stop bridling their hard-working field offices with implementing these roadblocks. That is a simple plan, and it can deliver thousands of jobs, it can deliver billions in revenue and help reduce the nation's trade imbalance, all the while getting our community here back to work.

Colorado's Governor John Hickenlooper just engaged in a statewide economic development planning process, and unlike the White House's top-down jobs plan, the Governor's plan called for a county by county, bottom-up planning process. This refreshing project asked Colorado and its local communities a very simple question: How can Colorado get out of the way of job creation?

If only the Secretary of the Interior could take a cue from the Governor and ask the same question.

Northwest Colorado responded to the Governor's bottom-up process and our greatest need was made clear. The counties of Northwest Colorado asked the state to help pressure the Federal agencies to loosen their stranglehold on the expansion and approval of domestic energy jobs, and I have a feeling that your committee wants to help do the same thing.

As a business sector, we have always pointed out that regulating for regulation's sake kills jobs, and there are some who would always claim that such positions are merely industry fear-mongering or posturing. But the Obama Administration's September withdrawal of EPA's ozone regulations is an affirmation of our point, and it is also a recognition by this administration that wrong regulations at the wrong time can and do prevent the creation of jobs.

I have also submitted for the congressional record another document that liked the outcome of Governor Hickenlooper's bottom-up plan that provides a litany of examples where Federal regulations prohibit jobs and create uncertainty. This document is the Blueprint for Western Energy Prosperity. It was developed by the Western Energy Alliance. Released in July, the blueprint clearly describes the roadblocks to energy job creation in the West, and it proposes a way forward to remove them. By implementing their policy directives, the Alliance believes that America could create over half-a-million energy jobs by 2020.

Stepping back for a moment, I imagine that part of the reason you are in Grand Junction today is because we are quite literally in the middle of the largest energy reserve in the world. Just to the north are the nation's largest oil shale deposit. To the south and west, as has been noted, are the nation's best reserves of uranium and vanadium. Across the way in Delta County, one of the nation's cleanest coal mines. According to data from NREL, Western Colo-

rado has immense potential for geothermal and solar energy applications.

But most important to our organization are the natural gas and oil deposits that exist in every direction from where we sit today, a resource that, as I mentioned, continues to reveal itself as an increasingly important catalyst for job creation.

Mr. Chairman, if your committee is looking for a poster child of regulation and uncertainty standing in the way of job creation, then I urge you to look no further than Northwest Colorado. In Moffat County, the Department of Interior derailed a local, bottom-up land use plan for the energy-rich Vermillion Basin. It took seven years and a broad array of stakeholders in Moffat County to create the compromise. It took 24 hours and an interestingly timed press release to reverse it.

According to the county and state projections, this decision alone eliminated the potential for $87 million in Federal revenues and hundreds, if not thousands, of local jobs in one of the most economically challenged regions of our state.

In Garfield County, the Department of Interior has failed to approve the most balanced, studied, and debated energy compromise ever contemplated in Colorado, and likely the nation. This project is within the former Naval Oil Shale Reserve and is parochially known as the Roan Plateau Compromise. This shovel-ready project would result, by the agency's own analysis, in up to $1.3 billion in Federal revenue and would create thousands of local jobs.

Rio Blanco County contains the richest oil shale reserves, and as you know, the devastating uncertainty created by the agency resulted in its own congressional field hearing last month.

And in Mesa County and countless counties throughout the Rockies, a recent Secretarial order, a top-down initiative, would have created a de facto wilderness dubbed "Wildlands" in many areas of our region that have natural gas underlying the surface.

More generally and sadly, there are times throughout Western Colorado and, indeed, in the Rockies when even the most basic environmental review can take years to complete, if not decades. And policies aside, just the mere rhetoric from the Department of the Interior alone has often worked at cross-purposes for job creation.

Recently, the Department of the Interior sent out a press release publically criticizing the industry for not developing existing Federal leases. Industry trade groups like ours were quick to note that it is the agency's own policies and permitting schedules that limit lease and project development, not the lack of will from the companies who risk their own capital to invest in them.

But after the press release, the damage was done and the message was quite clear. Federal leasing for minerals would and has come to an intentional standstill.

In fact, each lease sale in Colorado since the new reform act was instituted has been protested. Look no further than Colorado's last three lease sales to understand our concern.

In March of 2011, two parcels were nominated. Both were postponed and one was deferred and then removed from consideration.

In May 2011, 12 parcels were nominated. Of these 12, 10 were deferred, all were protested.

In August 2011, five parcels nominated, four deferred.

And for the upcoming November 2011 lease sale, all of the parcels will be protested, as reported by the Grand Junction Daily Sentinel.

This spells bad news for future long-term planning and investment for our member companies, who need certainty and who need the availability of Federal acres to invest in our public lands and create jobs.

In another area of unpredictable Federal policy, there is potential to hamper job creation by limiting the use of one of the nation's most important technological advancements in a generation, hydraulic well stimulation or hydraulic fracturing. Hydraulic fracturing is used in the development of 90 percent of natural gas wells today in the United States, and any regulation that reduces or prohibits the use of hydraulic fracturing will reduce access to the country's vast energy potential.

So as Federal agencies continue to analyze hydraulic fracturing, I would note that states have made incredible progress on hydraulic fracturing disclosure laws. Colorado, Wyoming, New Mexico, Arkansas, Texas are just examples where either a disclosure law exists or one is in the works, and anything that removes regulatory authority from the states and their experts and shifts to the Federal agencies we believe is bad for the energy sector and bad for job creation.

While typically the voice of our organization stays within the confines of the valleys, canyons and plateaus of Northwest Colorado, our hope is that your committee advances our jobs plan, our simple jobs plan throughout the halls of Congress. It is a plan that doesn't require printing money. It is a proposal that doesn't require any stimulus. In fact, it is a plan that, when implemented, would create jobs in a matter of weeks and not years, and to implement that plan, all the Federal agencies have to do is allow our member companies to invest the capital in our public lands and in our Federal mineral estate to make energy and create jobs.

Thank you for this opportunity. Your presence here today reinforces that some members of Congress are indeed committed to real job creation, a commitment that recognizes that the nation's energy sector must be at the foundation of our economic recovery.

Thank you, and I look forward to your questions.

[The statement of Mr. Ludlam follows on page 69.]

Chairman TIPTON. Thank you.

I would now like to introduce Jennifer—is that Bredt? Okay, good. The Development Manager for Renewable Energy Systems America.

Ms. Bredt has been in the renewable energy industry since 2004, and has been in her current position with RES Americas since 2008. Her development region spans Western Electric Coordinating Council's region with emphasis on Colorado and Arizona. Prior to joining RES Americas, she worked for CH2M Hill as a renewable energy project manager. She also spent over three years working as a Tribal Renewable Resource Specialist for the Assistant Secretary of Indian Affairs at the Division of Energy and Mineral Development office in Lakewood.

Ms. Bredt holds a Bachelor of Arts in Geological Sciences from the University of Colorado-Boulder, and a Master of Science in

Global Energy Management from the University of Colorado-Denver.

Thanks for being with us today.

STATEMENT OF JENNIFER BREDT

Ms. BREDT. Thank you. Chairman Tipton, Ranking Member Critz, and members of the Committee, thank you for the opportunity to testify today. My name is Jennifer Bredt, and I am a Development Manager with Renewable Energy Systems Americas, also referred to as RES Americas in my testimony.

Headquartered in Colorado, RES Americas has 250 full-time employees. We have built more than 10 percent of the operating wind farms in the U.S., and we currently have several thousand megawatts of wind and solar projects under development, which is enough to supply the electricity needs of more than two million average American homes.

The Committee has asked RES to provide a statement regarding regulations that may be negatively affecting small businesses in the wind industry. In June, RES' CEO, Susan Riley, testified before the House Natural Resources Committee at an oversight hearing on "Identifying Roadblocks to Wind and Solar Energy on Public Lands and Waters." RES' statement today will echo that testimony, with a few updates.

We encounter many obstacles to developing renewable energy projects, but the number one obstacle our industry faces is uncertainty. When the uncertainty is created by an unclear regulatory regime, the negative consequences are particularly frustrating, because they could have been avoided.

A recent example is the regulatory uncertainty created by the U.S. Fish and Wildlife Department's 2011 "Draft Eagle Conservation Plan Guidance" and "Land Based Guidelines for Wind Energy." RES' written testimony from the June hearing referenced above provides greater detail about the many problems these two documents have created for the wind industry.

Some progress has been made, particularly with regard to the Land Based Guidelines; however, several serious issues regarding the Eagle Guidance remain. Taken together, the eagle regulatory program created by the Land Based Guidelines and the Eagle Guidance affect wind projects throughout the contiguous U.S., and has placed an estimated $68 billion, with a "B", in wind energy investment at risk.

RES has already suffered financial losses due to the uncertainty created by this eagle regulatory program, and those impacts have consequences for many of the other small businesses we employ in connection with our projects. It is not uncommon for RES to utilize the services of 25 to 50 subcontractors and suppliers in the process of developing and constructing a wind or solar facility, and payments to these subcontractors and suppliers often run into the tens of millions of dollars. The types of small businesses involved span a wide range, from environmental consultants, to materials and equipment suppliers, to firms that pour the concrete foundations, build roads, build substations, and install electrical collection systems, to name just a few.

RES Americas has several wind projects that are currently being directly impacted by the uncertainty surrounding the eagle regulatory program, and we believe that the changes to the permitting process regarding eagles will ultimately impact the majority of our projects, creating delays and millions of dollars of additional costs. Many other developers report that they are in a similar situation.

The wind industry is appreciative of the commitment shown by Secretary Salazar and U.S. Fish and Wildlife Director Dan Ashe to finding a resolution to the problems identified. However, until the problems are actually resolved, our industry will continue to be negatively affected by the uncertainty they create.

In closing, I would like to emphasize RES Americas' strong support for reasonable protections for wildlife. RES Americas' business is developing and constructing renewable energy projects that benefit the environment, and our corporate ethos is grounded in sustainability. So this isn't about cutting corners or trying to sidestep reasonable regulations, but the key word is "reasonable." Both conservation and renewable energy are critical, but there has to be a balance between the two agendas.

The American people want domestically produced, clean, renewable energy, and we want to supply it to them. But our industry faces market uncertainty at the national level, and we are thwarted by regulatory uncertainty during the development process. In the immediate term, the Eagle Guidance, combined with the Land Based Guidelines, are significant obstacles to our industry.

The renewable energy industry has the power to drive investment—particularly in the manufacturing sector—and to create tens, if not hundreds, of thousands of jobs.

Chairman Tipton, Ranking Member Critz, and other members of the Committee, we thank you for your interest in, and attention to, these issues, and look forward to any assistance you may be able to provide.

[The statement of Ms. Bredt follows on page 74.]

Chairman TIPTON. Thank you.

Our next witness, Mr. James Kiger, is Environmental Manager at Oxbow Mining, LLC, Elk Creek Mine. He has 32 years of environmental management experience in Colorado underground and in the surface coal mining industry, dealing with organizational management and diverse environmental mine permitting, supervision, and reclamation issues.

His experience includes development and maintenance of environmental programs and coal leasing programs to maintain continuous compliance with the Clean Air and Water Acts, the Resource Conservation Recovery Act, the Surface Mining Control and Reclamation Act, and various other Federal, state and local laws and regulations.

He received his Bachelor of Science in Wildlife and Range Management from Humboldt State University, and his MBA from the University of Phoenix.

Welcome to the Subcommittee, Mr. Kiger.

STATEMENT OF JAMES KIGER

Mr. KIGER. Thank you, Chairman Tipton and Ranking Member Critz, for the opportunity to speak with you today.

Coal is an essential American industry that provides over 45 percent of America's electricity at reasonable prices and provides 85 percent of the U.S. geo resource on a BTU basis. Thus, it creates economic opportunity for millions of American businesses and consumers.

What I would like to do today is talk about how a number of agencies are creating head winds to the industry rather than tail winds to help it out, to provide roadblocks or at least hurdles to the development of our coal resources.

The EPA, either alone or along with other Federal agencies, have launched a series of regulatory actions that directly affect our coal mines in this nation.

Starting this year, we have had to start collecting greenhouse gas inventory information from our methane drainage that is used to ventilate the mines to provide a safe working environment for our miners. We have had to start monitoring those emissions, and we are understanding that next year we will have to file for a Title 5 Air Emissions Permit with the EPA and the State of Colorado. The outcome of that, we are not sure what will happen, but we believe eventually it will impact our ability to mine coal safely unless we put in retrofit technologies.

Water quality standards are being modified, such as the arsenic values, which are below the detection limit of .02 parts per billion. Many laboratories can't even analyze to those levels, and that level is a thousand times higher than drinking water standards. But that is an example of some of the water quality standards that the mines are going to have to start complying with in our discharge permits.

We are also looking at stringent stream conductivity standards. We are looking at more stringent selenium values in receiving stream standards.

The regulatory agencies are also pursuing more onerous process water classifications of routine surface storm water drainage from mining areas, which can impact our ability to get permits.

The Corps of Engineers, along with being influenced by the EPA, is pursuing suspension of the Nationwide Permit 21 for surface mines in the Appalachian Region. Coal mines rely on Nationwide Permit 21 and Nationwide Permit 50 for underground mines to be able to meet Clean Water Act Section 404 permitting requirements in an expedited manner.

The Office of Surface Mining has proposals that will increase their oversight over state programs. They are looking at doing inspections apart from when they used to inspect with the state regulatory agencies. They are proposing to change the 10-day notice requirements to where they could revoke state permits with a 10-day notice program.

OSM is looking at stream buffer zone requirement changes which could affect basic mining activities of fills, stream channel reconstruction, activities in ephemeral drainages, and construction of refuse piles.

The EPA by itself, as you know, is working on changing national standards. There is the Cross State Air Pollution Rule, which requires 27 states to reduce air pollution. And we understand that PJM is the eastern distributor of electrical power. They are saying

that this rule potentially could shut down 25,000 megawatts of eastern power plants.

We as an industry here in Delta County in the North Fork mines, we ship at least 10 million tons of coal to those customers. So obviously that could impact our ability to mine coal if our customer base is reduced.

EPA has revoked the 404 permit for the Spruce No. 1 mine in West Virginia arbitrarily after a number of years of environmental analysis and the mine had already opened. So those kinds of activities to revoke permits are creating a lot of uncertainty.

In my comments I have provided a table at the end, compliments of Arch Coal, that kind of displays the train wreck that can happen with all of these conflicting regulations and timelines.

The EPA has proposed a coal combustion rule where ash from power plants would be regulated, potentially regulated under Subtitle C rather than Subtitle D of RCRA.

The EPA also entered into a consent agreement with the EPA to establish greenhouse gas emissions for electric utilities. But my understanding is now they have delayed that deadline, which was originally September 30th, the end of this month.

Those kind of regulations will create uncertainties for the future of coal mining and the burning of coal.

The efficiency of the Federal land management agencies has been problematic. The Clinton Roadless Rule has caused us issues when the rule itself has been enjoined by Federal court, and it is now in the 10th Circuit Court of Appeals, but we are still getting delays with the U.S. Forest Service on normal, routine permitting matters in IRAs.

Nuisance lawsuits by the environmental community has delayed permit approvals. The representative from the BLM talked about a lawsuit that one of the mines is having to fight, and that is our mine. We have a small LVA lease application for merely 4 million tons of coal for one year of longwall mining, and it has been appealed by the LBA, and we are in the middle of that litigation.

We believe that nuisance lawsuits and appeals by the environmental community need to be dealt with, and I think part of that is the Equal Access to Justice Act which creates the ability of many of these large attorney firms to fight these issues and get their lawsuits paid for by the Federal Government.

Chairman TIPTON. Mr. Kiger, if I could, I apologize. So we can stay kind of in some of our time commitments here, if we could have you wrap up. We have got our little lighting system there.

Mr. KIGER. Okay. Thank you.

That really takes care of my comments, and I do have my written comments that you could review.

[The statement of Mr. Kiger follows on page 76.]

Chairman TIPTON. Thank you so much.

Rounding out our second panel is Mr. Richard Welle, General Manager of White River Electric Association, located in Meeker, Colorado.

WREA is a rural distribution cooperative with 33 full-time employees. He began his career at WREA in 1973, moving up through the ranks from journeyman lineman to operations manager, and in 2001 began his tenure as general manager.

Mr. Welle has guided the cooperative from a total asset value of $16.2 million in 2001 to over $58 million in total assets in 2011, and over the past 10 years annual electric sales at WREA have grown from 138,243 megawatt hours to 977,862 megawatt hours.

Mr. Welle, thank you for testifying for the Subcommittee today.

STATEMENT OF DAN WELLE

Mr. WELLE. Thank you. Chairman Tipton and Ranking Member Critz, thank you for the opportunity to testify today.

It is crucial for the U.S. House of Representatives and other interested parties to fully appreciate how government regulations affect the day to day lives of all Americans, and specifically White River Electric consumers. With that said, the answer to your question is yes, excessive energy regulation and policies limit energy independence, kill jobs and increase prices for consumers.

The White River Electric service territory is about the size of the state of Delaware, with 935 miles of line, serving approximately 2,500 members and about 3,248 electric meters. These numbers result in an average of 3.46 consumers per mile. The natural resource diversity in this region includes open spaces, abundant fish and wildlife populations, lush forestry, various mineral deposits accompanied by agricultural, coal, and natural gas production. We live and electrically serve the energy-rich United States in our territory at White River Electric.

Our electric load profile reflects this type of diversity with electric service to generational cattle and sheep ranches, wheat farms, coalmines, oil and gas producers, and Meeker's historical residential base.

White River Electric was formed in 1945 in response to a national directive to electrify the rural west. The Federal Government and the founding cooperative members believed that reasonable and affordable access to safe and reliable electricity was necessary for economic and social sustainability and prosperity.

The mission of White River Electric is to work to provide its member consumers with safe, reliable, and responsible electric energy and other services at the most reasonable cost possible, while remaining committed to customer and community service.

Recently, in a customer satisfaction survey conducted in our service territory, our members indicated a satisfaction rate of 97 percent with White River Electric as an electric utility. We are very proud of that mark. They also indicated implicitly that they care about the environment and they wish to see innovation in clean coal technology and renewable energy sources, but they simply cannot afford to see their electric rates increase.

The mandate for our leaders should not be how to regulate an industry so that it kills the industry and punishes the consumers. It should be how do our leaders create long-term energy policy and market stability so that the resources can be applied to energy innovation and job creation.

I am here today to give voice to our membership and our mission in hopes that Congress hears our plea for balanced, reasonable regulation that improves and incentivizes the overall electric utility industry. Regulation that kills jobs, the economy, and jeopardizes the

societal and economic prosperity that is at the historical heart of this industry is unacceptable.

It is estimated that proposed EPA regulations will result in the closure of coal-fired power plants across the country, with an estimated capacity of 30 to 70 gigawatts. That is 10 to 22 percent of the total generation capacity available in the U.S. today. Overreaching regulation that abandons scientific and common sense will be a direct threat to Northwest Colorado's economic stability and sustainability.

In the past 10 years, White River Electric's annual sales have grown, as you had indicated earlier, to almost 10-fold of what we served in 2001. Response to increases in electric demand associated with natural resource extraction and processing in the Piceance Basin resulted in the construction of miles of new transmission lines and seven substations for enhanced service and reliability. Rising to these challenges and opportunities shows how a small company of 34 employees can surpass expectations through hard work and a can-do attitude.

During my 10 years as general manager, White River Electric has passed on seven wholesale power rate increases to its membership. Wholesale rate increases since 1998 represent a 60 percent increase in the total cost of a residential kilowatt hour. These increases impact every family's monthly bottom line.

One general manager in the State of Colorado reports as much as 20 percent of their retail rate is allocated toward regulatory compliance.

Today, I hope I will leave you with the commonsense philosophy of "think before you vote." While the lofty goals for regulation may be public interest, public safety and the environment, every legislator should be challenged to ensure that each vote for further regulation is necessary based on common sense, and allows for industry innovation and excellence without punishing the end consumer and the economy.

This balancing act is not easy. Our forefathers believed that electricity was essential for economic and societal stability and prosperity. We have the obligation to take that light bulb into the future.

Thank you for your time today.

[The statement of Mr. Welle follows on page 87.]

Chairman TIPTON. Thank you, sir.

Appreciate all of you taking the time out of your day to be able to come in and testify.

I'll start off with the questioning, and I guess it would be for Mr. White first, out of Montrose. Again, thanks for being here.

Much of the land obviously in Montrose County, as we see throughout the West Slope of Colorado, I think on average we touch more of it, we can say with pretty good confidence that 70 percent of our lands are either Federal, state, or tribal lands on the Western Slope of Colorado. When we are talking about government-owned land, Federal Government land, much of this land is obviously unavailable for direct development by local communities, so that means that very few tax dollars are generated to that local base. We are not able to count on payments coming in on a regular basis as well.

So how important are the shared royalties that are provided throughout multiple energy sources? How important are those royalties for Montrose County?

Mr. WHITE. Well, they certainly help defray the costs. When you, again as we discussed, when you have 70 percent of your land mass that is still required by the county to maintain roads and other infrastructure, culverts and ditches and so on and so forth, it has a distinct impact from a revenue standpoint because the roads are still used by the public who access Federal lands, whether they are natural forest or BLM. The impact is also felt in some of the other districts, such as fire districts. They have to provide service. They have to use our roads to get there, and we don't have the revenue coming in from these other sources, whether it is the Federal Government or the royalties that are generated by mining activity that would take place on these lands.

Chairman TIPTON. And I wanted to follow up just a little bit, if we can, because you were going through the Pinon Ridge Mill Energy Fuels.

Mr. WHITE. Right.

Chairman TIPTON. And I just want to run through that again just real quickly to make sure I understand it correctly. The county, you approved it.

Mr. WHITE. We did.

Chairman TIPTON. You moved that forward. Then the Colorado Department of Public Health and Environment, they approved it.

Mr. WHITE. That's correct.

Chairman TIPTON. And now it is being stopped by——

Mr. WHITE. EPA.

Chairman TIPTON [continuing]. By the EPA.

Mr. WHITE. Correct. The CDPHE, as I mentioned, they have agreements with the Department of Energy and the Nuclear Regulatory Commission to, scientifically speaking, review all of the data, make sure that it complies with all of those agencies' requirements.

Chairman TIPTON. Do you feel—you are a commissioner. You live there. I know you. You care about the people that live there. The State of Colorado, are they responsible? Can we trust you to really care about our communities?

Mr. WHITE. I would hope so. I believe so. The State of Colorado certainly—as a former representative yourself, you understand what goes into the process and how agencies are structured, how they are regulated, and there are certainly innumerable laws on the books in the State of Colorado to protect the health and welfare of the citizens of this state, and I don't believe that anything that has been done so far would compromise the integrity of that process.

Chairman TIPTON. Just kind of curious. Do you have a general idea of—I don't want to put you on the spot—what the unemployment rate is right now in Montrose County?

Mr. WHITE. Well, it has certainly fluctuated. Right now it is just below 10 percent, but if you factor in the unemployable or the chronically unemployed, people that just quit looking for work, our best estimates are that 13 or 14 percent is a more accurate figure of the unemployment level.

Chairman TIPTON. So with comprehensive due diligence, concern for the community, you and the Colorado Department of Health tried to facilitate an opportunity to be able to create 90 jobs, not to mention when we are talking about BrightLeaf Technologies, 25 employees that they deal with, whose primary customer, it is my understanding, their contract is with Pinon Ridge Mill.

Mr. WHITE. Right.

Chairman TIPTON. What is that, 115 jobs off the top. Is that important to Montrose County?

Mr. WHITE. Absolutely. Given the unemployment rate, given our population base, given the historical nature of the county with mining and mineral extraction, everything we have in this world, the monitor you are looking at, the desk you are sitting at, the dais I should say, everything comes from the earth, and we certainly have been and want to be good stewards of those resources.

But at the same time, where are we going to be as a society and locally? We can't—our Health and Human Services Department is at capacity relative to the number of people that have applied for food stamps and assistance. Where does it stop?

We have to bring our regulations into line, stop, put a moratorium on new regulations. As we said earlier, just when everybody is in compliance, here come some new regulations and everybody is out of compliance.

Chairman TIPTON. Moving goal posts.

I just wanted to make a comment when you were talking about the timber mill. I know at our office, we have talked with the BLM, the Forest Service on the importance of the mill not only for jobs but for forest health, public safety, water quality, in the event that we were to have a massive fire, to be able to get in and be able to deal with that. So you brought up a very important issue as well, and I respect the challenges that you are certainly facing in Montrose. So thank you for being here.

Mr. WHITE. Thank you.

Chairman TIPTON. Mr. Ludlam, I would like to ask you. We have a lot of critics of natural gas drilling, and frequently the claim seems to be that the industry is essentially unregulated and that people don't care. I have actually gone out and toured some of the facilities, and I am seeing people that live here, work here, eat here, drink the water, breathe the air, they want to be able to do it right.

I was just wondering, could you just perhaps give myself and Congressman Critz just a rundown of the Federal and state environmental laws and agencies that regulate the companies that you represent?

Mr. LUDLAM. I will.

Chairman TIPTON. A quick rundown?

Mr. LUDLAM. Chairman Tipton, I think I also would point out that very few sectors in the United States have come as far, as fast, as the natural gas and oil sectors have in terms of using technology to reduce environmental impacts and come up with new best management practices to reduce those impacts.

As Daniel Yergen, the journalist and author of "The Prize: A History of the Oil and Gas Industry" pointed out, we do need strong regulation, and our industry agrees with that. We have to have a

strong regulatory authority for structure, continuity of development, and to protect the public interest.

But there are a tremendous amount of overlapping regulations that we deal with internationally, Federally, state and local, and even at the municipal level that constantly challenge.

To talk about some of those regulations, the heart of your question, I think you would need a longer hearing. But I can just simply say that the regulatory authorities that we deal with at any given time would be the Forest Service, the BLM, the U.S. Fish and Wildlife, Army Corps of Engineers, Colorado Department of Public Health and Environment, county governments with their land use code, and I could go on and on and on.

But I think the point to your question is that we are a heavily regulated industry, and we should be. But regulations have to have a measureable public health benefit, or otherwise they are just regulations for regulations sake.

Chairman TIPTON. Just a quick follow-up. It takes a lot of money to be able to develop some of these resources. Does an ever-changing regulatory environment impede the ability, increase costs ultimately to the consumers in terms of the products that we buy at the gas pump?

Mr. LUDLAM. Perhaps more than any other factor, uncertainty prohibits investment, more so than regulations that are difficult to comply with, I think in some cases more so than price, because both of those factors you can account for. Uncertainty is the number one challenge we face in Western Colorado, and I believe it is the number one challenge we face nationally within our sector.

Chairman TIPTON. Ms. Bredt was talking about that as well in regards to hers.

Just one more question, if I may. You know, there is a lot of talk particularly in Washington, and it is my sense, Republican and Democrat, it makes no difference, we want to be able to get America back to work, and part of the process, the paths that we are going to go down in order to be able to get Americans back to work right now is simply that important. But a lot of talk recently was around shovel-ready projects.

When we are seeing here an opportunity to be able to develop American resources on American soil, to be able to create American jobs and to be able to get our people back to work, and particularly here on the West Slope of Colorado and in our state, how many jobs do you believe could be created if the Department of Interior stopped throwing up regulatory barriers to be able to develop jobs right now and get people back to work?

Mr. LUDLAM. Chairman Tipton, I can state with confidence the examples that I gave you earlier in my testimony, that I believe there would be thousands just right here in our region. And if you extrapolate that to multiple basins in multiple states, which the Western Energy Alliance has done in the blueprint that I submitted for the record, I believe that, per their recommendation, we could get up into the half-million energy jobs by, I think—don't quote me on this, but if I look at my testimony I think it was by 2020.

Chairman TIPTON. Great. And I traveled this area so much. I have walked Main Street in Grand Junction and Craig, and when

we are seeing businesses close up, it is not just the boots out in the field but the collateral jobs that are created as well that now are suffering that we could reinvigorate as well. So thank you for that.

Ms. Bredt, could you go into a little more detail for us on how small businesses, independent contractors are used in the development of wind energy, and how some of the policy issues that we are discussing today might impact some of those businesses?

Ms. BREDT. Absolutely. I will start with the second part of your question first. The bottom line is the uncertainty created by the eagle regulatory program is jeopardizing an estimated $68 billion in wind energy development, and that is a lot of work for small businesses and independent contractors that won't be created if those projects are not being created and built.

Another sector I did not mention in my testimony is the supply chain. A single wind turbine contains some 8,000 parts, and many of these are manufactured by small businesses across the country. So the negative consequences for job creation and economic development are significant.

In terms of specific examples in the development stage, qualified small businesses and independent contractors are used where available to perform wildlife, cultural, socioeconomic, and other development-related studies. During construction, RES has a habit or a process of holding job fairs in the communities in which we work to be able to use local content whenever possible.

An example right here in Colorado which we are very proud of is our recently completed 250-megawatt Cedar Point wind farm which is located southeast of Denver, near Limon. This is a $535 million project, and it created 365 construction jobs. More than 230 vendors, including more than 30 local and regional vendors, were used to complete this project, and many of these are small businesses and independent contractors. An estimated $35 million has been directly spent in Colorado communities in relation to the Cedar Point wind farm, and that's just one example of one wind farm in Limon, Colorado.

Chairman TIPTON. Great. Thanks.

I would just like to get your opinion, if I may. The U.S. Fish and Wildlife Agency drafted a siting guidance, an eagle guidance. Do they create overlapping layers of regulation, in your opinion?

Ms. BREDT. They do to a certain extent. We have to do—similar to oil and gas, we have local permitting, state permitting, and Federal. So depending on who wants to defer to who, we could have overlap and kind of contradicting regulations or guidance.

Chairman TIPTON. I would like to open that maybe, if I may, to everybody, if you have an example of that, because I know in testimony before our Committee in Washington on natural resources as well, one of the issues which often comes up is you have one regulatory body with a set of regs that may be in conflict or overlapping, and if it is overlapping when you are trying to get an answer, you can never get an answer because they defer to the other party, and it goes back and forth and there is never a solution, never an answer.

Would any of the rest of you like to comment, or do you have an example of that?

Mr. KIGER. In any of our coal leasing activities, we will have to get input from Federal agencies like BLM, and oftentimes they have to get information from Fish and Wildlife Service on species or water use, those kinds of things. So one agency may delay another agency, which will then end up delaying state permitting and those kinds of things. So, yes, it can happen.

Chairman TIPTON. Has it been your experience when that happens—Congressman Critz and I were talking about you have a 30-day requirement to be able to get a permit once it is in process, and that is extended to 206 days. A little different industry, obviously, but have you seen, because of those overlapping regulations, that further extending your ability to be able to get a project going and moving?

Mr. KIGER. The way it works with the state agencies when we are permitting is that they have a time limit. But what they will do is ask us to extend that time limit so that they can get proper input from the agencies. So this can go on with multiple extensions. The option is they deny your permit for lack of information. So you have two choices, take it or leave it.

Chairman TIPTON. As long as you have your microphone on, I did have another question there. According to the Americans for Clean Coal Electricity, coal energy companies are expected to invest $125 billion through 2015 to comply with current air rules. That is investment that is coming out to comply. Do you believe that further regulation will doom coal as an energy resource?

Mr. KIGER. Well, it will substantially reduce its ability to burn coal. The heartland is going to have to make an economic decision as to whether or not they can afford to retrofit and pass those costs on to their customers, or the option may be fuel switching. So they are going to have to make those decisions with all the power stations.

Chairman TIPTON. I would like to follow up on that retrofit or shut down. Are we in a position in this country right now? Winter is coming. We are going to have to turn up the heat, and we want the lights on. If we start having coal generation units that are simply not going to be cost effective to be able to retrofit, we are going to be able to shut this down, are we in a position right now to be able to fill that energy void that the American consumer frankly needs? And correct me if I am in error, but I believe that your per kilowatt hour cost is among, if not the most affordable energy source that we currently have.

Mr. KIGER. Right. I think you are correct, that the cost per kilowatt hour for coal at our plants is the cheapest in the nation. I can't speak for all the power stations across the U.S., and particularly the Eastern U.S., but my understanding is that many of those grids are at their limit as far as electrical production, and if they have to start shutting down their power plants, that is going to create availability problems for consistent electrical energy.

Chairman TIPTON. We have some of the cleanest coal in the world, don't we, right here in Colorado?

Mr. KIGER. Yes. We have low sulfur, super-compliant coal in Colorado, less than 1.2 pounds of SO_2 per million BTUs, and it is also very low in mercury, and the coal in the North Fork Valley is over 12,000 BTUs, and I have heard it called the rocket fuel of coal.

And so, yes, we have some of the best coal in the United States, and that is why it is in such high demand back East. They can use it as a blending fuel to meet Clean Air Act standards. But particularly like the MACT rule, it will require maximum achievable control technology. So my understanding is that will eliminate the ability to fuels blend. Rather than a fuels blend with low-sulfur Western coal and low-mercury Western coal, they will be required to absolutely place expensive controls on their power plants, which makes that decision non-economic.

Chairman TIPTON. I am consistently concerned because when I look at senior citizens on fixed incomes, young families trying to provide for their families right now, and the energy costs, do you think it would be fair to say, when we are talking about some increased energy costs, that we are really seeing taxation via regulation? It certainly gives me a lot of concern in terms of driving up costs for the ultimate consumer. Right now when I hear particularly some in Washington seem intent on just eliminating coal as an energy fuels source at all.

Mr. KIGER. Well, there is no free lunch, and any time they have to retrofit or spend capital to do what they need to do to meet the new regulations, they have to pass those costs on, and it is the ultimate consumer that turns on their light switch that is going to pay the freight.

Chairman TIPTON. You commented in your written testimony that a member of your organization lost eight years on a ten-year lease just trying to comply with preliminary environmental review. Is there any recourse for companies when you lose that much time?

Mr. KIGER. Well, there isn't. I mean, our particular alliance——

Chairman TIPTON. No extensions? Nothing?

Mr. KIGER. No. With our coal resource the way it is, we can mine until about 2017, and then we are just done, and some of the coal resources we have tried to permit are resources for the end of the mine life. So rather than shutting down the mine in 2018 or 2017, we may have to shut it down sooner. That is your option.

Chairman TIPTON. Well, that gives us some concern. You hear concern right now about rolling blackouts across the country given the grid and the importance that coal plays as a vital clean energy source that we can actually be able to use in this country. So I thank you for your comments.

Mr. Welle, from what sources do you get electricity?

Mr. WELLE. We are a member of Tristate Generation and Transmission here in Colorado. We are one of the 43 member systems, and primarily Tristate is a coal-based utility for its base load generation. I would say this year, probably 70 to 80 percent of the electricity transmitted and purchased from Tristate was coal, probably 25 percent was hydro. There are some renewables in that mix.

This was a big hydro year. Most of Western, Northwestern Colorado at least provided a lot of snow melt and springtime flows into the hydrology in that region. So those WAPA allocations lie with Tristate, so this year was a pretty big hydro year. But in general, 80 percent or greater would come from coal.

Chairman TIPTON. I think that is important. You may not be aware of it. There are some who do not count hydroelectric power as a clean, renewable energy source. In fact, legislation that I just

introduced hopefully will be able to help along that on a variety of different levels, so that is interesting to know.

Some have estimated that the EPA's greenhouse gas regulations would substantially increase the cost of electricity from coal-fired and natural gas generators. What kind of an impact would this have on the rural coops?

Mr. WELLE. As I indicated earlier, we have sustained about a 60 percent increase in wholesale power costs in the last decade. We are a non-profit, cost-based utility. So most of our costs, especially in the last decade, have come from power supply. So a lot of the costs that are being driven at the power supply is the uncertainty of regulatory process and other items.

Chairman TIPTON. So when you have that 60 percent increase, you are required, you have to pass that on.

Mr. WELLE. Yes, we do. We have an all-power requirements contract with Tristate. Obviously, we do have some influence with Tristate. We have a member of our board sits on their board, but it is cost-based as well. So that is a pass-through type rate increase that directly affects end consumers.

Chairman TIPTON. So a lot of the regulations, all of the regulatory costs that we are seeing right now are being passed on to the consumer, who is struggling to be able to pay their bills. We are increasing their costs right now, and we have an affordable energy resource.

Mr. WELLE. That is correct.

Chairman TIPTON. That is correct. Great.

In terms of renewable energy sources like wind and solar energy, how forgiving is the grid to get these sources of energy to consumers?

Mr. WELLE. I think as Mr. Kiger interjected earlier, there are a lot of constraints in the existing transmission grid across the nation, and out here in the West, places that do test really good for solar and wind have got challenges of building transmission to get those resources to a market, and we are seeing several examples of that in Colorado today. And it doesn't have to be necessarily connected to renewable resources.

Building transmission and getting renewables to a marketplace, plus for the lack of storage technology is another big roadblock for dispatchable electric type service in lieu of base load generation. The capacity we were talking about earlier of coal plants being shut down due to regulation, those are base load facilities in most cases, and there is not much base load generation capacity being built in this country right now, no matter what flavor you would prefer.

So I think we are nearing a time where we are endangering the reliability of the transmission grid by losing coal-based resources at this time, especially due to regulatory mandates.

Chairman TIPTON. Well, thank you all very much, and I now yield to Mr. Critz for his questions.

Mr. CRITZ. Thank you, Mr. Chairman.

Mr. Welle, you had mentioned that 75 to 80 percent of the power is generated by coal-fired power plants. That means that anytime anyone uses electricity in your grid, 80 percent of that electricity is probably coming from coal at some point.

Mr. WELLE. Yes, sir.

Mr. CRITZ. Okay. Mr. Kiger, you had mentioned that you have the rocket fuel of coal. Is that all of your mines? Is that most of the mines?

Mr. KIGER. The three mines in the North Fork Valley, they produce—with a thousand miners, they produce about 13 million tons of coal a year. That's the best coal in the state. And so that would be the North Fork Valley mines.

Mr. CRITZ. Okay. And you are selling the majority of that to the East, or does it sort of spread around this area as well?

Mr. KIGER. I am told about 85 percent of it goes east to TVA or those kinds of customers back east. I don't believe this year we will have any coal sold in Colorado. It mostly goes east or southeast.

Mr. CRITZ. Okay. Now, you heard some of my earlier questions to BLM and to the EPA folks about permitting issues and the timing and all that, and I heard when you were answering a question that the Chairman asked about the reference to litigation at BLM is actually your mine. Could you expound on that just a little bit?

Mr. KIGER. We have a lease application, and the BLM went through the EA process, and they are prepared to go forward with the competitive lease sale subject to their 30-day appeal period, and an appeal was filed with the BLM. So now they are tasked with defending their decision, and most of the comments from the folks that filed the appeal, which is the environmental community, most of the comments centered around greenhouse gases and air emissions issues.

Mr. CRITZ. Okay. How about have you—let me figure out how to phrase this. I have heard testimony from other sources that the EPA is, I guess, becoming more strident in some of the things they were doing. That has taken place really over the last decade, that through the '90s it seemed like things were a little more business-like, and throughout the 2000s it is becoming tougher and tougher to get permits through the EPA. What is your impression?

Mr. KIGER. Clearly, the State of Colorado, through the Department of Health, has to do a lot of the permitting issues. Their policies can be driven certainly by EPA mandates. BLM has had comments from EPA during the EA processes, recommending they analyze for greenhouse gases, that greenhouse gases to the EPA is an issue, so BLM has had to respond to that.

Like I said in the early part of my comments, we are in the process of collecting greenhouse gas emissions information on our fans and our methane drainage wells, and we anticipate having to go through Title 5 air emission permits here in the next couple of years. The impact of that is uncertain, but clearly it is going to create some issues for us.

Mr. CRITZ. And I think that you mentioned the methane, and I am assuming—I think I'm right in that a lot of that was driven because of the Massey Mine explosion. Is that——

Mr. KIGER.That we ventilate the mine.

Mr. CRITZ. Right.

Mr. KIGER. And as we mine with longwall, the subsidence of the overburden, most of our methane is above the coal. It is not in the coal. So when we subside the overburden, a lot of that gas then is released from those layers, and they come into the mine. So what

we do is, in addition to the normal mine ventilation to exhaust the mine—we move about a million cubic feet a minute—we also drill methane drainage bore holes on the surface, which are slotted pipe, fitted with a pump that as we mine through an area we can ventilate the subsided overburden areas to get the gas up to the surface and out of the mine rather than get it out of the mine through the ventilation system.

Mr. CRITZ. Okay. Ms. Bredt, what has been the community reaction? You were talking about the half-a-billion dollar project you had to put up some turbines. What has been the community reaction while you were placing these? Are these so far out that they don't really impact residential areas or anything like that?

Ms. BREDT. The community reaction varies from place to place. I think that Limon has been extremely welcoming to wind. Our project has 250 megawatts, and there is an additional 500 megawatts proposed in that same area. So the actual turbines are being put in Lincoln County, and they are very receptive to it. They have seen the construction impacts, and they are going to start seeing tax payments, et cetera, coming in for the next 20 years of this project, and the other 500 megawatts subsequent.

There are other communities where I think it is a lack of understanding, really, of the wind industry because it is so new. So it takes—from a developer standpoint, I need to go in and educate and take what they have heard or what they have been told and say you are right on that, or here is really what is happening, here is really what we are going to do. So I think a lot of the hesitation, community hesitation can be fixed with education. It is just a simple unknowing fear that the community has.

Mr. CRITZ. Well, the reason I bring it up is that we have some—we are on the Appalachian mountain range, and there is some rich talks that are being used, and we have actually had some areas of very vehement pushback from residents who wanted that beautiful blue sky and nothing in the way. And I thought that was interesting, as we try to get more renewables online.

I have read that the goal is to get about 20 percent renewable energy, 20 percent I think of wind energy, to generate the electricity in the United States over the next maybe 15 to 20 years. What percentage does RES consider they will get? And I guess do you sell into the White River Electric grid, or where does your electricity go?

Ms. BREDT. RES Americas has developed nationwide. So what we will typically do is develop a project and sell that power to a utility. So the Cedar Point wind farm in Limon, 100 percent of that power is being bought by Xcel, Public Service Company of Colorado, and it varies from location to location. We do sell to the local utility typically. Going forward you might start to see power exported into the load areas of Vegas and Southern California.

Mr. CRITZ. Okay, all right.

Ms. BREDT. Up to this point, it has been to the local utility.

Mr. CRITZ. Okay. All right. Mr. Ludlam, how is the natural gas industry—I don't know this area very well, so with you being on the oil and gas, is the industry moving forward? I think the price per cubic foot of gas right now is fairly low. It is about $3.60 a

cubic foot, something like that. So has that had an impact on the industry here?

Mr. LUDLAM. It has indeed had an impact, not as much as regulatory uncertainty, but it has had an impact on operations throughout all of our basins.

Mr. CRITZ. Okay. All right. Well, starting with Mr. Welle and working my left to right, your right to left, do you think that the U.S. government should play a role in subsidizing different industries, and in this case the energy industry, to give certain types of industry a leg up and get them started?

Mr. WELLE. Well, I am kind of a free market guy, but I understand that there are subsidies that exist in all energy forms. I would more rather see that government subsidies be utilized to definitely push forward technology and innovation. I think we are running into mandates or using some energy sources that will not sustain themselves in a free marketplace, and I think that is probably a bad signal to be sending to the American public.

I know there are subsidies in coal, there are subsidies in other forms. It might be the time to start over and say no subsidies for any energy source and let them be free market based.

But I would like to see significant money put forth for, like I indicated earlier, storage technologies for renewables that would make them dispatchable, would make them actually a base load resource instead of a variable resource, and I think that is going to be the day that renewables will really start taking a much larger role in the national electric supply.

Mr. CRITZ. Mr. Kiger.

Mr. KIGER. I am a free market kind of guy myself. A market economy should determine the winners and losers and not government. I do not believe that government should be making decisions. There is a role for government in basic research in technology to help out to move the research along through universities and those kinds of things, but then let the free market determine how best to use those technologies if they are developed and if they are competitive.

Mr. CRITZ. Ms. Bredt.

Ms. BREDT. The production tax credit, which is what the wind has primarily used, the one industry has primarily used, has really helped the industry grow. When the production tax credit is threatened, the wind industry slows down. So if we don't see the production tax credit go forward, the wind industry will—I don't want to say stand still because that scares me from a job perspective, but it will tentatively come to a halt, and that is seen in the graphs that show when the PTC is extended for multiple years or single years. There is hesitation on investment by the wind industry when they don't know the future of that production tax credit. So the tax credit has played an important role for our industry.

Mr. CRITZ. Thank you.

Mr. Ludlam.

Mr. LUDLAM. Thank you, Congressman. I think that the question speaks to a societal judgment that we are not necessarily always in the business of making. We are committed to producing clean natural gas for society to use in whatever way and manner that so-

ciety dictates is necessary and whatever way the market calls for it.

Mr. CRITZ. Okay. Mr. Commissioner.

Mr. WHITE. Well, in my world, which is probably not too different than yours, it is called stop the spending, and that is what we are being told. And so from my perspective, the free markets should reign, and let the best source win, and I think that will sort itself out, as it has historically.

One of the messages that is being sent from the administration who is subsidizing the nuclear power industry with two new plants in Georgia on one hand, on the other hand agencies of that administration are interfering in the process of the mineral extraction that is necessary for those power plants to exist, and it is an energy policy decision on top of it. So from a subsidy standpoint, until there is some rationality coming from the Federal Government and from the administration, the current administration in particular, I don't see where anything is really going to change.

You gentlemen can certainly foster some change from that standpoint, but markets will drive themselves if left alone.

Mr. CRITZ. Okay. Well, the reason I asked that is that many people have seen the T. Boone Pickens plan to get more natural gas online and talking about the government stepping in and helping, and obviously with wind and solar subsidies as well, coal is sort of the target, the elimination of coal as an energy source, which I find unusual simply because we have so much of it. If you start doing research and let's figure out how to do it better, cleaner, more efficiently, I think there is a road ahead.

And that is why I was curious, because we get a lot of—we hear a lot of white noise, people saying we want this, we want that, and we get it from all sides, and it is nice to see people in different sectors of this industry wading through it as well. It helps us make decisions.

With that, I yield back. Thank you, Mr. Chairman.

Chairman TIPTON. I thank the Congressman.

I will just follow up, I guess, with one last question. Ms. Bredt, if you could tell, do you know—and you may want to get back to us. I am not familiar with it, about the Cedar Point wind farm. Did that go through the permitting for that pretty quickly?

Ms. BREDT. That wind farm—and I am glad you asked. That wind farm is 100 percent on private land.

Chairman TIPTON. On private land.

Ms. BREDT. And we also have, in addition to the wind farm, which is 139 turbines, we have 41 miles of transmission, which you heard Mr. Welle speak about how difficult it is to permit transmission, and that is also on 100 percent private. Because of that, permitting was facilitated. Federal would take much longer.

Chairman TIPTON. Thank you. Again, I would like to thank all of you for taking the time today to give witness and testimony here.

Energy production is vital for a nation's economic and national security. The evidence presented here today will help policymakers better understand the risks and challenges faced by energy producers and how decisions in Washington will impact our communities at the local level.

I would like to especially thank my colleague, Ranking Member Critz, for making the trek out to Colorado. I look forward soon to being able to reciprocate in Pennsylvania as well. These are issues that impact us here at home, and in your home as well, that we certainly need to be visiting on and looking through a clear prism on.

I would like now to ask for unanimous consent that members will have five legislative days to submit statements and supporting materials for the record. With no objection, so ordered. And our hearing is now adjourned. Thank you.

[Whereupon, at 12:40 p.m., the Subcommittee was adjourned.]

Article published Apr 4, 2011

Mesa County's job outlook poor

The Associated Press

GRAND JUNCTION – Despite a trickling of new job orders in energy and construction, Colorado's Western Slope is coping with near-record jobless rates.

Grand Junction's unemployment rate has nearly tripled in the last two years and stands at 11.5 percent. Mesa County reports that several hundred people apply for every job posted in Grand Junction. And the county's average wage of $36,400 is nearly $9,000 less than the statewide average, The Denver Post reported Sunday.

"Now hiring" banners flapping on the sides of a restaurant, a tire store and a home-improvement center near Grand Junction's Mesa Mall give the impression that the Western Slope's largest city might be flush with jobs. But the community has been topping unemployment rates for Colorado's metropolitan areas.

Grand Junction hit a number of economic "worsts" since 2009, when a gas-and-oil-field downturn, coupled with the recession, tagged it with the highest percentage of job losses in the country – and the highest foreclosure rate in the state.

Before it declined from 11.9 percent in March, Grand Junction had the worst unemployment for any city in Colorado. Pueblo has slipped ahead by 0.1 percentage point.

A slight improvement is evidenced in job orders trickling in from the energy and construction industries and from seasonal hiring. But the "help wanted" signs have not translated to good news for those pounding the streets for jobs.

"I don't have any hope anymore that it is going to turn around," said Chester Malouf, who has been out of work for two years and has a zip-drive list of more than 250 businesses where he has applied and been turned down.

At the Mesa County WorkForce Center, job seekers flip through a free classified paper and pass 30 pages of items and services for sale before they hit a half page of "help wanted" ads.

"You just gotta keep looking," said Jackie Kerchner, also out of work for two years, as she scrolled though business listings on a job center computer center.

At Mesa State College's annual Career Fair last week, the number of employers with booths was 42 – less than half what it was several years ago. More than 200 job

seekers who filed in the door in the first hour found giveaway pens and other promotional items – but only a smattering of job openings.

"I wouldn't want to put the word out there that we have tons and tons of jobs," said Sheree Walcher with Williams Exploration and Production, one of the larger companies in the energy fields around Grand Junction. She showed a list of about 15 open positions. Most are specialized and require a college degree, and not all are in Mesa County.

Gilbert Lujan, supervisor of the Mesa County WorkForce Center, said high unemployment and low job numbers make for busy and frustrating days at the center, where 8,800 job seekers are vying for handfuls of jobs. The latest count shows 17 job orders for construction and extraction, 10 in transportation, 14 in administration and office support and 24 in health care.

Health care has been the only field to stay stable through the downturn.

Previous experience in oil and gas compounds the frustration for those laid off from $70,000 to $90,000-a-year jobs. They now face the Mesa County average annual wage.

New construction in Mesa County has dropped. Mesa State College has two large construction projects under way. Grand Junction is doing a downtown facelift. There is a scattering of new homes being built. Most subdivisions on the books are on hold.

Mesa County's 23 building permits issued this year represent a 20 percent drop from last year, also a down year for building.

"I have seen a lot of crews out trying to find work," said Cesar Picazo, who recently was installing drywall in a new home on the Redlands. That home across from a golf course was originally going to go on the market for nearly half a million dollars but now will be marketed for less than $375,000, said Scott Homes owner Randy Scott.

"I'm just trying to keep my subcontractors busy and to get through the next one to two years until things get back to steady," Scott said.

Joblessness has hit home in another way: Food banks and government food assistance programs are handing out food aid at record levels.

Some 15,597 individuals received food assistance in February, up more than 1,000 in recent months, said Karen Martsolf with the Mesa County Department of Human Services.

"We are continuing to see a high level of need in this community," Martsolf said.

http://www.durangoherald.com/article/20110404/NEWS02/704049936/0/s/Mesa-County%E2%80%99s-job-outlook-poor

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Thursday, July 14, 2011

Congressman Scott Tipton
Chairman, Subcommittee on Agriculture, Energy and Trade
House Committee on Small Business

RE: July 18 Field Hearing: "Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?"

Dear Congressman Tipton,

Thank you very much for inviting RES Americas to participate in the above-referenced hearing. Unfortunately, my schedule prevents me from attending and participating in the hearing. However, please include my comments in the official record.

Thank you.

Sincerely,

Anna Giovinetto
VP, Corporate Affairs
anna.giovinetto@res-americas.com

Statement of RES Americas
July 18 Field Hearing of the Subcommittee on Agriculture, Energy and Trade
"Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?"

Renewable Energy Systems Americas (RES) is headquartered in Colorado, and is one of the leading renewable energy companies in the United States. RES has built more than 10% of the operating wind farms in the US, and currently has approximately 10,000 megawatts of wind and solar projects under development, which equates to the amount of electricity used by approximately 2.5 million average American homes.

The Committee has asked RES to provide a statement regarding regulations that may be negatively affecting the wind industry. In June, RES' CEO testified before the House Natural Resources Committee at an Oversight Hearing on "*Identifying Roadblocks to Wind and Solar Energy on Public Lands and Waters*". RES' statement today will echo that testimony, with a few updates.

We encounter many obstacles to developing renewable energy projects, but the number one obstacle our industry faces is uncertainty. When the uncertainty is created by an unclear regulatory regime, the negative consequences are particularly frustrating, because they could have been avoided.

A recent example is the regulatory uncertainty created by the U.S. Fish & Wildlife Department's 2011 "Draft Eagle Conservation Plan Guidance" and "Land Based Guidelines for Wind Energy".

RES' written testimony from the June hearing referenced above provides greater detail about the many problems these two documents have created for the wind industry, but in summary, the regulatory program they create is unworkable for the industry, and threaten to jeopardize an estimated $68 billion in investment.

RES has already suffered financial losses due to the uncertainty created by these documents. RES has several wind projects that are currently being directly impacted by this issue, and we believe that the changes to the permitting process regarding eagles will ultimately impact the majority of our projects, creating delays and millions of dollars of additional costs. Many other developers report that they are in a similar situation.

Secretary Salazar has responded to the wind industry's concerns about the impact of these documents, and the wind industry is appreciative of the commitment shown by Secretary Salazar and US Fish & Wildlife Director Dan Ashe to finding a resolution to the problems identified. However, until the problems are actually resolved, our industry will continue to be negatively affected by the uncertainty they create.

In closing, I would like to emphasize RES' strong support for reasonable protections for wildlife. RES Americas' business is developing and constructing renewable energy projects that benefit the environment, and our corporate ethos is grounded in sustainability. So, this isn't about cutting corners or trying to sidestep reasonable regulations – but the key word is "reasonable". Both conservation and renewable energy are critical, but there has to be a balance between the two agendas.

The American people want domestically produced, clean, renewable energy, and we want to supply it to them. But our industry faces market uncertainty at the national level, and we're thwarted by regulatory uncertainty during the development process. In the immediate term, the Eagle Guidance, combined with the Land Based Guidelines, are significant obstacles to our industry.

The renewable energy industry has the power to drive investment -- particularly in the manufacturing sector -- and to create tens, if not hundreds, of thousands of jobs. Chairman Tipton and other members of the Committee, we thank you for your interest in, and attention to, these issues, and look forward to any assistance you may be able to provide.

Data for FY 1984 through FY 2010 (data last updated January 5, 2011)

Number of New Leases Issued During the Year

Geographic State	FY 1984	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Alabama	44	22	34	7	11	118	46	27	29	34	24	29		4	1		13	4	9	12	17	1	21	76	20	22	17
Alaska	753	720	219	18	3	147	5			1						132			59	1	123			81	1	6	
Arizona	78	1,136	96	45	38	29	1	27	22	13	28	4			37			24	1	3	2	20	3	59			
Arkansas	217	19	27	2	157	299	523	175	81	41	63	26	4	101	57	133	26	96	81	56	129	281	149	200	94	42	18
California	217	287	141	139	267	219	61		37	41	2	22		59	52	43	46	42	52	65	53	12	63	34	53	26	25
Colorado	901	1,126	646	1,093	1,049	901	420	425	203	276	285	323	255	277	330	229	329	613	427	260	234	272	363	464	320	83	148
Connecticut																											
Delaware																											
Florida	15	13	21	18	10	68	3	113	7		5						1			2							
Georgia	3	14	6																								
Hawaii																											
Idaho	129	162	53	14	45				2	1	3						1		3	1				4	10		
Illinois			5	1	1	3		4			19								1								
Indiana																										13	
Iowa			1																								
Kansas		10	8	139	26	44	5	5	8	16	13	7		1	6	9	5	3	4	12	6	1	1	9	4	15	9
Kentucky	4	15	28	14	2	1	3	16	7	1	5	15			3		13		2		7		3				
Louisiana	88	78	95	52	40	7	57	112	340	89	40	106	114	14	86	10	3	9	9	4	12	9	4	7	90	25	32
Maine																											
Maryland	2																										
Massachusetts																											
Michigan	87	78	144	123	60	522	110	14	69	51	2	9		35	1	31	6		4	13		2	2	12	18	42	3
Minnesota			49	12																							
Mississippi	89	190	122	94	156	136	85	199	91	120	68	168	95	115	149	40	65	32	133	54	68	74	92	215	13		26
Missouri						1	1																				
Montana	1,159	1,134	929	699	664	420	190	139	40	62	196	335	384	259	377	274	404	334	302	219	192	306	220	203	211	190	71
Nebraska		62	40	23	16	6	1		3		4		1		4	1	3	4		5			1				
Nevada	283	493	289	332	918	486	564	429	418	462	332	162	113	167	149	70	121	295	109	89	305	504	638	386	399	430	252
New Hampshire																											
New Jersey																											
New Mexico	828	1,151	1,096	480	923	886	629	616	482	399	322	291	305	491	349	256	286	241	245	231	225	278	214	207	159	212	190
New York				4						1							1										
North Carolina	55	28	4	1																							
North Dakota	119	140	177	290	101	80	46	21	102	233	85	153	85	451	152	64	55	89	79	13	154	229	135	143	53	243	37
Ohio	13	23	20	9		1	9	60	12	6	6	19	16	3	4	2	6	2	2		31	5		1		7	25
Oklahoma	145	204	151	58	81	77	68	67	32	29	32	65	173	64	57	36	22	27	22	39	29	35	94	113	63	57	23
Oregon	89	115	53	22	84	14	36	6				4	6	4	1	5	2	5	6	1			157	29	5	6	
Pennsylvania			1		1		2	9									1		2				1				
Rhode Island																											
South Carolina																											
South Dakota	62	121	167	97	55	22	33	50	25	14	3	56	83	79	11		44	53	2	2	14	28	20	25		20	
Tennessee	6	1		2			2	3																			
Texas	41	112	64	64	25	72	70	70	66	26	30	28	73	36	15	63	10	76	102	47	20	7	39	73	26	90	42
Utah	504	981	628	681	665	669	615	494	403	378	365	375	278	346	272	186	176	197	132	171	93	617	430	303	67	155	79
Vermont																											
Virginia	164	31	55	33	16	38	12	3	4			1				4	4						1		20		
Washington	87	78	28	38	38	9	3					4	1	14	2	18	33	20	10	119	134	28	80	21	2		2
West Virginia	9	43	52	26	5	3	6	1		6	6	1					20			5	9	6	10		5		
Wisconsin			34	23	8	7	2																				
Wyoming	1,402	2,892	3,526	2,596	3,769	3,047	2,944	2,380	1,507	1,740	2,221	2,325	1,389	1,662	1,990	1,469	1,204	1,123	586	598	842	797	1,244	834	783	388	309
Total	7,593	11,489	9,009	7,247	9,234	8,352	6,552	5,465	3,990	4,040	4,159	4,528	3,375	4,182	4,105	3,075	2,900	3,289	2,384	2,022	2,899	3,514	3,985	3,499	2,416	2,072	1,308

Data from Public Lands Statistics

Opening Statement of James Martin
Regional Administrator, U.S. Environmental Protection Agency Region 8

Subcommittee on Agriculture, Energy and Trade
Committee on Small Businesses
U.S. House of Representatives

Hearing on the Impact of Energy Regulations and Policies on Small Businesses, Jobs, and Consumers

September 19, 2011

Chairman Tipton and Ranking Member Critz, thank you for inviting me to testify about the effects on small businesses and communities of certain EPA regulations. I hear often from Members that their small business constituents are concerned about EPA's policies and regulations. I appreciate today's opportunity to discuss some of EPA's proposals, and to clear up some common misconceptions about these efforts.

Coal Combustion Residuals

EPA proposed last year to regulate the disposal of coal combustion residuals (CCRs) to address the risks from the disposal of such wastes in landfills and surface impoundments generated from the combustion of coal at electric utilities and independent power producers.

The Agency proposed for public comment two options for the regulation of these materials. Neither option would change the May 2000 Regulatory Determination (Bevill exclusion) for CCRs that are beneficially used. EPA continues to believe that the Bevill exclusion should remain in place for CCRs that are beneficially used in an environmentally-sound manner.

The agency is reviewing and evaluating the more than 450,000 public comments along with supporting data that we received on the proposal before deciding on the approach to take in the final rule. The target date for release of a final rule is dependent upon a full evaluation of all the information and comments EPA received on the proposal.

Mercury and Air Toxics Standards Proposal

EPA has proposed Mercury and Air Toxics Standards to control emissions of toxic air pollutants from power plants. Mercury, depending on the form and dose, may cause neurological damage, including lost IQ points in children who are exposed before birth. Mercury may also negatively impact cognitive thinking, memory, attention, language, and fine motor and visual spatial skills in children. As proposed, the Mercury and Air Toxics Standards would prevent:

- 17,000 premature deaths
- 11,000 heart attacks
- 120,000 cases of childhood asthma symptoms
- 11,000 cases of acute bronchitis among children
- 12,000 emergency room visits and hospital admissions
- 850,000 days of work missed due to illness.

Contrary to the claims of many in industry, these proposed standards are affordable and achievable within the time for compliance outlined in the proposed rule. Moreover, the investments in a cleaner energy sector required by these standards will keep people working and create jobs. EPA estimates that the proposed Mercury and Air Toxics Standards may support 31,000 job years of short-term construction work and net 9,000 long-term utility jobs.[1] Money spent on pollution controls at power plants provides high quality American jobs, for example, in manufacturing steel, cement, and other materials needed to build, install and operate pollution control equipment.

Steps to Address Greenhouse Gas Pollution

With regard to greenhouse gas emissions, the Agency is taking a common-sense, phased approach to meet our obligations under the Clean Air Act to reduce carbon pollution. Our focus now is not on small sources, but solely on the largest polluters and, for the most part, on the sectors that are responsible for the largest share of our greenhouse gas emissions.

Perhaps the most-repeated misinformation about greenhouse gas regulation and small businesses relates to greenhouse gas air permits. Contrary to the most commonly heard claims, small sources are not now covered by the permitting program. In fact, EPA adopted regulations last year that will ensure that small sources are not subject to greenhouse gas permitting requirements without changes to the regulations. Absent further rulemaking, greenhouse gas emissions trigger the obligation to get a preconstruction permit only for new construction of, or a major modification at, large facilities with the potential to emit more than 100,000 tons of greenhouse gases a year – the equivalent of burning the amount of coal it would take to fill almost 500 railroad cars.

It is worth noting that the only greenhouse gas standards EPA has issued under its existing Clean Air Act authority will result in savings – not increased costs - for small businesses and other consumers. Last year, EPA and DOT acted to issue greenhouse gas emissions and fuel efficiency standards for cars and light trucks of model years 2012 through 2016. By ensuring that

[1] Regulatory Impact Analysis for the Proposed Toxics (now MATS) Rule, U.S. EPA, March 2011.

new vehicles are more fuel efficient, the EPA/DOT standards will save American drivers money at the pump while reducing America's oil consumption by 1.8 billion barrels. We estimate that the average American purchasing one of these vehicles will have a net savings of $3,000 over the lifetime of the car or light truck. On August 9 of this year, the Agencies finalized a similar program to improve the efficiency of heavy-duty trucks and buses. The agencies estimate that the heavy-duty standards will result in oil savings over the life of vehicles built for the 2014 to 2018 model years and will result in fuel savings for vehicle owners. The savings from both of these programs apply to vehicles whether purchased by a large company or small business.

Natural Gas Extraction

While natural gas holds promise for an increased role in our energy future, EPA believes it is imperative that we access this resource in a way that protects human health and the environment. EPA has an important role to play in ensuring environmental protection and in working with federal and state government partners to manage the benefits and risks of shale gas production. We must effectively address concerns about the consequences of shale gas development using the best science and technology.

EPA is committed to using its authorities, consistent with the law and best available science, to protect communities across the nation from impacts to water quality, human health, and environment associated with natural gas production activities. We also commit to coordinating with our federal, state, and local partners as we move forward. By helping manage environmental impacts and address public concerns, natural gas production can proceed in a responsible manner, which protects public health and enhances our domestic energy options. We believe that by doing so, as a nation, together we can establish a sound framework that allows for the safe and responsible development of a significant domestic energy resource whose use brings a range of other important national security, environmental and climate benefits.

Statement of
Helen Hankins
Colorado State Director
Bureau of Land Management
Before the
House Small Business Committee
Subcommittee on Agriculture, Energy and Trade

Field Oversight Hearing
"Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?"
Grand Junction, Colorado

September 19, 2011

Introduction

Thank you for inviting the Bureau of Land Management (BLM) to testify at this field hearing of the House Small Business Subcommittee on Agriculture, Energy, and Trade. I am Helen Hankins, the BLM's Colorado State Director. The BLM manages more than 245 million acres of land and approximately 700 million acres of onshore subsurface mineral estate throughout the Nation. Included in these totals are more than eight million surface acres and 27 million acres of Federal subsurface mineral estate in Colorado. The BLM's multiple-use mission means that activities that take place on public lands are significant economic contributors to rural America – a top priority for the Administration and a topic of interest to this Subcommittee and to the many communities of Colorado.

This testimony addresses the recent efforts the BLM has undertaken in its energy development programs that benefit rural communities and small businesses both nationally and here in Colorado. Before turning to the specifics of our energy development programs, the testimony will present a brief overview of the broad, positive impact BLM-managed lands have on the national economy and on the economy of Colorado, especially in our rural communities.

Economic Impact of BLM-Managed Public Lands

On June 21, 2011, the Department of the Interior (Department) released a report on the economic impact of public land management. The benefits these lands provide to rural communities across the western United States are extraordinary. The activities that BLM permits on public lands support a work-force that is important to the economic health of local communities and the vast revenues generated from the public lands positively benefit the U.S. taxpayer.

In the western United States, resource uses such as oil and gas development, grazing, and mining remain key sources of rural jobs and income. At the same time, opportunities for outdoor recreation and benefits related to efforts to conserve natural landscapes and wildlife have gained increased economic importance in rural communities. Recreation-related goods and services such as lodging, guide services, and equipment marketed to public land visitors have become a

vital part of many rural economies. Similarly, some of the fastest growing areas in the West are near public lands that are rich in natural resource amenities and where the abundance of wildlife and open space attracts new residents. The economic benefit of these uses on communities near BLM-managed land is extremely positive. In 2010, the BLM had more than 58 million recreation visits to the lands it manages, providing an economic impact of more than $7.4 billion and nearly 59,000 jobs. In Colorado, there were more than eight million recreational visits to BLM-managed lands, supporting more than 4,800 jobs and more than $500 million of direct and indirect economic activity.

Economic Impact of Energy & Mineral Development

The economic impact of energy and mineral development on BLM-managed lands also continues to provide important benefits to the nation and its rural communities. In 2010, oil, natural gas, and coal development on all BLM-managed lands had an estimated economic impact of nearly $100 billion and more than 420,000 jobs; hardrock and non-metallic mineral development had an estimated impact of over $14 billion and over 60,000 jobs. Meanwhile, in Colorado, oil and natural gas development on public lands contributed more than 17,000 direct and indirect jobs to the State's economy and more than $4.8 billion in total economic output. Additionally, coal mining contributed more than 5,500 direct and indirect jobs in Colorado and more than $1.2 billion in total economic output.

In achieving these significant economic benefits, the BLM is working on a variety of fronts to ensure that energy development is conducted efficiently and responsibly. We are continuously working to improve our efforts to be "smart from the start" with our energy development.

Renewable Energy

President Obama, Secretary Salazar, and the Congress have stressed the critical importance of renewable energy to the future of the United States. Renewable energy is vital to our economic development and energy security. Developing renewable energy will create jobs and promote innovation in the United States while reducing the country's reliance on fossil fuels and its carbon footprint.

The BLM is working with local communities, state regulators, industry, and other Federal agencies to build a clean energy future. The BLM's groundbreaking work reflects a policy approach that focuses on environmentally responsible development of renewable energy resources on the public lands with a fair return to the American people for the use of their resources. Laws recently enacted in many western states require power companies to generate a portion of their electricity from renewable energy sources. To meet this anticipated demand, the BLM has developed Renewable Energy Coordination Offices (RECOs) across the West to process applications to develop renewable energy on the public lands more efficiently and with greater coordination with our Federal, state, local and industry partners. The Colorado RECO team consists of four full-time staff members who help process renewable energy applications in Colorado and other Western states.

The BLM also issued field guidance on wind and solar projects that streamlines the project application review and approval process; strengthens Plan of Development and due diligence requirements; and clarifies National Environmental Policy Act (NEPA) documentation requirements and expectations. These improved policies will help the BLM better manage the nation's renewable energy resources and provide greater certainty to the applicants and operators who wish to develop these important resources.

In 2010, the BLM approved the first nine large-scale solar energy projects on public lands. These projects will have an installed capacity of 3,600 megawatts, enough to power close to one million homes, and will create thousands of jobs. Also in late 2010, the Department of the Interior and the Department of Energy issued a Draft Solar Programmatic Environmental Impact Statement (Draft Solar PEIS), which will guide the BLM's management of solar energy development. Once completed, the PEIS will provide a level of environmental analysis to which future projects may tier under NEPA. This will allow project-specific environmental reviews to be expedited by focusing on a narrower range of alternatives and avoiding the need to address issues already analyzed in the PEIS. As part of this effort, the Colorado BLM proposed four Solar Energy Zones (SEZ) in the San Luis Valley which, along with other proposed Solar Energy Zones in the southwestern United States, are being evaluated to identify areas with high solar energy potential and few resource conflicts. Under the preferred alternative identified in the Draft Solar PEIS, the BLM would focus its permitting activities in these areas. The BLM also recently held its first geothermal lease sale in Colorado, and is also working on amending the San Luis Resource Management Plan to consider geothermal leasing on BLM-managed lands in the San Luis Valley.

The BLM manages 20.6 million acres of public lands with wind potential. To date, the BLM has authorized a total of 169 wind energy testing rights-of-way for meteorological towers on public lands, including testing sites in areas with wind potential in western and southern Colorado. The BLM has authorized 29 wind energy projects with a total installed wind turbine capacity of 437 MWs.

The BLM's management of wind energy projects is guided by a Programmatic Environmental Impact Statement (PEIS) published in June 2005. In conjunction with the publication of this PEIS, the BLM amended 52 land use plans, including two in Colorado, to allow the use of appropriate lands for wind energy development. The BLM uses this PEIS to analyze environmental impacts when reviewing applications to develop wind energy projects on public lands. The BLM issued a wind energy policy in 2006 to provide additional guidance on best management practices and measures to mitigate potential impacts on birds, wildlife habitat and other resource values.

Oil & Gas

Secretary Salazar has emphasized that as we move toward the new energy frontier, the development of conventional energy resources from BLM-managed public lands will continue to play a critical role in meeting the Nation's energy needs. The BLM manages the public lands under statutes that protect multiple uses and resources, and facilitates the efficient, responsible development of domestic oil and gas resources as part of the Administration's broad energy

strategy that will protect consumers and help reduce our dependence on foreign oil. Well-paying jobs are often associated with oil and gas exploration and development, and provide needed revenues and economic activity to communities. In Fiscal Year (FY) 2010, onshore Federal oil and gas royalties exceeded $2.5 billion, approximately half of which was paid directly to the states in which the development occurred.

Leasing & Production

The BLM is working diligently to fulfill its part in securing America's energy future. In addition to actively supporting the development of renewable energy resources, the BLM currently manages more than 40 million acres of onshore oil and gas leases. In FY 2010, onshore oil production from public lands increased by five million barrels from the previous FY as more than 114 million barrels of oil were produced from the BLM-managed mineral estate—the most since FY 1997. Meanwhile, the nearly three trillion cubic feet of natural gas produced from public lands made 2010 the second-most productive year of natural gas production on record. In 2010, conventional energy development from public lands produced 14.1 percent of the Nation's natural gas, and 5.7 percent of its domestically-produced oil.

In Colorado, by the end of 2010, the BLM had 4.6 million acres under lease for oil and gas development on approximately 5,600 leases. Over 2,500 of these leases, covering about 1.9 million acres, produced more than 3.8 million barrels of oil and 279 billion cubic feet of natural gas – the highest amount on record for BLM-managed leases in the state. The BLM approved over 700 applications for permits to drill in Colorado in FY 2010.

Leasing Reforms

Current lease sales are benefitting from much-needed reforms that the BLM put in place in May of 2010. Those reforms will continue to benefit future lease sales. In the decade between 1998 and 2009, the percentage of leases protested jumped from 1 percent to 49 percent. The BLM was investing vast amounts of staff time and attention in defending time-consuming and costly lawsuits, and revisiting the leasing process after receiving direction from the courts. The result of these challenges was judicial restraints on development, job loss, and diminished access to energy resources.

In our reforms of the leasing process, the BLM decided to take a front-loaded approach, offering an increased opportunity for public participation and a more thorough environmental review process and documentation. The reforms enhance the BLM's ability to identify sensitive resources, design appropriate protections, and resolve protests prior to lease sales. Using these methodologies in Wyoming, the BLM in the first quarter of FY 2011 was able to resolve many protested leases and released monies held in escrow due to the protests. In Montana, where policies established under leasing reforms are also being implemented, a recent lease sale resulted in no protested parcels.

The BLM reforms established a more orderly and transparent process for developing oil and gas resources on public lands. They focus on managing oil and gas leasing as a more predictable

endeavor, increasing certainty for stakeholders, including industry, and restoring needed balance with comprehensive up-front analysis added to the development process.

Coal

Coal is also a critical component of America's comprehensive energy portfolio, and a critical part of Colorado's economy. Currently nine coal mines on BLM-managed lands in Colorado – two surface mines and seven subsurface – encompass about 75,000 acres. Coal production from these public lands totaled approximately 24.8 million tons in 2010 – accounting for nearly 80 percent of the total coal produced in Colorado. Current Federal coal production in Colorado takes place within the BLM's Little Snake, Uncompahgre, and White River field offices. The BLM is currently processing six applications for competitive coal leases in Colorado covering nearly 20,000 acres, and seven coal lease modifications adding approximately 3,500 acres.

Oil Shale Research, Development, & Demonstration

Finally, we continue to explore the energy potential from America's abundance of oil shale. While economic and environmentally acceptable technologies to extract oil from oil shale have not yet been developed, the BLM is engaged in a research, development, and demonstration (RD&D) program that gives industry the opportunity to test potential technologies on Federal lands. The first-round RD&D solicitation resulted in the issuance of five oil shale RD&D leases in Colorado in 2006. The RD&D leases were for 160 acres, with an additional preferential right area of 4,960 acres for conversion to a 20-year commercial lease if a viable technology is developed. The second round solicitation of RD&D oil shale leases in Colorado, Utah, and Wyoming closed last year. In Colorado, the BLM received 2 applications, reviewed them for technical and financial adequacy, and is currently preparing environmental analyses of the proposed RD&D leases.

Conclusion

Consistent with the framework presented by the President's Blueprint for a Secure Energy Future, the BLM is contributing to a more secure energy future through a broad range of energy development on our public lands. We are pursuing the safe, responsible, and efficient development of these energy resources here in Colorado. Thank you for the opportunity to testify on the energy programs, policies and activities managed by the BLM. I will be pleased to answer any questions you may have.

TESTIMONY OF
David White
Montrose County Commissioner
U.S. HOUSE OF REPRESENTATIVES
Small Business Committee Subcommittee on Agriculture, Energy and Trade
Monday, September 19, 2011
10:00 a.m.
Hearing on "Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing prices for Consumers?"

Chairman Tipton and Ranking Member Critz, thank you for the opportunity to appear before you today, and I sincerely appreciate you holding this hearing. I'm David White, Montrose County Commissioner. The recent downturn in our national economy has had upsetting consequences for the local economies and citizens of Montrose County and the rest of the 3rd Congressional District. We need more private sector employment, because as we all know county, city, state and federal governments are financially strapped. **(See industry base chart below.)** As a County Commissioner, I've had the opportunity to hear from my constituents, and I've seen many of these problems firsthand.

For instance, Energy Fuels Resources has proposed building the Piñon Ridge Uranium/Vanadium processing mill in Western Montrose County (my district.) The new mill would create jobs and provide economic prosperity to an area that has been hit hard for years even before the recent economic downturn and is struggling for employment. Energy Fuels has demonstrated it can build and operate the mill in a manner that's protective of both human health and the environment. The Colorado Department of Public Health and Environment (CDPHE) conducted a comprehensive review considering short and long term impacts of the proposed mill, including radiological and non-radiological impacts to water, air, and wildlife, as well as economic, social and transportation related impacts. CDPHE approved the radioactive materials license in January of 2011. Despite these findings and permits the EPA reopened a comment period on this proposal at the behest of an organization based outside of Montrose County. This has held up the mill and caused unnecessary delays.

This is unfortunate because Energy Fuels Resources has indicated the mill would directly employ close to 90 people at annual salaries between $40,000 and $75,000. The Company also estimates that 250-300 additional jobs would be created in the trucking and mining industries, and that some miners will make as much as $90,000/year. These are very welcome numbers as the last available statistics indicate that the average wage for the Montrose County labor force is $32,734 **(See industry base chart below.)** With the expected creation of 800 plus related jobs in Western Colorado, recent analysis predicts, "The annual total economic impact from new mining, trucking, milling, and related jobs activity is expected to be in excess of $100,000,000." **(2011 MEDC Annual Meeting report)**

Additionally, local school districts, fire districts, police stations, and a host of other community services within Montrose County will see great benefit from the tax revenue associated with the mill. It must be noted that with federal lands encompass over 50% of the 3rd Congressional district and 69% of Montrose County. The removal of these lands from the local tax base poses

huge problems for infrastructure funding, including education. As a result, the county is very dependent on successful businesses for this funding.

I would like to reemphasize that the decision by the Colorado Department of Public Health and Environment confirms the findings of Montrose County regarding the Piñon Ridge mill, and reinforces the safeguards mandated by current regulations. The regulations governing nuclear power generation and its associated industries, including mining and milling, have been put into place by the Department of Energy and the Nuclear Regulatory Commission. The point I'm trying to make with this is that even when businesses are successfully able to comply with mandated regulations, additional interference from federal agencies creates unnecessary delays in the process and hampers desperately needed job creation.

This leads into my next topic, which is solar energy. On September 8, 2011, Shayle Kahn, Managing Director of the solar program at GTM Research testified before the House Natural Resources Committee that regulatory hurdles are the primary hurdles for clean energy and solar industries. In his response Mr. Kahn remarked that the process to obtain approval to site solar projects on public lands used to take two to three years. While they have cut that down to around 18 months, it is still a long bureaucratic process. Not insignificantly, the solar industry is one of the few industries in which the United States actually runs a trade surplus. Mr. Kahn noted in his testimony that, "In *U.S. Solar Energy Trade Assessment 2011*, we found that the U.S. was a net exporter of solar products by $1.9 billion in 2010. Even more notably, the U.S. ran a trade surplus with China by at least $247 million."

Locally, BrightLeaf Technologies is a Montrose County company than opened its doors in 2008. They have focused on developing cost-effective, small-scale solar electrical generation using concentrated photovoltaic, or CPV cells that have three times the efficiency of the chips found in solar flat panel systems. A recent report states, "Taken as a package, BrightLeaf believes it has developed the most efficient solar generating system in the world, and has done so with a simple design that reduces components and materials as compared to any other approach. So, it believes it will be the lowest cost and highest performance system available." **(2011 MEDC Annual Meeting report)** This report goes on to state, "The company currently employs 25 people with 20-25 more to be added by late spring when volume production commences. BrightLeaf anticipates employing 400-500 staff in Montrose by 2015." I also want to note that in the President's recent address, we heard him advocate for home-grown American manufacturing. BrightLeaf has informed me that nearly 100% of its components are produced in the U.S.

The people of Montrose County and the Montrose Economic Development Corporation are truly excited about the possibilities of BrightLeaf Technologies. Ironically however, at this time BrightLeaf has a large contract with Energy Fuels to provide solar energy generation for the Piñon Ridge mill that is being delayed by the regulatory red tape bogging down the mill. Clean solar energy will provide a critical portion of the electric power needed for the mill's processing operations. The EPA's reopening of the comment period on the Piñon Ridge Mill and delaying *that* project has thus put a significant barrier on BrightLeaf's ability to grow and is endangering its projected job creation. Between the Piñon Ridge Mill and BrightLeaf Technologies, the EPA has negatively impacted the potential creation of over 1,300 high paying jobs in a county with a workforce of just over 15,000 people.

Switching gears, I wanted to finish by touching on how current federal regulations and policies can make it extremely difficult to maintain the health of our National Forests and BLM lands. For instance, Colorado has an epidemic of insects attacking various species of trees, which has led to millions of acres of forest with high percentages of dead timber. The Intermountain Resources sawmill is the largest mill in Colorado and has been the primary processor for beetle-kill trees. In May of last year the sawmill was placed into a court ordered receivership and although the mill is operating, it remains perilously close to a permanent shut down. Federal policies, regulations and government intervention in this market have prevented the harvesting of dead and old growth timber and significantly contributed to the sawmill's inability to obtain a consistent and reliable supply of timber.

The permanent closure of this mill would have devastating consequences for Montrose, the Western Slope, and Colorado. Among the statistics listed, the company reported that it produced around 120 direct jobs for Montrose and had a $5 million average annual company payroll. "Another $10 -12 million was paid annually to independent contractors which supported another 150- 250 jobs throughout Colorado, but primarily on the Western Slope. The local bills for fuel and electricity averaged $1.4 million and supply purchases surpassed $1 million annually." **(2011 MEDC Annual Meeting report)**

With so much at stake Pat Donovan of Cordes & Company, the court appointed receiver for Intermountain Resources, LLC, determined the best possible outcome for the mill was to reopen the doors and sell the mill as an operating business. "In June he re-hired 100 workers and restarted mill operations in efforts to attract possible buyers." **(2011 MEDC Annual Meeting report)**

Pat indicated the federal government has expressed an interest in keeping the mill open and expressed the importance of the mill to the rural economy of Montrose and the Western Slope of Colorado. Last October, Harris Sherman, Under Secretary of Natural Resources and Environment at the U.S. Department of Agriculture, came to Montrose to visit the mill, meet with local officials and pledge support for keeping the mill open and preserving the jobs it represents. Unfortunately, because of arcane and rigid government policies and regulations imposed on the Forest Service, the agency has been unable to provide any meaningful support to keep the mill up and running and preserve those jobs. Bureaucracy, red tape and the hurdles imposed by these policies and regulations have been the most significant impediments to meeting the objectives of retaining the mill and the jobs it provides. Of the 4 million plus acres of bark beetle killed trees, only a fraction of those acres have been made available for logging. Rather than aggressively removing the dead timber, reducing the fuel load in the forest and mitigating fire danger, the contracting policies of the federal government have failed to treat any appreciable volume of timber. This fact defies common sense as we face a huge potential forest fire hazard, yet the sawmill can't get timber.

Just over a year ago, Colorado experienced the most costly property damage from a forest fire in the state's history when an area just west of Boulder was devastated by the Four Mile Canyon fire. This fire destroyed 169 homes and caused over $217 million of property damage on just over 6,100 acres. **(http://www.bizjournals.com/denver/stories/2010/09/20/daily10.html)**

These figures don't include the cost of fighting the fire which was in excess of $10 million or the costs of restoration which have yet to be fully expended. With over 4 million acres of dead trees from the bark beetle epidemic, just imagine the damage that could be caused and the costs incurred if a forest fire were to strike in a more densely developed resort area of the mountains.

Besides the need to aggressively log forests affected by the mountain pine beetle to avoid the larger costs of fighting wildfires, the viability of logging dead timber and treating beetle-kill forests is diminished each day that there is a delay in harvesting the dead wood. The longer the dead timber remains in the forest, the lower its viability for the production of lumber or other wood products. If the dead timber is not removed from the forest and utilized for productive purposes, it will soon become an even greater liability.

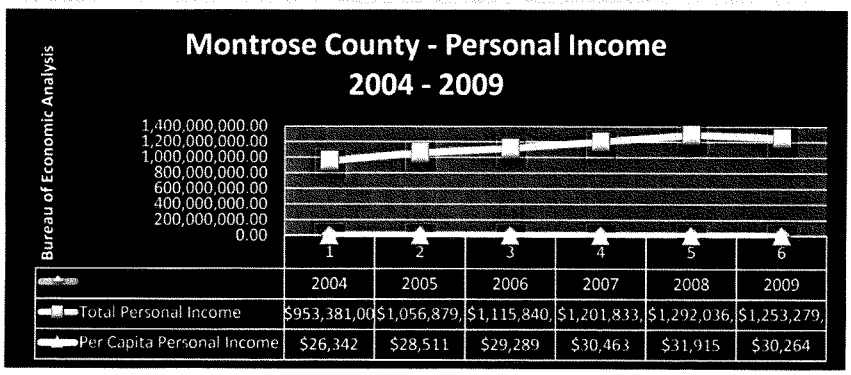
The Forest Service has made efforts to mitigate the damage caused by the bark beetle epidemic. It has achieved a small amount of remediation with funding obtained under the American Recovery and Reinvestment Act. Like many projects funded under the "Stimulus Program," the stewardship program created to utilize the $40 million appropriated to Colorado for bark beetle remediation missed the mark and actually ended up hurting the sawmill in several instances. As the sawmill was technically considered a big business, it wasn't awarded any of this funding. The stewardship contracts were awarded to the bidder offering the Forest Service the lowest price to remove the dead timber. In exchange for removing the timber, the contractor was paid an agreed upon price and given the timber to sell in the open market. Some of this timber was purchased by Colorado pellet mills that had obtained funding for timber purchases under a federal biomass grant program. Thus, the federal government ended up paying twice for the same timber – once when it paid the stewardship contractor and a second time when it funded the pellet mills' purchase of the logs. Additionally, as a result of the federal subsidies on the timber under the stewardship contracts, the stewardship contractors have been able to ship the timber by railroad to other states for processing. Lacking federal subsidies, the contractors wouldn't have been able to do this and compete with the Montrose mill.

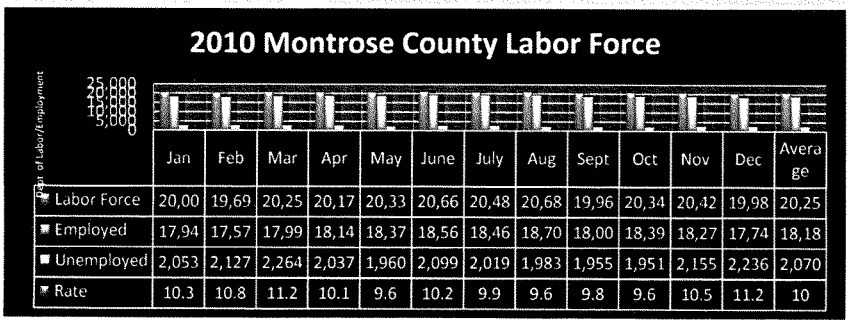
Prior to going into receivership in May 2010, the Montrose mill had been shut down and the majority of its workers had been laid off. As one of the tools to reopen the mill, keep it running and restore jobs, the receiver began purchasing timber from the stewardship contractors in June 2010. Throughout the summer of 2010, the relationship worked to the benefit of both the Montrose mill and the stewardship contractor. The mill was able to obtain a supply of logs so that it could stay in operation and the stewardship contractor had an outlet for the timber being cut on USFS lands. However, as the summer logging season turned to fall and the price of diesel fuel began to spike, the stewardship contractors began to look for other markets for their timber. To the detriment of the Montrose mill, the federal subsidy available to the stewardship contractors made other options to dispose of the timber more attractive to the stewardship contractors.

Finally, if the Montrose mill is forced to shut down due to the lack of a consistent, reliable supply of affordably priced timber, in addition to the loss of jobs and economic benefit the mill provides to the Western Slope of Colorado, the US Forest Service will lose one of its most important assets in its battle against the bark beetle and preserving forest health. The next closest mill to Montrose with the capacity to process any significant amounts of beetle kill

timber is located more than 770 miles from Montrose. The cost of transporting logs to that mill renders it unfeasible for aiding in the bark beetle fight. Neither the state of Colorado nor the US Forest Service can afford to see its last remaining large sawmill disappear.

Again, Mr. Chairman, I would like to thank you for the opportunity to address this Committee and provide some local examples of the economic damage created by burdensome federal regulations. If you, Congressman Critz, or anyone else from the committee has any further questions that aren't addressed today, please don't hesitate to contact me. I hope my testimony proves helpful, and I believe I have made a compelling case that excessive government regulations and poorly planned policies are preventing our nation from reaching vitally important energy independence, killing existing jobs and hampering new job creation, and increasing product and service prices for consumers during a time when average Americans can least afford it.





Industry Base—2008 (most recent figures available)

Industry Sector	# of Jobs	#of Establishments	Total Wages YTD	Average Annual Wage
Government	3,206	63	$120,020,846	$39,663
Retail Trade	2,324	188	$59,904,290	$25,776
Healthcare and Social Assistance	1,591	133	$48,851,286	$30,705
Construction	1,426	300	$54,424,722	$38,166
Manufacturing	1,325	71	$39,416,768	$29,749
Accommodations and Food Services	1,192	89	$17,072,209	$14,322
Professional and Technical Services	537	143	$22,075,497	$41,109
Transportation and Warehouse	523	63	$14,685,806	$28,080
Wholesale Trade	510	81	$20,782,579	$40,750
Administration and Waste Services	498	59	$11,980,432	$24,057
Other Services	410	91	$12,665,032	$30,890
Finance and Insurance	402	71	$17,190,227	$42,762
Real Estate, Rental, and Lease	326	71	$11,191,440	$34,330
Agriculture, Forestry, and Fishing	229	36	$5,783,981	$25,258
Utilities	217	8	$13,267,195	$61,139
Information	206	21	$6,598,749	$32,033
Mining	179	14	$12,453,739	$69,574
Arts, Entertainment and Recreation	178	18	$3,706,027	$20,820
Educational Services	32	4	$460,951	$14,405
Management of Companies	25	9	$3,583,151	$143,326
# of Jobs	**15,156**			
# of Establishments		**1,462**		
Total Wages			**$496,114,928**	
Average Wage--2008				**$32,734**

http://www.montroseedc.org/index.aspx?nid=83

September19th 2011

Testimony of the West Slope Colorado Oil & Gas Association

Submitted to the United States House of Representatives

Small Business Committee,

Subcommittee on Agriculture, Energy and Trade

Regarding:

Are Excessive Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?

Thank you, Chairman Tipton, and Ranking Member Critz for this rare opportunity to testify before you here in the 3rd Congressional District.

Earlier this month the President of the United States presented a jobs plan for America.

What stood out to our organization was the fact that no mention was made, and no meaningful policy was proposed, to **allow America's energy sector to** get busy creating energy jobs and the much needed federal tax revenues that would result.

Next time please ask the **President's policy advisors** to give us a call and we can give the administration a more practical jobs plan for America that is quite simple: remove regulatory roadblocks to "shovel ready" energy projects in Western Colorado. We believe this would be a great first step to creating high paying jobs, generating much needed federal revenues and reducing the notorious and burdensome U.S. trade imbalance.

Unlike **Washington's top** down jobs proposal, Colorado's Governor John Hickenlooper recently engaged in a statewide economic development planning process. This refreshing project asked a simple question: how can Colorado establish a regulatory framework that encourages job creation, and even more simply put, how can the state get out of the way of job creation?

The result of that process was a regional economic development plan, that among many things, encouraged the Federal Government and the Department of Interior to move forward on responsible energy projects. Projects, that even by their own agency estimates, would create thousands of high paying energy jobs. I have submitted the regional economic development plan for your review along with my written testimony.

As a business sector, we have always pointed out that regulating, for regulations' sake, kills jobs. Some believe this claim is simply industry fear mongering or posturing. But the Obama administrations' September 2nd withdrawal of new EPA ozone regulations is an affirmation and substantiation of our point, and is also recognition that wrong regulations, at the wrong time, can and do prevent the creation of jobs and economic prosperity.

I have also submitted for the record another document that, like Governor Hickenlooper's bottom up economic development plan, provides a litany of examples whereby federal regulations prohibit job creation. The *Blueprint for Western Energy Prosperity,* developed by the Western Energy Alliance, was released Monday, July 11th,and its proposals for removing energy-job-roadblocks not only answers the title question of this morning's hearing, but may serve as a catalyst for Congressional action to right the wrong headed policies that stand in the way of our country's economic prosperity.

Stepping back for a moment, I imagine part of the reason for your presence in Grand Junction this morning is the simple fact that Northwest Colorado is likely the largest energy reserve in the World.

To the north lies the nation's largest oil deposits contained in shale formations.

To the south and west are some of the world's best deposits of uranium, molybdenum and vanadium.

Throughout Northwest Colorado is some of the nation's cleanest coal, as well as the best geothermal potential in the state.

And according to data from the National Renewable Energy Lab, Western Colorado has immense potential for solar energy applications.

But most important to our organization are the natural gas and oil deposits that exist in every direction from where we sit –a resource that, as I mentioned, continues to reveal itself as an increasingly important national catalyst for job creation.

Unfortunately, realizing the full energy potential of Northwest Colorado remains elusive, unpredictable and in some cases, uncertain.

This is in part, as I mentioned before, due to inconsistent federal policy where rhetoric about "increasing domestic energy production" is negated by policies and proposals that make such a trend impossible.

Mr. Chairman, if your committee is looking for a poster-child of regulation and federal uncertainty standing in the way of job creation -then look no further than Northwest Colorado.

In **Moffat County**, the DOI derailed a local bottom-up land-use plan for the energy rich Vermillion Basin. It took seven years for a broad array of stakeholders in Moffat County to create the compromise and just 24 hours and a press release for the DOI to reverse it. According to County and state projections this

decision eliminated the potential for $87 million in federal revenues and thousands of local jobs in one of the most economically challenged regions of our State.

In **Garfield County**, Colorado's "Bottom Up" economic development plan called on the Federal Government to take decisive action on, and follow the direction of, its own approval processes. Even though the plan calls for moving projects forward, DOI has failed to take decisive action on the most balanced, studied and discussed energy development compromise ever brokered in Colorado and likely the nation – this project in the former Naval Oil Shale Reserve is parochially known as the Roan Plateau Compromise. Moving forward on the Roan compromise project would result, by the BLM's own analysis, up to $1.3 billion in federal revenue and thousands of local jobs.

Ri**o Blanco County** contains the richest of the nation's oil shale reserves and shows examples of how international investment can help create technological advancement in oil shale research. The outcome of a 2008 programmatic Environmental Impact Statement helped to attract needed investment by providing a regulatory and land position framework for development moving forward. The DOI is now reversing its decision only two years later on what lands will be available for commercial development. Two steps forward, three steps back, indeed.

Just this year in **Mesa County** and throughout the region, the Departmentof Interior proposed and then quickly withdrew a top-down initiative that would have created de-facto wilderness areas dubbed "Wildlands." One of the many flaws associated with this proposal included a breathtaking grab of existing mineral rights over areas with high natural gas potential.

In Western Colorado, and indeed throughout the Rockies, even the most basic environmental review can take years to complete with project approvals taking up to a decade.

Policies aside, even mere rhetoric from the DOI has often worked at cross purposes related to energy development and job creation. Recently the DOI sent out a press release publically criticizing industry for not developing existing federal leases. Industry trade groups were quick to note that it's the agency's own policies and permitting schedules that limit lease and project development, not the lack of will from companies who own them. But the damage was done and the message was clear. Federal leasing for minerals would and has come to a standstill.

Just last year Secretary Salazar was defeated in court for not complying with the Mineral Leasing Act when refusing to issue leases within the timeframe as established by federal law.

The Secretary was also overturned in court for re-writing the energy policy act – that he voted for during his tenure in the Senate-- without authority from Congress. And while these court victories provide some solace, Secretary Salazar's' leasing reform act places a tremendous burden on BLM field offices and prohibits leasing by forcing belabored reviews for each lease sale. His declaration that this proposal would eliminate protests is not true. In fact, each lease sale since his new reform act was instituted has still been protested.

Look no further than the results of Colorado's last three lease sales to understand our concerns.

In **March 2011** two parcels were nominated, both were postponed and one was deferred and then removed from consideration.

In May 2011 twelve parcels were nominated. Of these twelve, ten were deferred and all were protested.

In August 2011, five parcels were nominated, four were deferred.

For the upcoming **November** lease sale, all of the parcels will be protested as reported by the Grand Junction Daily Sentinel.

Another area of unpredictable federal policy has the potential to hamper job creation by hampering one of the most important technological advancements in a generation: hydraulic well stimulation, or hydraulic fracturing.

Hydraulic fracturing is used in the development of 90% of natural gas wells in the United States, making it an essential element in accessing increasingly vast domestic reserves.

Any regulation that reduces or prohibits the use of hydraulic fracturing will necessarily reduce access to the country's vast energy potential. A study by Global Insight in 2009 found that without hydraulic fracturing we would lose 45% of domestic natural gas production and 17% of our oil production within five years.

With the continued use of hydraulic fracturing to access unconventional gas, the EIA estimates in its 2011 Energy Outlook that net natural gas imports will drop from 11% of U.S. consumption in 2009 to less than 1% in 2035.

As federal agencies continue analysis of hydraulic fracturing, I'd note that states have made significant progress on hydraulic fracturing disclosure laws and rules. Colorado, Wyoming, New Mexico, Arkansas and Texas are all examples where either disclosure laws exist or are in the works. Anything that shifts regulatory authority away from state agencies to monolithic federal agencies is bad for the energy sector and bad for job creation in America.

While the voice of our organization typically stays within the confines of the valleys, canyons and plateaus of Northwest Colorado, our hope is that your committee advances our organization's jobs plan in the halls of Congress. It's a plan that doesn't require the printing of money; it's a proposal that doesn't require stimulus of any kind. In fact, it's a plan that -- if implemented-- would create jobs in a matter of weeks and not years. To implement our plan, Federal agencies should reasonably allow our engineers to do what they do best –make energy and create jobs.

Thank you for this opportunity –your presence here today reinforces that some members of Congress are indeed committed to a real jobs plan that recognizes the energy sectors' role in an economic recovery and in putting our citizens back to work for the benefit of our nation and security. As a constituent living in an area so dependent upon the responsible development of natural resources, I applaud your committee for taking time to raise these important questions and highlight the road ahead for energy independence for our nation.

Thank you and I look forward to your questions.

Statement of RES Americas

September 19 Field Hearing of the Subcommittee on Agriculture, Energy and Trade

"Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?"

Chairman Tipton, Ranking Member Critz, and members of the Committee, thank you for the opportunity to testify today. My name is Jennifer Bredt, and I'm a Development Manager with Renewable Energy Systems Americas.

Headquartered in Colorado, RES Americas has 250 full-time employees. We've built more than 10% of the operating wind farms in the US, and we currently have several thousand megawatts of wind and solar projects under development – enough to supply the electricity needs of more than two million average American homes.

The Committee has asked RES to provide a statement regarding regulations that may be negatively affecting small businesses in the wind industry. In June, RES' CEO testified before the House Natural Resources Committee at an Oversight Hearing on "*Identifying Roadblocks to Wind and Solar Energy on Public Lands and Waters*". RES' statement today will echo that testimony, with a few updates.

We encounter many obstacles to developing renewable energy projects, but the number one obstacle our industry faces is uncertainty. When the uncertainty is created by an unclear regulatory regime, the negative consequences are particularly frustrating, because they could have been avoided.

A recent example is the regulatory uncertainty created by the U.S. Fish & Wildlife Department's 2011 "Draft Eagle Conservation Plan Guidance" and "Land Based Guidelines for Wind Energy". RES' written testimony from the June hearing referenced above provides greater detail about the many problems these two documents have created for the wind industry.

Some progress has been made, particularly with regard to the Land Based Guidelines; however, several serious issues regarding the Eagle Guidance remain. Taken together, the eagle regulatory program created by the Land Based Guidelines and the Eagle Guidance affect wind projects throughout the contiguous U.S., and has placed an estimated $68 billion in wind energy investment at risk.

RES has already suffered financial losses due to the uncertainty created by this eagle regulatory program, and those impacts have consequences for many of the other small businesses we employ in connection with our projects. It's not uncommon for us to utilize the services of 25 to 50 subcontractors and suppliers in the process of developing and constructing a wind or solar facility, and payments to these subcontractors and suppliers often run into the tens of millions of dollars.

The types of small businesses involved span a wide range, from environmental consultants, to materials and equipment suppliers, to firms that pour the concrete foundations, build roads, build substations, and install electrical collection systems, to name just a few.

RES Americas has several wind projects that are currently being directly impacted by the uncertainty surrounding the eagle regulatory program, and we believe that the changes to the permitting process regarding eagles will ultimately impact the majority of our projects, creating delays and millions of dollars of additional costs. Many other developers report that they are in a similar situation.

The wind industry is appreciative of the commitment shown by Secretary Salazar and US Fish & Wildlife Director Dan Ashe to finding a resolution to the problems identified. However, until the problems are actually resolved, our industry will continue to be negatively affected by the uncertainty they create.

In closing, I would like to emphasize RES Americas' strong support for reasonable protections for wildlife. RES Americas' business is developing and constructing renewable energy projects that benefit the environment, and our corporate ethos is grounded in sustainability. So, this isn't about cutting corners or trying to sidestep reasonable regulations – but the key word is "reasonable". Both conservation and renewable energy are critical, but there has to be a balance between the two agendas.

The American people want domestically produced, clean, renewable energy, and we want to supply it to them. But our industry faces market uncertainty at the national level, and we're thwarted by regulatory uncertainty during the development process. In the immediate term, the Eagle Guidance, combined with the Land Based Guidelines, are significant obstacles to our industry.

The renewable energy industry has the power to drive investment -- particularly in the manufacturing sector -- and to create tens, if not hundreds, of thousands of jobs.

Chairman Tipton, Ranking Member Critz, and other members of the Committee, we thank you for your interest in, and attention to, these issues, and look forward to any assistance you may be able to provide.

Testimony of James A. Kiger
Environmental Manager,
Oxbow Mining, LLC. Elk Creek Mine
Field Hearing – Grand Junction, Colorado
September 19, 2011

Good Morning, Congressman Tipton and (recognize others who may be presiding over hearing). My name is Jim Kiger and I am the Environmental Manager at the Oxbow Mining, LLC, Elk Creek Mine located in Somerset Colorado. I am also a member of the Colorado Mining Association, (CMA) and represent their interests in today's discussion as well. The Elk Creek Mine produces approximately 5 million tons/year of high BTU, low sulfur, low mercury coal by underground, state-of-the art longwall mining technology. Our coal is used in electricity generation plants and industrial applications across the U.S. This coal meets the classification of "super compliance coal" under the 2005 Energy Policy Act because of its very low sulfur content. I appreciate the opportunity to be here today to express our concerns about the impact of excessive federal energy regulations and policies on limiting energy independence, killing jobs and increasing prices. In my 30+ years of working in the Colorado coal mining industry, at both surface and underground mines, I have never before seen such a concerted emphasis by numerous federal agencies to create additional head winds for the coal industry across such a broad spectrum of coal industry activities. Coal is an essential American industry that provides over 45% of America's electricity at reasonable prices and 85% of the U.S. fuel resource on a BTU basis thus creating economic opportunity for millions of American businesses and consumers. This is an essential industry that employs thousand of highly trained, safety focused workers, working together to reduce our dangerous reliance on foreign energy sources.

I **The EPA, either alone or in conjunction with other federal agencies, have launched a series of regulatory actions directly affecting coal mines.**

1. In 2011, underground coal mines are required to monitor GHG emissions from Ventilation Air Methane (VAM) and methane drainage boreholes. These methane drainage activities are critical and required by the Mine Safety and Health Administration (MSHA) to ventilate explosive methane from the mine atmosphere. Submittal of our GHG reports to EPA will begin in 2012.
2. In 2012, underground mines will be required to file for Title V Air Emission Permits with the EPA and State of Colorado because of GHG emissions. The future is uncertain and concerning regarding how methane and /or other GHG emissions will be regulated under a carbon regulatory scheme.
3. EPA is routinely pushing for tightening of water quality standards under the Clean Water Act. Examples are Arsenic values below the detection limit of most laboratories (0.02ug/l), (thousand times more restrictive than the drinking water standard), pursuing stringent stream conductivity and selenium values downstream of mining activity, pursuing a more onerous process water classification for routine surface storm water runoff from mining areas.
4. June 18, 2010 the Army Corps of Engineers proposed suspending Nationwide Permit 21 in the Appalachian Region. While the suspension is in effect, individuals who propose surface coal mining projects that involve discharges of dredged or fill material into waters of the United States will have to obtain Department of the Army authorization under the Clean Water Act, through the

individual permit process. The individual permit evaluation procedure provides increased public involvement in the permit evaluation of individual projects. Colorado Coal Mines rely on Nationwide Permit 21 for surface mines and Nationwide Permit 50 for underground mines to avoid delays in permitting. We are concerned about the spillover of the issue to western coal mine areas.

5. OSM oversight agreements. For over 25 years, Colorado and OSMRE have had a coordinated program of topic specific oversight of the Colorado coal regulatory program focusing on on-the-ground compliance and performance under SMCRA. OSM is now proposing to make changes to oversight activities. One such example is conducting more independent inspections not coordinated with the State Regulatory Authority familiar with the on the ground operations.
6. OSM has proposed radical changes to the 10-day notice requirements where they can challenge State approved permits with their 10-day notice program.
7. OSM has proposed changes to Stream Buffer Zone rules that go beyond the intent of SMCRA which could affect the basic mining activities of fills, stream channel reconstruction, activities in ephemeral drainages, refuse piles, etc.

II The Environmental Protection Agency has expressed views that, to us, indicate its desire to discontinue the use of coal as a fuel for electricity generation. The regulatory agenda appears to be pursuing this goal.

8. Recently at a conference in Aspen, Colorado, EPA Administrator Lisa Jackson is reported as saying that natural gas is the fuel that will help transition away from coal in power plants. EPA's regulatory agenda supports that intent.

9. The Cross State Air Pollution Rule (CSAPR) requires 27 states to reduce coal fired power plant emissions. A recent August 26, 2011 report by PJM has indicated that 11,000 MW of coal capacity are at "high risk" for retirement and an additional 14,000 MW of coal capacity are at "some risk" of retirement due to the cost of retrofits to meet the requirements of the new regulations. This rule will dramatically increase the cost of electricity for families and businesses. The three North Fork Valley mines sell nearly 10 million tons/year of coal to such utilities as TVA who have indicated they will need to shut down coal plants to comply. This amount of lost sales tonnage is equivalent to two mines' production and has a potential for the loss of 500+ miner jobs in the North Fork Valley.

10. EPA's withdrawal of a 404 permit for the Spruce No. 1 mine in West Virginia makes it clear that even when a permit has been issued by EPA, there is no certainty that an operator's investment in the facility will ever be recovered. This regulatory uncertainty is a huge disincentive to the coal industry and is an unsettling signal to other regulated industries that rely on EPA permits as well.

11. Uncertainty over EPA's future actions extends to our customers as well. EPA has numerous proposals pending for new or more stringent regulation under the Clean Air Act. The multiple regulatory initiatives have been widely referred to as a "train wreck" because of their converging timeframes. Whether required under statute or an EPA settlement agreement, adoption of these rules do not allow adequate public scrutiny, economic analysis or opportunity for EPA modification. These regulations include the Cross State Air Pollution Rule (CSAPR) noted above, requirements for tighter ozone standards that could put

much of the country into a non-attainment status and the MACT rule covering hazardous air emissions from boilers. See Exhibit 1 and 2 at the end of this talk for additional details.

12. EPA has proposed the Coal Combustion Rule which could result in reclassification of coal combustion residuals (CCR or power plant ash) to treat them as hazardous waste under RCRA Subtitle C rather than non-hazardous waste under RCRA Subtitle D. EPA regulation of CCR as hazardous waste will unnecessarily burden and/ or discourage the effective use of the material in surface mine backfill presently regulated by OSMRE. Further, this reclassification will also discourage the use of CCR for many beneficial uses such as concrete and brick products, structural fill, agricultural products, wallboard, etc. We suggest that Congress pull EPA authority from regulating CCR as hazardous waste, encourage states to take the lead to maximize the beneficial uses of CCR and provide certainty to OSMRE to continue regulating CCR as backfill in coal surface mines.

13. EPA entered into a consent agreement with various state and environmental petitioners a year ago that bind the agency to proposing a final rule to establish performance standards for GHG emissions from electric utility steam generating units by September 30, 2011. These regulations will radically increase the cost to electric utilities that use coal as a base load fuel, and discourage them from continuing to rely on the Nation's most abundant and affordable energy resource.

14. Uncertainties related to the timing and implementation of these new regulations as well as the cost attached to them will (and have) resulted in electric utilities

abandoning their coal generating units. A prime example of this is the recent State Implementation Plan for regional haze which was submitted by the State of Colorado to EPA. That plan, in reaction to fears of widespread federal restrictions on all businesses and personal activities, calls for the closure of two metro area coal-fired power plants and the loss of contracts for up to four million tons of Colorado coal. Needless to say, if government regulations continue to discourage the use of coal then not only will job losses occur in the coal industry basic to the economy of Northwest Colorado and the North Fork Valley, but also will extend to the equipment dealers, support services, and retail jobs within those communities

15. The issues of Anthropogenic Climate Change continue to unravel in favor of the opinion of an increasing majority of Americans who are skeptical of the GHG alarmism. We strongly urge Congress to remove the EPA from the increasingly burdensome GHG regulation business to solve a nonexistent problem. We need to end the EPA's agenda to craft U.S. energy policy by regulation rather than having national energy policy set by Congress.

III The efficiency of Federal Land Management Agencies (BLM and USFS) have been adversely effected by policies or programs that slow coal mine Federal Coal Leasing and Permitting activities.

16. Despite the 2001 Clinton Roadless Rule being enjoined nationwide, once routine coal leasing modification and permitting activities located on Inventory Roadless Areas are subject to two delaying reviews by the Secretary of Agriculture. The

first review is required before NEPA is authorized to proceed and a second review is required after NEPA is completed.

17. BLM is understaffed to complete what used to be routine EA reviews of coal lease modifications, exploration licenses, etc. Project proponents now routinely have to hire third party contractors to complete BLM NEPA documents. The added expense and delays of hiring third party contractors to complete the preparation of once routine NEPA documents slows down the permitting processes. The NEPA process for minor energy projects needs to be streamlined with limits on appeals.

18. Nuisance lawsuits and appeals by the environmental community on every federal coal decision by federal agencies is having a negative gridlock effect on the effective conduct of federal coal programs. The issue of air emissions from coal mining, resulting as a secondary impact from EPA overreach on GHG issues, has effectively paralyzed the federal agencies decision making process.

19. Oxbow's East Elk Creek Lease LBA was submitted in September 2006 for a small adjacent coal lease of only 3.9 million tons, enough to longwall mine for only 1 year.

20. Oxbow's East Elk Creek Lease EA was pulled back three times to address GHG issues, where there are no existing federal and State GHG Regulations. The recent BLM decision to move forward with the lease sale for this very small lease is currently being appealed to the IBLA by WildEarth Guardians and Sierra Club.

21. Again we suggest that Congress needs to pull back EPA authority to regulate GHG's to reduce the ever increasing gridlock found in the spillover with other agency decision making processes.

22. Awarding appellants their cost of litigation under the *Equal Access to Justice Act* has created a system where federal coal decision making is grinding to a crawl. The system needs to be modified to return to the original intent of the law in order to reduce nuisance lawsuit by the larger Washington D.C. based plaintiff law firms and create a system where the "loser pays" to discourage frivolous lawsuits.

III. Mine Safety and Health Administration (MSHA)

23. Statistics show that the coal mining industry is not even in the top ten most hazardous industries in the United States. Since the passage of the *Miner Act of 2006*, through 2009 MSHA's punitive action against the coal mines have increased 32.07% in terms of citations and orders and 359% for the dollar amount assessed. With the tragic events of Upper Big Branch on April 5, 2010, Labor Secretary Solis and Assistant Labor Secretary Main are using this tragic event to promote additional MSHA power and regulations under the Robert C. Byrd Mine Safety Protection Act as necessary to perform their job. The coal mining industry is already highly regulated and the regulations in place have been proven over years to continuously improve the industry safety record. The first investigative reports on the April 5 tragic event criticized the fact that existing regulations that could have prevented and/or controlled the event were not being enforced. MHSA's increasing focus on penalties and fines verifies that reactive punitive

action is not the answer to increased coal mine safety. MSHA inspectors need more training and their focus should be on enforcing existing safety regulations. Successful safety programs should be integrated into mining operations jointly by a collaborative effort between MSHA and mine management. This effort should involve all miners in the safety process and be reinforced and supported by both MSHA and mine management to develop a "culture of safety".

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24. Finally, Oxbow has recently announced our intent to explore unleased federal coal reserves in the Oak Mesa project located in the North Fork Valley of Colorado. We are hopeful we can open a new mine in less than 10 years of exploration, permitting and leasing activities. The mine could employ approximately 450 miners for over 20 years, creating millions in value to Western Colorado and the nation. Meanwhile, our parent company, Oxbow Carbon has purchased an interest in a coal mine located in Columbia, South America. We are hopeful that we will not have to increasingly turn to foreign countries in our search for energy business opportunities because America has either closed its doors or made it too difficult for domestic energy development.

Thank you for the opportunity to testify today.

James A. Kiger
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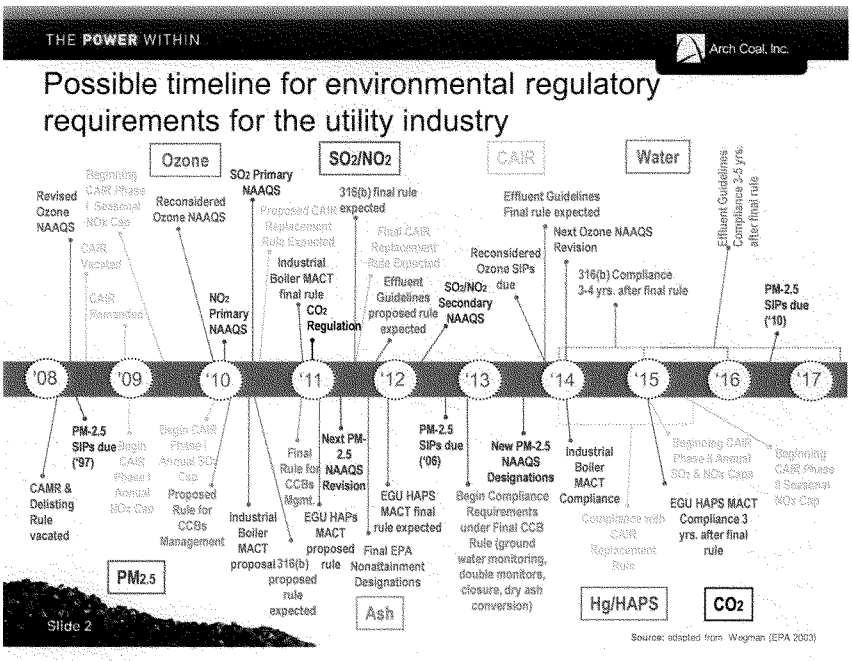

Exhibit 1 – Utility Industry Regulatory Requirements.

THE POWER WITHIN

Arch Coal, Inc.

Mercury emissions from coal-fueled EGU's

- 5,500 tons (all sources) in 1995
- 2005 – 52.9 tons from US EGU's
- 2010 – 29 tons from US EGU's

- CAMR – 2010 Phase I : 38 tons
- CAMR – 2018 Phase II : 15 tons

Slide 3

Exhibit 2 – Utility Mercury Rule

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The Honorable Scott Tipton

Chairmen - Subcommittee on Agriculture, Energy and Trade

Congress of the United States

U.S. House of Representatives

Committee on Small Business

Are Excessive Energy Regulations and Policies Limiting Energy Independence, Killing Jobs and Increasing Prices for Consumers?

September 19, 2011

Good morning. Thank you for allowing me this opportunity to testify before the House Committee on Small Business Subcommittee on Agriculture, Energy, and Trade here in Grand Junction, Colorado. As General Manager of White River Electric Association, Inc., ("White River Electric") I believe it is crucial for the US House of Representatives and other interested parties to fully appreciate how government regulations affect the day to day lives of all Americans, and specifically, White River Electric member consumers. With that said, the answer to your question is **yes**, excessive energy regulation and policies limit energy independence, kill jobs and increase prices for consumers.

White River Electric Association Inc. History and Mission:

White River Electric Association is a rural electric cooperative located in Northwest Colorado. The White River Electric headquarters are located in Meeker, Colorado with its service territory encompassing most of eastern Rio Blanco County, a very small portion of northern Garfield and southern Moffat counties. The White River Electric service territory is about the size of the state of Delaware with 935 miles of line, serving approximately 2500 members and 3248 electric meters. These numbers result in an average of 3.46 consumers per mile. Northwest Colorado is an area rich in natural resources. The natural resource diversity in this region includes: open spaces, abundant fish and wildlife populations, lush forestry, various mineral deposits accompanied by agricultural, coal, and natural gas production. White River Electric's electric load profile reflects this type of diversity with electric service to generational cattle and sheep ranches, wheat farms, coalmines, oil

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and gas producers and Meeker's historical residential base. White River Electric was formed in 1945 in response to a national directive to electrify the rural west. The federal government and the founding cooperative members believed that reasonable and affordable access to safe and reliable electricity was necessary for economic and social sustainability and prosperity. White River Electric honors this history through its continued efforts to provide its Member-Consumers with safe, reliable and responsible electric energy and other services at the most reasonable costs possible while remaining committed to customer and community service. In striving to achieve these goals the White River Electric Board of Directors annually reviews and confirms these core values that drive the overall operations of the company.

White River Electric is member owned, operated and controlled by its seven member elected Board of Directors. Directors are elected at large representing both the Town of Meeker and Rural area. The White River Electric annual meeting is held the second Wednesday of September and includes Board elections, review of the Association's finances and other general business. The regularly scheduled Board meetings are on the third Wednesday of every month. The current Board is made up of area ranchers, farmers and business people. The Board's commitment to its community extends beyond reliable electric service to include quality customer service, philanthropic donations, sponsorships and scholarship programs.

White River Electric fulfills its cooperative obligations in part by listening to its membership. A survey conducted in June of 2011 confirmed the White River Electric mission with a 92% favorable member satisfaction rating. The National Rural Electric Cooperative Association reports that only 2% of the total US cooperatives report a member customer satisfaction rate of 90% or higher. I am here today to give a voice to our membership and our mission; in hopes that Congress hears our plea for balanced, reasonable regulation that improves and incentivizes the overall electric utility industry. Regulation that kills jobs, the economy and jeopardizes the societal and economic prosperity that is at the historical heart of this industry is unacceptable.

In the past ten years White River Electric has navigated enormous growth and change. Its annual electric sales have grown from 138,243 Megawatt hours to 977,862 Megawatt hours. Response to increases in electric demands associated with natural resource extraction and processing in the Piceance Creek Basin resulted in the construction of miles of new transmission lines and seven substations for enhanced service and reliability. Rising to these challenges and opportunities shows how a small company of thirty-three employees can surpass expectations through hard work and a "can do" attitude.

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White River Electric supports responsible and reasonable regulation that provides appropriate standards for the entire utility industry including safety and environmental issues. White River Electric is proud of its safety record as was recognized in 2009 with the Colorado Rural Electric Safety Award and No Lost Time Accident Award. In addition, White River Electric is the only cooperative in the State of Colorado to earn the Environmental Bronze Award from the Colorado Department of Public Health and Environment. This type of positive recognition has its place but no award, regulation or mandate is more persuasive then the pledge this company gives to its neighbors, employees and consumers to provide them with safe, reliable and responsible electric power; all at a reasonable rate.

WREA - Tri-State - Regulation & Rates:

Per a long-term wholesale power contract, White River Electric receives one hundred percent of its power supply from Tri-State Generation & Transmission Association, Inc. During my ten years as General Manager White River Electric has passed on seven wholesale power rate increases to its membership. Wholesale rate increases since 1998 represent a 60% increase in the cost of a residential kilowatt-hour. These increases impact every family's monthly bottom line. The upward pressure on wholesale rates is a complex combination of increases in fuel, generation and regulatory costs. Many of those external forces cannot be controlled but you as legislators have the ability to responsibly address how overreaching and unnecessary government regulation directly impacts every family's monthly budget. Electric cooperatives around the country are wrestling with how to address the increasing costs associated with mounting and often unnecessary regulation. One general manager reports that as much as 20% of their retail rate is allocated to regulatory compliance. At White River Electric it is estimated that as much as 15% of its retail residential rate is allocated to the cost of regulatory compliance.

White River Electric is fortunate that it has balanced the rise of its internal costs with its increasing industrial load resulting in only one internal rate increase since 2001. Regulatory attacks on these large industrial customers could result in the loss of large industrial loads that historically have provided White River Electric with financial and internal rate stability. Future challenges come as Tri-State and White River Electric face an uncertain regulatory future. Uncertainty creates a chaos that directly drives up rates. White River Electric understands the check and balance role that reasonable governmental regulation plays in our collective society; but at what cost? Public and employee safety is an excellent example of how a reasonable regulatory role has lost its compass. Current proposed OSHA standards for climbing electric poles may become so cumbersome that the requirements in and of themselves create a safety hazard for the linemen. Universal safety standards are crucial for public and employee safety but overreaching regulation goes too far when it encourages rational people to avoid safety procedures simply to get the job done.

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Members Care About the Environment BUT Not at the Cost of Job Killing Regulation & Increased Electric Rates:

Through recent surveys the White River Electric members have implicitly stated that while they care about the environment, wish to see innovation in clean coal technology and renewable energy sources they simply **cannot** afford to see their electric rates increase. **The mandate to our leaders should not be, "how to regulate an industry so that it kills the industry and punishes the consumers - it should be how do our leaders create long term energy policy and market stability so that resources can be applied to energy innovation and job creation?"** If regulation proposed by the Environmental Protection Agency is approved, it is estimated that it will result in the closure of coal-fired power plants across the country with an estimated capacity of 30 to 70 gigawatts. That is 10 to 22 percent of the total capacity now available. The closure of coal mines and coal plants within the White River Electric service territory alone would result in near economic devastation. Moffat and Rio Blanco Counties, school districts, and other public entities depend on the tax revenues collected from these plants and mines. Our communities also count on these stable and well paying jobs to support our families. Over ninety-five percent of White River Electric's load is made up of industrial consumers; specifically related to coal, natural gas and oil production and processing. Overreaching regulation that abandons scientific and common sense will be a direct threat to the economic stability and sustainability in Northwest Colorado.

In Summary – Think Before You Vote

Even though my granddaughters are still very young we have already had to share with them the old "think before you act and think before you speak" speech. Today, I hope to leave with you the common sense philosophy of **"think before you vote."** While the lofty goals for regulation may be public interest, public safety and the environment; every legislator should be challenged to ensure that each vote for further regulation is necessary, based on common sense, allows for industry innovation and excellence without punishing the end consumer and the economy. This balancing act is not easy; but our forefathers believed that electricity was essential for economic and societal stability and prosperity - **we have an obligation to carry that light bulb into the future.**

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