

**EFFECT OF PRESIDENT'S FY 2012 BUDGET
AND LEGISLATIVE PROPOSALS FOR THE
BUREAU OF LAND MANAGEMENT AND
THE U.S. FOREST SERVICE'S ENERGY
AND MINERALS PROGRAMS ON PRIVATE
SECTOR JOB CREATION, DOMESTIC
ENERGY AND MINERALS PRODUCTION,
AND DEFICIT REDUCTION**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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REDUCTION.”**

Tuesday, April 5, 2011

**U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, D.C.**

The Subcommittee met, pursuant to call, at 10:06 a.m. in Room 1324, Rayburn House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, Coffman, Thompson, Gosar, Fleischmann, Holt, DeFazio, Bordallo, Costa, Sablan, and Sarbanes.

Mr. LAMBORN. The Subcommittee will come to order. The Chairman notes the presence of a quorum which, under Committee Rule 3[e], is two Members.

The Subcommittee on Energy and Mineral Resources is meeting today to hear testimony on the Effect of the President’s Fiscal Year 2012 Budget and Legislative Proposals for the Bureau of Land Management and the U.S. Forest Service’s Energy and Minerals Programs.

Under Committee Rule 4[f], opening statements are limited to the Chairman and Ranking Member of the Subcommittee, so that we can hear from our witnesses more quickly. However, I ask unanimous consent to include any other Members’ opening statements in the hearing record if submitted to the Clerk by close of business today.

[No response.]

Mr. LAMBORN. Hearing no objection, so ordered. I now recognize myself for an opening statement.

STATEMENT OF THE HON. DOUG LAMBORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. LAMBORN. During today’s hearing we will hear from the Administration their justification for the budget and legislative

proposals they have submitted for the Federal Onshore Energy Minerals programs.

Traditionally, the Energy and Mineral programs, under the jurisdiction of this Subcommittee, bring in the most revenue to the Federal Treasury, behind the Internal Revenue Service. According to the Department of the Interior's own economic analysis, Federal lands contribute \$370 billion in economic activity annually, most of it from energy development. If the Department had included locatable mineral activity, the number would be even higher.

In addition, Federal lands are a key contributor to job creation. The Administration's own jobs report said that more than half the jobs created by the Department's activities are related to energy and mineral production, more than 726,000.

When we talk about potential new job creation, the opportunities are endless, whether from a new copper mine in Arizona, a new solar field in Nevada, or a new oil and natural gas resource in Utah.

Unfortunately, since the Administration took office, the Department of the Interior has taken steps to reduce access to domestic energy and mineral resources on Federal lands, including renewable resources like wind and solar. The recently announced so-called Wildlands program will further reduce energy and mineral development on Federal lands, and exacerbate the flight of investment capital from the public-land States to those States with resources located on State and private lands; or even overseas, to foreign nations.

This is devastating to the Federal land counties in the West that still need to provide goods and services for the residents of their counties, and the many visitors to the public lands that come to use the national parks, wildlife refuges, national monuments, or just come to camp or hunt, fish, or hike on Forest Service and BLM lands.

It is important to recognize the extraction of energy and mineral resources represents the introduction of brand-new money into the nation's economic system, as well as providing the commodities needed by people for the things they use every day in their lives, the raw materials. This is an important aspect of who we are as a nation.

Just last week there was an article highlighting that there are more people working for government than working in manufacturing. I am sure that in nearly all our States, the same dynamic holds true for resource development. It is hard to envision that a nation can become wealthy by simply selling things made and produced elsewhere. At some point, that financial engine will run out.

It is imperative to the economic security of our nation that we develop our own domestic resources that we are fortunate enough to have within our borders.

A recent CRS report that analyzed USGS energy resource assessments determined that the U.S. has the largest barrel-of-oil equivalent in the world: 1.3 trillion BOE. We don't have the same kind of comprehensive assessments for locatable minerals like copper, gold, or rare-earth minerals; however, these mineral commodities the U.S. has in abundance, also.

Ensuring that we have robust energy and mineral programs within the BLM and Forest Service will create jobs, increase our domestic supply of energy and critical and strategic mineral resources, and increase money coming to Federal, State, and local Treasuries, is what I think our goal should be.

I am concerned, however, that the current Administration is not moving in the direction to achieve private sector job growth in these important sectors of our economy, and is too willing to depend on OPEC to make up the nation's shortfall in oil production. The Administration's policies instead have and will contribute to job loss, further dependence on foreign sources for the energy and mineral needs of the country, and severely limit the revenue stream from the development of Federal mineral resources.

I look forward to hearing from our other witnesses affected by the policies that have been implemented since the Administration took office, and their perspectives on the proposed 2012 budget and legislative proposals.

I now recognize the Ranking Member for five minutes for any statement that he might have. Representative Holt.

[The prepared statement of Chairman Lamborn follows:]

**Statement of The Honorable Doug Lamborn, Chairman,
Subcommittee on Energy and Mineral Resources**

During today's hearing we will hear from the Administration justification for their budget and legislative proposals for the federal onshore energy minerals programs. Traditionally the energy and mineral programs under the jurisdiction of this subcommittee bring in the most revenue to the federal treasury behind the IRS. According to the Department of the Interior's own economic analysis, federal lands contribute \$370 billion in economic activity annually, most of it from energy development. If the department had included locatable mineral activity the number would be even higher.

In addition, federal lands are a key contributor to job creation. The Administration's own jobs report said that more than half the jobs created by the Department's activities are related to energy and mineral production—more than 726,000. When we talk about potential new job creation the opportunities are endless, whether from a new copper mine in Arizona, a new solar field in Nevada or a new oil and natural gas resource in Utah.

Unfortunately, since the Administration took office the Department of the Interior has taken steps to reduce access to domestic energy and mineral resources on federal lands including renewable resources like wind and solar. The recently announced "wild lands" program will further reduce energy and mineral development on federal lands and exacerbate the flight of investment capital from the public land states to those states with resources located on state and private lands or overseas to foreign nations. This is devastating to the federal land counties in the West that still need to provide goods and services for the residents of the county and the many visitors to the public lands that come to use the National Parks, Wildlife Refuges, National Monuments or just come to camp or hunt and fish on Forest Service and BLM lands.

It's important to recognize the extraction of energy and mineral resources represents the introduction of brand new money into the nation's economic system as well as providing the raw materials needed by people for the things they use every day in their lives. This is an important aspect of who we are as a nation. Just last week there was an article highlighting that there are more people working for government than working in manufacturing. I am sure that in nearly all our states that same dynamic holds true for resource development. It is hard to envision that a nation can become wealthy by simply selling things made and produced elsewhere. At some point that financial train will run out. It is imperative to the economic security of our nation that we develop our own domestic resources that we are lucky enough to have within our borders.

A recent CRS report that analyzed USGS energy resource assessments determined that the U.S. has the largest barrel of oil equivalent in the world—1.3 trillion BOE. We don't have the same kind of comprehensive assessments for locatable min-

erals like copper, gold, or rare earth minerals—however these are mineral commodities the U.S. has in abundance.

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I'm concerned, however, that the current Administration is not moving in the direction to achieve private sector job growth in these important sectors of the economy, and is too willing to depend on OPEC to make up the nation's shortfall in oil production. The Administration's policies instead have and will contribute to job loss, further dependence on foreign sources for the energy and mineral needs of the country and severely limit the revenue stream from the development of federal mineral resources.

I look forward to hearing from our other witnesses affected by the policies that have been implemented since the Administration took office and their perspectives on the proposed 2012 budget and legislative proposals.

**STATEMENT OF THE HON. RUSH HOLT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. HOLT. Thank you, Mr. Chairman. I appreciate your holding the hearing today, and I thank the witnesses for coming.

The BLM oversees all mineral and energy resource extraction activities on Federal lands, including units of the Forest Service. I would like to make the point that far from locking up our energy resources, as some have alleged, the BLM has actively promoted managing those resources, including development of all forms of energy. And we will hear about that in the testimony today.

The Obama Administration has continued to increase emphasis on domestic oil and gas production on Federal lands. In 2010, domestic natural gas production reached an all-time high. Domestic oil production reached its highest level in nearly a decade. Oil production increased more in the United States last year than in any other country in the world.

This occurred, despite the fact that oil companies are often letting leases that are issued to them languish. And the drilling permits that are approved they allow to go unused.

In 2009, BLM approved 4,487 new permits onshore. The industry started about three quarters of that number in new wells. Last year, oil companies held back even more. BLM approved 4,090 applications for permit to drill, the APDs; however, the industry started 1,080, compared to 4,090, new wells.

Meanwhile, according to a recent report released by the Department of the Interior, oil companies are sitting on tens of millions of acres of public land on which they are not doing any exploration or production, whatsoever. So according to that report, the oil companies are not conducting exploration or production activities on 57 percent of the onshore acres under lease.

And this current level of development is not an aberration. The report concluded that over the last decade, oil companies have produced oil on an average of only 30 percent of the public land that they held under lease.

And yet the extraction companies and those advocating for them in Congress say we have to help them—including oil companies already making \$20 billion, \$30 billion, \$40 billion a year in profit.

Ranking Member Markey and I have introduced H.R. 927, the Use It Act, to establish an escalating fee on oil and gas leases over

time, providing a strong incentive for oil companies to either start drilling, or relinquish this land so that another company could develop it. Our legislation also would help us reduce the Federal deficit by increasing the revenue to our Federal government. A similar proposal is included in the Administration's budget request.

In addition, the Obama Administration is promoting the development of renewable energy on public lands, which had been almost completely ignored under the previous Administration. The Department of the Interior has set a goal of permitting 10,000 million watts, so 10 gigawatts, of renewables on public lands by the end of next year, 2012; and has already approved 5,683 megawatts of wind, solar, and geothermal, on its way to that goal.

This stands in stark contrast to the de facto moratorium on public lands for renewable energy that was in place during the previous Administration. Indeed, the previous Administration approved only four—that is a single digit—four wind projects on public lands, and no—that is a goose egg—solar projects over eight years.

The Obama Administration is restoring a balance to our energy development on public lands that was sorely needed. And I hope we just don't hear that repeated, sorry story that failure to extract oil from public lands and offshore in the United States is responsible for high prices at the gas pump.

We had a hearing last week where it was clearly established that it is speculation, manipulation, profit-taking, call it gouging, whatever; it is not failure to release permits.

Thank you.

[The prepared statement of Mr. Holt follows:]

**Statement of The Honorable Rush D. Holt, Ranking Member,
Subcommittee on Energy and Mineral Resources**

Thank you.

The Bureau of Land Management (BLM) oversees all mineral and energy resource extraction activities on all Federal onshore lands, including units of the National Forest System. Far from locking up our energy resources, as some in the majority have alleged, the BLM is actively promoting the development of all forms of energy.

The Obama Administration has continued to increase domestic oil and gas production on federal land. In 2010, domestic natural gas production reached an all-time high, and domestic oil production reached its highest levels in nearly a decade. Oil production increased more in the United States last year than in any other country in the world.

This occurred despite the fact that oil companies are often letting the leases they are issued languish and the drilling permits that are approved go unused. In 2009, BLM approved 4,487 new permits onshore but industry only started 3,267 new wells. Last year, oil companies held back even more—BLM approved 4,090 Applications for Permit to Drill (APDs), however, industry only started 1,480 new wells.

Meanwhile, according to a recent report released by the Department of the Interior, oil companies are sitting on tens of millions of acres of public lands on which they are not doing ANY exploration or production whatsoever. According to that report, oil companies are not conducting exploration or production activities on 57 percent of the onshore acres under lease. And this current level of development is not an aberration; the report concluded that over the last decade, oil companies have produced oil on an average of only 30 percent of the public land they held under lease.

Ranking Member Markey and I have introduced H.R. 927, the USE IT Act to establish an escalating fee on oil and gas leases over time, providing a strong incentive for oil companies to either start drilling or relinquish this land so that another company can develop it. Our legislation also would help us reduce the federal deficit by increasing the revenue to the federal government. A similar proposal is included in the Administration's budget request.

In addition, the Obama Administration is promoting the development of renewable energy on public lands, which had been almost completely ignored under the previous administration. The Department of the Interior has set a goal of permitting 10,000 MW of renewables on public lands by the end of 2012 and has already approved 5,683 MW of wind, solar and geothermal on the way to that goal. This stands in stark contrast to the “De Facto Renewable Energy Moratorium” on public lands that was in place during the Bush Administration. Indeed the previous Administration only approved 4 wind projects on public lands and NO solar projects over 8 years.

The Obama Administration is restoring a balance to our energy development on public lands that was sorely needed. I look forward to the testimony of our witnesses.

Mr. LAMBORN. I thank the Ranking Member. And we will now hear from our witnesses. We have invited, and I appreciate the attendance today of, the Hon. Bob Abbey, the Director of the Bureau of Land Management, and the Hon. Tony Ferguson, Director of Minerals and Geology Management of the USDA Forest Service. Appreciate you both being here.

Like all of our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes, as outlined in our invitation letter to you, and under Committee Rule 4[a].

Our microphones are not on automatic; you will have to switch them on. And the timing lights, as you begin to speak, the Clerk will start the timer, a green light will come on; and after four minutes, a yellow light will come on; and after five minutes, a red light.

Thank you for being here. And Mr. Abbey, you may begin.

**STATEMENT OF ROBERT V. ABBEY, DIRECTOR, BUREAU OF
LAND MANAGEMENT, WASHINGTON, D.C.**

Mr. ABBEY. Thank you, Mr. Chairman and members of the Subcommittee. We appreciate the opportunity to discuss the President's Fiscal Year 2012 energy and minerals budget request for the Bureau of Land Management.

The BLM administers more than 245 million acres, and approximately 700 million acres of subsurface mineral estate nationwide. America's public lands provide resources that are critical to the nation's energy security. These resources have, and will continue to play, a critical role in domestic energy production for decades to come.

The BLM is a sound investment for America. Our management of public lands contributes more than \$100 billion annually to the national economy, and supports more than 500,000 American jobs.

Revenues generated from public lands make the BLM one of the top revenue-generating Federal agencies, positively affecting the U.S. Treasury, and directly benefitting the U.S. taxpayers.

On March 30 the President announced his blueprint for a secure energy future. The Bureau of Land Management is well-positioned to contribute to this strategy. More than 114 million barrels of oil was produced from BLM-managed mineral estate in Fiscal Year 2010, the most since Fiscal Year 1997. And the almost 3 trillion cubic feet of natural gas produced made 2010 the second most productive year of natural gas production on record.

The coal produced from nearly a half-million acres of Federal leases powers more than one fifth of all electricity generated in the United States.

The BLM is also leading the Nation toward the new energy frontier, with active solar, wind, and geothermal energy programs. In 2010, the BLM approved nine large-scale solar energy projects. These projects total more than 3600 megawatts of electricity, enough to power more than a million homes; and could create thousands of construction and operation jobs.

The Bureau of Land Management manages 20 million acres of public lands, with wind potential. And there is currently 437 megawatts of installed wind power capacity on public lands. Geothermal energy development on these public lands, with an installed capacity of 1275 megawatts, accounts for nearly half of the U.S. geothermal energy capacity.

The BLM's total Fiscal Year 2012 budget request is \$1.1 billion, a decrease of \$12 million from the 2010 enacted level. The budget proposal reflects the Administration's efforts to maximize public benefits, while recognizing the realities of the current fiscal situation.

The proposed budget for the Bureau of Land Management makes a strategic investment of \$152.8 million in support of the new energy frontier, an important Administration and Secretarial initiative. This new initiative recognizes the value of environmentally sound, scientifically grounded development of both renewable and conventional energy resources on public lands. Investment in this program today will reap benefits for years to come.

President Obama and Secretary Ken Salazar have stressed the critical importance of renewable energy to the future of the United States. Developing renewable energy will create jobs and promote innovation in our country, while reducing reliance on fossil fuels.

In the conventional energy arena, the BLM expects its onshore minerals leasing activities to contribute \$4.3 billion to the Treasury in Fiscal Year 2012. We will focus on implementing oil and gas leasing reforms that place a continued emphasis on oil and gas inspections, environmental enforcement, and production monitoring. These reforms help ensure that conventional energy development on public lands takes place in a way that minimizes harm to the environment, as well as to the public health and safety.

The budget proposes to shift a share of the cost of oil and gas inspection activities from discretionary appropriations to industry fees, for a savings of \$38 million; a fee for non-producing leases, and an increase in the onshore oil and gas realty rate are also included in our budget proposal.

Finally, the BLM's budget for Fiscal Year 2012 assumes legislative proposals to reform hard-rock mining on both public and private lands.

Our budget request provides funding for the Agency's highest-priority energy and minerals initiatives, and maximizes public benefits.

Mr. Chairman, again, we appreciate the opportunity to appear before your Subcommittee.

[The prepared statement of Mr. Abbey follows:]

**Statement of Robert V. Abbey, Director, Bureau of Land Management,
U.S. Department of the Interior**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear here today to discuss the President's Fiscal Year (FY) 2012 energy and minerals budget request for the Bureau of Land Management (BLM).

The BLM, an agency of the U.S. Department of the Interior (DOI), is responsible for protecting the resources and managing the uses of our nation's public lands, which are located primarily in 12 western States, including Alaska. The BLM administers more land—over 245 million surface acres—than any other Federal agency. The BLM also manages approximately 700 million acres of onshore subsurface mineral estate throughout the Nation.

Meeting Our Nation's Needs

The BLM is a sound investment for America. Management of public land resources and protection of public land values results in extraordinary economic benefits to local communities and to the Nation. The BLM's management of public lands contributes more than \$100 billion annually to the national economy and supports more than 500,000 American jobs. Energy and mineral resources generate the highest revenue values of any uses of the public lands from royalties, rents, bonuses, sales and fees. Revenues generated from the public lands make the BLM one of the top revenue-generating Federal agencies, positively affecting the U.S. Treasury, and directly benefiting the U.S. taxpayer.

A key component of these economic benefits is the BLM's contribution to America's energy portfolio. The BLM expects its onshore mineral leasing activities to contribute \$4.3 billion to the U.S. Treasury in Fiscal Year 2012. The BLM currently manages more than 38 million acres of oil and gas leases, although only 43 percent of that acreage is currently in production. More than 114 million barrels of oil were produced from BLM-managed mineral estate in Fiscal Year 2010 (the most since Fiscal Year 1997), and the almost 3 billion MCF (thousand cubic feet) of natural gas produced made 2010 the second-most productive year of natural gas production on record.

The coal produced from nearly a half million acres of federal leases powers more than one-fifth of all electricity generated in the United States. To underscore the Administration's commitment to the goals of energy security and job creation, the BLM on March 22 announced four lease sales and four future records of decision for coal tracts in Wyoming's Powder River Basin. The estimated total tonnage for the eight coal tracts is 2.3 billion tons of coal, which is estimated to generate \$13.4 billion to \$21.3 billion in revenue over the life of the leases.

The BLM is also leading the nation toward the new energy frontier with active solar, wind, and geothermal energy programs. The BLM has proposed 24 Solar Energy Zones within 22 million acres of public lands identified for solar development, and in 2010 approved nine large-scale solar energy projects. These projects total more than 3,600 megawatts of electricity, enough to power close to 1 million homes, and could create thousands of construction and operations jobs. Development of wind power is also a key part of our nation's energy strategy for the future. The BLM manages 20 million acres of public lands with wind potential and there is currently 437 MW of installed wind power capacity on the public lands. Geothermal energy development on the public lands, with an installed capacity of 1,275 MW, accounts for nearly half of U.S. geothermal energy capacity.

FY 2012 Budget Overview

The BLM's FY 2012 energy and minerals budget proposal reflects the Administration's effort to maximize public benefits while recognizing the reality of funding constraints and the need to reduce the Nation's budget deficit. The proposed budget for the BLM makes a strategic investment in support of the New Energy Frontier, an important Administration and Secretarial Initiative. Investment in this program today will reap benefits for years to come.

The BLM's total FY 2012 budget request is \$1.13 billion in current authority, one percent and \$12.0 million below the 2010 enacted/2011 continuing resolution level. The budget proposes \$933.8 million for the Management of Lands and Resources Appropriation and \$112.0 million for Oregon and California Grant Lands Appropriation, the BLM's two main operating accounts. This represents a net decrease of \$25.3 million for these two accounts from the FY 2010 enacted/2011 CR level. While making strategic program increases of \$93.3 million for high-priority initiatives, the budget offsets funding increases for these priorities with \$25.5 million in administrative and management savings, shifting \$42.4 million in energy and minerals inspection costs to industry, and reducing funding for lower priority programs. The budget also includes several important legislative proposals, including proposals to

change the management of hardrock mining, collect fees to be used to remediate abandoned mines, charge a fee on new nonproducing oil and gas leases to encourage diligent development, and extend the Federal Land Transaction Facilitation Act and Service First authorities. This testimony focuses on the BLM's energy and mineral resources program.

New Energy Frontier

The 2012 budget continues the Department's New Energy Frontier initiative to create jobs, reduce the Nation's dependence on fossil fuels and oil imports, and reduce carbon impacts. The New Energy Frontier initiative recognizes the value of environmentally-sound, scientifically-grounded development of both renewable and conventional energy resources on the Nation's public lands. Facilitating renewable energy development is a major component of this strategy along with effective management of conventional energy programs. The proposed FY 2012 budget for the BLM follows this approach and includes priority funding for both renewable and conventional energy development on the public lands.

Renewable Energy—President Obama, Secretary Salazar, and the Congress have stressed the critical importance of renewable energy to the future of the United States. Developing renewable energy resources is central to the Nation's efforts to reduce greenhouse gas emissions, mitigate climate change, and protect the global environment. Renewable energy is also 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.

The BLM made significant strides in promoting responsible renewable energy development on the public lands in 2010. The BLM has approved projects that, when built, will generate approximately 4,000 megawatts of energy, including the approval of nine large-scale solar energy projects, and release of a draft Solar Programmatic EIS to provide for landscape-scale siting of solar energy projects on the public lands. BLM-managed lands also serve as important corridors for the transmission infrastructure needed to deliver renewable energy to the American people.

The BLM continues work on developing a balanced portfolio of renewable energy projects on public lands in 2011. We recently announced our 2011 priority projects list, which includes 19 renewable energy projects (nine solar, five wind, and five geothermal). The projects are part of the Administration's efforts to diversify the Nation's energy portfolio in an environmentally responsible manner. The nine solar projects' potential output is about 2,600 megawatts, the five wind projects total about 1,000 megawatts of potential output, and the five geothermal projects total about 490 megawatts of potential output. The BLM has already made progress on these projects, approving a geothermal project in Nevada in early March.

To encourage and facilitate renewable energy development, the President's FY 2012 budget for the BLM proposes \$19.7 million, a \$3.0 million increase over the FY 2010 enacted/2011 CR level. The increase will be used to conduct site specific studies of potential solar energy sites in Nevada, and regional studies of potential wind energy zones in Nevada and Oregon. Additionally, the FY 2012 budget proposes transferring \$16.7 million from the Realty and Ownership Management Activity to a new Renewable Energy Management subactivity in the Energy and Minerals Management activity. This will allow the BLM to more effectively track and monitor spending for these high-profile activities, and also emphasize the importance of these efforts.

Conventional Energy—While we work to develop renewable energy sources, domestic oil and gas production remain critical to our nation's energy supply and to reducing our dependence on foreign oil. Secretary Salazar has emphasized that conventional energy resources on BLM-managed lands play a critical role in meeting the Nation's energy needs. In 2010, conventional energy development from public lands produced 43 percent of the Nation's coal, 14.1 percent of the natural gas, and 5.7 percent of the domestically produced oil. The Department's balanced approach to responsible conventional energy development combines onshore oil and gas policy reforms with effective budgeting to provide appropriate planning and support for conventional energy development, which has been the target of increased appeals and protests.

The BLM is committed to ensuring oil and gas production is carried out in a responsible manner. To accomplish this, the BLM performs various types of inspections, to ensure that lessees meet environmental, safety, and production reporting requirements. The BLM has begun a pilot program using a risk-based inspection protocol for production inspections, inspecting first those leases with high levels of oil or gas production. The BLM plans to expand this risk-based strategy to the other types of inspections it performs. The risk-based strategy will help the BLM maxi-

mize the efficient use of inspection staff to better meet the inspection goals and requirements in the future.

The Fiscal Year 2012 budget request essentially maintains the BLM oil and gas program capacity at the FY 2010 enacted/2011 CR level. An increase of \$13.0 million is proposed to offset a projected decline in the fees for processing applications for permits to drill (APD) oil and gas on the public lands; and a reduction of \$3.0 million is proposed to reflect the completion of an energy study required by the Energy Policy Conservation Act of 2000 (EPCA). The budget also includes an increase of \$2.0 million to improve air quality monitoring associated with intensive oil and gas development. This funding will help the BLM ensure that the energy development complies with NEPA and Clean Air Act requirements and aids the BLM in minimizing or addressing potential litigation issues.

The Administration believes that American taxpayers should get a fair return on the development of energy resources on their public lands. A 2008 Government Accountability Office (GAO) report suggests that taxpayers could be getting a better return from Federal oil and gas resources in some areas. Subsequent GAO reports have reiterated this conclusion. The BLM and the Bureau of Ocean Energy Management, Regulation, and Enforcement are cooperating to conduct an international study of oil and gas revenues under different management regimes. The study should be completed and published later this year. To this end, the Administration proposes to implement the following reforms:

- In 2012 the BLM will begin to charge a fee to recover inspection costs for the oil and gas program, allowing a savings of \$38 million in requested funding. The fee would defray Federal costs and ensure continued diligent oversight of oil and gas production on Federal lands. Fee levels would be based on the number of oil and gas wells per lease so that costs are shared equitably across the industry.
- To encourage diligent development of new oil and gas leases, the Administration is proposing a per-acre fee on each nonproducing lease issued after enactment of the proposal. The \$4 per acre fee on new non-producing Federal leases would provide a financial incentive for oil and gas companies to either put their leases into production or relinquish them so that tracts can be released and developed by new parties.
- The BLM will propose a rulemaking in 2011 to increase the onshore oil and gas royalty rate from its current 12.5 percent level. The BLM expects that the royalty rate increase will increase oil and gas revenues by more than \$900 million over 10 years.

Abandoned Mines & Hardrock Mining Reform Proposals

The budget proposes legislation to address abandoned mine land (AML) hazards on Federal, State, Tribal, and private lands and to provide a fair return to the taxpayer from hardrock production on Federal lands. The first component of this proposal addresses abandoned hardrock mines across the country through a new AML fee on hardrock production. Just as the coal industry is held responsible for abandoned coal sites, the Administration proposes to hold the hardrock mining industry responsible for abandoned hardrock mines. The proposal will levy an AML fee on all uranium and metallic mines on both public and private lands that will be charged on the volume of material displaced after January 1, 2012. The fee will be collected by the Office of Surface Mining, while the receipts will be distributed by BLM. Using an advisory council comprised of representatives of Federal agencies, States, Tribes, and non-government organizations, the BLM will create a competitive grant program to restore the Nation's most hazardous hardrock AML sites each year. The advisory council will recommend objective criteria to rank AML projects to allocate funds for remediation to the sites with the most urgent environmental and safety hazards. The proposed hardrock AML fee and reclamation program would operate in parallel to the coal AML reclamation program, as two parts of a larger proposal to ensure that the Nation's most dangerous coal and hardrock AML sites are addressed by the industries that created the problems. The 2012 BLM budget request also includes an increase of \$4.0 million in regular discretionary appropriations to address high priority AML sites, such as the Red Devil mine in Alaska.

The second piece of the legislative proposal would institute a leasing process under the Mineral Leasing Act of 1920 for certain minerals (gold, silver, lead, zinc, copper, uranium, and molybdenum) currently covered by the General Mining Law of 1872. After enactment, new claims for mining these metals on Federal lands would be governed by a leasing process and subject to annual rental payments and a royalty of not less than five percent of gross proceeds. Half of the receipts would be distributed to the States in which the leases are located and the remaining half

would be deposited in the U.S. Treasury. Pre-existing mining claims would be exempt from the change to a leasing system, but would be subject to increases in the annual maintenance fees under the General Mining Law of 1872. However, holders of existing mining claims for these minerals could voluntarily convert their claims to leases. The Office of Natural Resources Revenue in the Department of the Interior will collect, account for, and disburse the hardrock royalty receipts.

Reductions & Efficiencies

The BLM's Fiscal Year 2012 budget proposal reflects many difficult choices to produce a cost-conscious budget, while supporting priority initiatives and maximizing public benefits. The budget request also includes reductions that reflect the Accountable Government Initiative to curb non-essential administrative spending in support of the President's commitment to fiscal discipline and spending restraint.

Conclusion

The BLM's Fiscal Year 2012 budget request for energy and minerals programs provides funding for the agency's highest priority energy and minerals initiatives, while making difficult but responsible choices for reductions to offset some of these funding priorities. This budget request reflects the Administration's commitment to encourage responsible energy development on the public lands, as well as ensure the American people receive a fair return for the public's resources. Mr. Chairman, thank you for the opportunity to testify on the BLM budget request for Fiscal Year 2012. I will be pleased to answer any questions you may have.

Mr. LAMBORN. Thank you for your testimony. And Mr. Ferguson, you may begin.

STATEMENT OF TONY FERGUSON, DIRECTOR, MINERALS AND GEOLOGY MANAGEMENT, USDA FOREST SERVICE, WASHINGTON, D.C.

Mr. FERGUSON. Thank you, Mr. Chairman and members of the Subcommittee. I am honored to be here today to talk about the Energy and Minerals program at the Forest Service.

America relies on forest and grasslands for jobs, energy, and strategic minerals. This program provides significant socioeconomic benefits to the American people, while at the same time working to ensure that watersheds are protected and threats to human safety are minimized.

Here are some examples of some activities on the Forest Service. The value of mineral production from National Forest System lands typically exceeds \$5 billion per year. Over 5 million acres of National Forest System lands are currently leased for oil, gas, coal, geothermal, and other minerals.

Approximately 58 percent of the U.S. coal production comes from Federal minerals, and a third of that comes from National Forest System lands. Last year, approximately 16.7 million barrels of oil and 194 billion cubic feet of natural gas were produced from National Forest System lands.

The Forest Service administers operations on approximately 90,000 mining claims, with many of those containing strategic minerals. We manage approximately 4,000 mineral material contracts for sand, gravel, and other industrial minerals, amounting to over 10 million tons of materials that are critical for road maintenance in rural communities.

Mineral revenues are managed and distributed by the Office of Natural Resource Revenue at the Department of the Interior. And between 25 and 50 percent of the revenues are returned to the States and the counties where production occurs.

For Fiscal Year 2012, the priority for the Forest Service Minerals program will be placed on processing the energy-related mineral proposals, with the focus on the oil, gas, and geothermal resources that are present on National Forest System lands.

We will continue our inspection and monitoring of ongoing mineral operations, we will continue to mitigate threats associated with abandoned mine lands. We will identify and manage geologic resources and hazards, and also restore sites contaminated with hazardous materials.

At this time I would like to shift a little bit and focus more on some renewable energy and some of the things we are doing. We feel, the Forest Service feels that renewable energy is a key to our future, and the expansion of the energy portfolio to include renewable energy is critical. We have a couple of examples I would like to share with you.

One of the areas we see a great amount of potential is woody biomass utilization. In terms of renewable energy, it represents about 7 percent of the overall U.S. energy consumption. But of that 7 percent, more than a quarter of that comes from wood, so we have some tremendous opportunities for more jobs. It also has some great opportunities for us to meet our forest restoration goals. We see opportunities to reduce fire risks to communities, and at the same time provide jobs and economic opportunities.

The next area is hydropower. We have a number of significant small-scale projects that are available to us, that we feel could very easily raise our existing megawatts up to 10 percent or more above what we are currently doing. There would be no impact to fish passage, and at the same time we would be helping rural communities. In Alaska alone there are 32 new proposals for hydro-entitled projects.

The next area would be geothermal leasing and operation. Working with the Bureau of Land Management, we currently have 137 leases that are covering 155,000 acres. There are also two geothermal plants that are actually operating on National Forest System lands, that are providing electricity equivalents, the equivalent electricity demands for 60,000 homes. We also have 29 geothermal lease applications that we are processing.

In the area of wind and solar energy development, at this point in time we only have one wind project that is being evaluated, and that is in Vermont. We have, we don't have the same terrain and territory for some of the solar developments, and that is pretty limited for us.

One thing I wanted to be sure to mention, though, is in association with all of this activity regarding renewables, we have a very, very active program dealing with transmission lines, and making sure that we have adequate transmission for existing production, as well as new production that comes on line.

So in conclusion, the Forest Service Minerals and Energy programs contribute to a sustainable energy situation, and provide jobs for the American public, while promoting healthy ecosystems.

Thanks for the opportunity to be here, and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Ferguson follows:]

Statement of Tony Ferguson, USDA Forest Service Director of Minerals and Geology Management, U.S. Department of Agriculture

Mr. Chairman and members of the subcommittee, it is a privilege to be here today to discuss the President's Budget request for the Forest Service in fiscal year (FY) 2012 and specifically as it relates to the energy and minerals programs administered by the Forest Service. I appreciate the support this subcommittee has shown the Forest Service in the past, and I look forward to working together in the future to ensure that stewardship of our Nation's forests and grasslands continue to meet the desires and expectations of the American people. I am confident that this budget will allow the Forest Service to support this goal, while also reflecting our commitment to fiscal restraint and efficiency.

The Forest Service Minerals and Geology Management program is a critical program in providing jobs, minerals and energy for the American people, while working to ensure that watersheds are protected and threats to human safety are minimized. In addition, the program will work to restore sites contaminated with hazardous materials on NFS lands, in particular, abandoned mine lands. Reliability of the nation's electrical grid to sustain the economic growth of America and to deliver new sources of renewable energy are prominent issues that our country faces. The Forest Service will continue to support both of these efforts.

Minerals and Geology Management Program

The FY 2012 President's Budget requests \$78.8 million for the Minerals and Geology Management Program, an \$8.4 million decrease from the annualized FY 2011 continuing resolution as shown in the published FY 2012 Budget Justification. Priority will be placed on processing energy-related mineral proposals with a focus on increasing opportunities to develop and supply oil, gas, and geothermal resources from Federal lands in support of the Energy Policy Act of 2005 (EPAct). Other priorities include inspection and monitoring of ongoing mineral operations, providing expertise to ensure watershed health and public safety, and managing significant geologic resources. In addition to leasable energy resources, we manage many small operations; e.g., over four thousand mineral material permits providing for over ten million tons of sand and gravel and other materials which are critical for maintaining roads in rural communities. We are also involved in large operations such as ensuring environmental and water quality impacts of large gold and copper mines are minimized.

As calculated by USFS and the Department of the Interior's Office of Natural Resources Revenue, the value of energy and mineral production from NFS lands typically exceeds \$5 billion per year. Over 5 million acres of NFS lands are currently leased for oil, gas, coal, and phosphate mining operations. At any given time, the Forest Service administers operations on approximately 90,000 mining claims and manages approximately 4,000 mineral material sale contracts (Forest Service Special Uses Data Base). Mineral receipts are derived from annual lease rentals, royalties on production, bonus bids for competitive leases, and mineral material sales. Of the total revenues received, between 25 and 50 percent are returned to the State and county where production occurred.

The Minerals and Geology Management program works to mitigate potential threats to the environment and human safety associated with thousands of abandoned mines and other contaminated sites located on NFS lands. The program works to preserve valuable geologic resources and minimize the impacts of pollution on NFS lands to protect and enhance our Nation's water resources. NFS lands provide the largest single source of municipal water supply in the U.S., serving over 66 million people in 33 states. Energy and mineral development can go hand in hand with conserving resources and it is the Forest Service's aim to do so.

The Bureau of Land Management and the Forest Service work closely in managing and delivering the mineral and energy program in the United States. The BLM issues leases for exploration and development of energy minerals after receiving consent from the Forest Service for those National Forest System lands. When an oil and gas drilling permit is received by BLM on NFS lands, the Forest Service processes the surface use authorization and the BLM processes the drilling portion of the application and approves the drilling permit after consolidating the surface and sub-surface portions. The Office of Natural Resources Revenue at the Department of the Interior is responsible for the efficient, timely, and accurate collection and disbursement of all royalty payments and other revenues from the leasing and production of natural resources from federal lands.

Mineral Applications Processing

The Budget requests \$20.4 million to fund the processing of an estimated 7,975 mineral applications in FY 2012, depending on market demand for mineral re-

sources from NFS lands. The energy component of this activity will continue to focus on increasing opportunities to develop and offer oil and gas, coal, and geothermal resources from Federal lands. Pilot offices authorized under the Energy Policy Act of 2005 (EPAAct) will continue to help the agency efficiently process energy leasing and permit applications, particularly with respect to processing of oil and gas lease nominations and surface use plan of operations relative to applications for permits to drill. This program provides for the review and approval of plans for proposed mineral activities, including exploration and development of locatable minerals under the authority of the Mining Law of 1872; coal, oil, gas, and geothermal exploration and production under the various mineral and geothermal leasing acts; and contracts for the extraction of mineral materials such as sand and gravel by the public and local, State, and Federal agencies under the Materials Act of 1947 and other statutory authorities.

Mineral Operations Administration

The Budget requests \$28.6 million to fund the administration of an estimated 9,560 active mineral operations in FY 2012. The program will emphasize meeting necessary administration levels to ensure compliance with operating plan requirements and specific environmental standards for protecting resources. This program provides for the inspection, oversight, and monitoring of approved mineral operations on NFS lands.

Some of these active mineral operations are providing energy producing minerals. This funding will allow the US Forest Service to administer surface occupancy for a significant amount of oil, natural gas, coal and geothermal operations. The current production on NFS lands of oil (16.7 million barrels) and natural gas (194 million MCF of natural gas) is estimated to generate \$361 million in bonus and royalty payments to the US Treasury in FY 2010, of which 25% (for Acquired Lands) and 50% (for Public Domain Lands) will be returned to the states and counties for schools and roads, in addition to the Secure Rural Schools payments. Also, nineteen percent of all U.S. coal is produced from NFS lands and the annual market value is in excess of \$3 billion. (DOI Office of Natural Resources Revenue)

Geologic Resources and Hazards Management

The Budget requests \$5.8 million to fund the identification and management of an estimated 355 geologic resources and hazards. Managing geologic resources provides information on geologic and paleontologic conditions that inform land management decisions and project design and protects sites that have scientific or educational use. Identifying and managing geologic hazards provides for the safety of the public by protecting infrastructure, soil, and groundwater. This program provides assessments of geologic settings and active geomorphic processes for land management planning, environmental protection and restoration, and cost effective management of roads, recreation sites and other infrastructure.

Abandoned Mine Lands (AML) Safety Risk Features Mitigation

The Budget requests \$7.3 million to fund the mitigation of an estimated 560 abandoned mine sites. The AML program focuses on mitigating safety risk features and associated activities for abandoned mines in high-priority watersheds. This program provides for the inventory, assessment, and mitigation of abandoned mine safety hazards and environmental damage. This work includes closing underground mine openings and vertical shafts; re-contouring open pits, trenches, and associated roads; and removing or stabilizing abandoned buildings, equipment, and hazardous materials. Wherever feasible, AML work minimizes or mitigates adverse effects on AML-dependent wildlife and AML-associated cultural and historic resources.

Environmental Compliance Management

The Budget requests \$1.6 million to fund 22 environmental compliance audits, assuring that employee and public health and safety are protected. This program funds a national audit program which assesses Forest Service compliance with environmental statutes and trains field personnel on compliance and pollution prevention.

Environmental Restoration Management

The Budget requests \$15 million to fund restoration activities on 50 known hazardous material sites on NFS lands. Cleanup of contaminated sites is critical for the long-term protection of surface and groundwater quality and contributes to overall ecological health. This program provides for the inventory, assessment, and cleanup of sites where there is a release, or threat of release, of a hazardous substance, pollutant, or contaminant. Restoration mainly occurs at AML sites, but also non-AML sites. Cleanup projects are typically initiated under requirements of the Comprehen-

sive Environmental Response Compensation and Liability Act, Resource Conservation and Recovery Act, or Clean Water Act. This restoration helps minimize or eliminate threats to human health and the environment.

Special Use Authorizations for Alternative Energy Facilities

One of the priorities of the Forest Service's program in FY 2012 will be processing applications for land use authorizations that contribute to the Nation's energy needs. Special use authorizations for energy are managed by the Forest Service Lands and Realty Staff. The Forest Service's authorization of wind, solar, and hydroelectric energy producing facilities as well as transmission facilities will contribute to our energy independence as well as mitigate the effects of climate change.

The Agency's FY 2012 budget request includes \$11.2 million for processing land use proposals and applications under the National Forest System's Landownership Management Program, which will fund the issuance of approximately 3,700 new special use authorizations, with a primary focus on those associated with statutory rights and energy-related uses. Priority will continue to be placed on energy and communications projects.

The FY 2012 budget includes an allocation of \$7.2 million for the Administration of Rights-of-Way and Other Land Uses, a non-discretionary program that will continue to implement the cost recovery pilot program to improve customer service to applicants and holders of special land use authorizations and reduce the agency's backlog of expired authorizations. In FY 2010, the backlog of expired authorizations fell from 5,062 to 4,700. The agency will maintain and look to improve this trajectory. Processing applications for reauthorization of these uses, facilitates the development and transmission of affordable, reliable energy; supports economic development; and promotes public health and safety of populations in or near national forests and grasslands.

A priority for the Forest Service is striving to improve the Nation's ability to deliver electricity, as well as transport oil, gas, and hydrogen. As directed by the Energy Policy Act of 2005 (EPAct), the Forest Service, Bureau of Land Management and U.S. Department of Energy (DOE) have identified 6,000 miles of energy corridors where transmission is well suited, 1,000 miles of which are on NFS lands, across 11 western states. The Forest Service will continue to work with other federal agencies, tribal governments, and states to refine corridor locations and enhance and facilitate energy production and transmission.

The Forest Service is a participant in the 2009 inter-agency memorandum of understanding (MOU) for expediting the evaluation and authorization of high voltage and other significant electric transmission projects that cross lands managed by more than one federal agency. Expediting evaluation and authorization of these projects improves reliability of the electrical grid and supports transmission of renewable energy. The Forest Service is processing 26 applications that meet the MOU's goals of improving the country's electric transmission capabilities. The agency continues to enhance the process for siting electric transmission infrastructure on NFS lands by working closely with DOE and the Western Electricity Coordinating Council. As directed by the Energy Policy Act of 2005 (EPAct), the Forest Service is also working with DOE and the U.S. Department of the Interior on an assessment of electric transmission in the eastern United States and plans to submit a report to Congress on the assessment within the next few months. Currently, 14,400 miles of electric transmission lines and 6,600 miles (Forest Service Special Uses Data Base) of pipelines are under special use permit on NFS lands. The Forest Service is issuing directives implementing the MOU to: 1) ensure better cooperation and coordination with other federal agencies in evaluating and authorizing electric transmission projects; 2) clarify private vs. public land siting, 3) optimize siting of rights-of-way for energy transmission corridors; and 4) expedite applications for electric transmission projects on NFS lands.

Renewable Energy Development

Renewable energy resources are critical to satisfying the Nation's energy demands and will create energy-related jobs in the future. The Forest Service will continue to help increase the Nation's supply of renewable energy through the Woody Biomass Utilization Strategy and engaging in hydropower licensing, wind and solar energy development, and geothermal operations on NFS lands.

Biomass and Bio-energy

Using forest biomass byproducts from ecological restoration activities as a source of renewable energy can help enhance economic opportunity and forest sustainability by providing raw material for the renewable bio-energy and bio-based products sector. In FY 2012 the Forest Service proposes \$44 million for biomass and bio-energy programs. This sector is a growing source of green jobs in the U.S. and pro-

vides numerous benefits including improved forest health and productivity, reduced fire risk to communities, and economic opportunities. The Forest Service is working closely with other mission areas in USDA to pursue additional wood to energy options. In addition the Forest Service is working with DOE in converting Forest Service facilities to utilize wood energy.

We aim to strengthen biomass utilization efforts through our work with other agencies outside of USDA that encourage market development for woody biomass. The Forest Service's woody biomass program is ensuring a sustainable and reliable supply of raw materials and fostering effective business models that assist growth in this emerging sector. Stewardship contracts remain an important tool in meeting this objective. This restoration tool ensures a more dependable wood supply encouraging investment in private sector facilities.

Solar and Wind

In FY 2012, the Forest Service proposes \$1.6 million as part of the Lands and Realty Program for solar energy development that is expected to fund authorization of several solar energy facilities. A future solar energy programmatic environmental impact statement (PEIS) will identify where solar energy facilities could be sited without significant environmental impacts on 3 million acres of NFS land that has been identified as potentially suitable for that purpose. Interest in solar energy development on National Forest System lands has been limited considering that large commercial solar energy production generally requires large, flat landscapes that are more prevalent on lands administered by BLM.

The Forest Service proposes \$2 million as part of the Lands and Realty Program to fund processing and administration of special use authorizations for wind energy facilities on NFS lands. The Forest Service will issue wind energy directives this year that will be used to evaluate proposals and applications for wind energy facilities on NFS lands. The directives will clarify the Forest Service's role and policies in connection with wind energy development; promote consistent evaluation and authorization of proposed wind energy facilities; increase efficiency in processing proposals and applications for those facilities; and foster early project collaboration among affected governmental agencies and the public. NFS lands have significant potential for wind energy generation though there are often public and environmental concerns that need to be taken into consideration, such as visual impacts from ridge top development and the potential impacts on migratory birds and bats. The Forest Service is administering nearly a dozen land use authorizations for wind energy site testing and feasibility.

Hydropower

The agency proposes \$5 million as part of the Lands and Realty Program for hydropower in FY 2012, funding the processing and administration of 220 special use authorizations. Because most of the viable utility scale hydropower sites in the U.S. have already been developed, new production will likely come from increased efficiency of existing dams or smaller in-stream facilities that do not interfere with fish passage. Proposals for small scale hydropower facilities are anticipated to increase and could provide additional power generation capacity of 10 percent above the existing 16,200 megawatts generated on NFS lands. The agency is also active in hydropower licensing proceedings administered by the Federal Energy Regulatory Commission (FERC) by developing conditions to ensure adequate protection and use of NFS lands. The Forest Service is currently reviewing ongoing procedures seeking to reduce the time and resources needed to establish appropriate terms and conditions for FERC hydropower licenses.

Geothermal

In 2008, the Forest Service and BLM completed a joint Programmatic Environmental Impact Statement (PEIS) evaluating geothermal development on Federal lands in the western U.S. to provide efficiencies in processing geothermal lease applications on NFS lands. Currently, there are 137 geothermal leases covering approximately 155,000 acres of NFS lands. Leasing of NFS lands for geothermal development is similar to leasing of NFS lands for oil and gas development in that the Secretary of the Interior issues leases for NFS lands once there is agreement by the Secretary of Agriculture. The Forest Service stipulates conditions for disturbance of the surface for geothermal development on NFS lands. There is significant potential for increased geothermal production from National Forest System lands.

Conclusion

This President's Budget request for FY 2012 takes a comprehensive, all-lands approach to conservation that addresses the challenges that our forests and grassland currently face, while also taking into consideration the need to reduce spending and

to find the most efficient way to do our work. Our vision in creating healthy landscapes not only includes creating healthy ecosystems, but also creating healthy, thriving communities around our Nation's forests and grasslands and providing jobs in rural areas. Our minerals and energy programs will contribute to supporting sustainable domestic energy production and providing jobs and socioeconomic benefits to the American people, while protecting healthy ecosystems.

Thank you for the opportunity to discuss the President's Budget request as it relates to our agency's energy and minerals programs. I look forward to sharing more with you about these programs and working with you in shaping the proposals laid out in the FY 2012 budget. I look forward to answering any questions you may have.

Mr. LAMBORN. OK, thank you for your statement. We will now begin questioning. Members are limited to five minutes for their questions, but we may have an additional round. And I appreciate the willingness on the part of our two witnesses to stay for an additional round, so thank you so much.

I now recognize myself for five minutes. And Mr. Abbey, I would like to ask you some questions based on your written testimony.

Mr. ABBEY. You bet.

Mr. LAMBORN. And I am looking at initially pages 4 and 5 of your testimony. And you talk about new fee increases on those pages.

And you talked about, first of all, a fee to recover inspection costs to the oil and gas program, allowing a savings of \$38 million. So I assume that that is a \$38 million fee increase.

Before I talk about the other fee increases, in general, when you increase fees on industry, do they absorb that, or do they pass that on?

Mr. ABBEY. Well, if they, most of the time they would be passing that cost on to the consumer.

Mr. LAMBORN. So in effect, we can conclude that the economy will increase its costs when costs to consumers go up, and that could be a drag on the economy to that extent.

Mr. ABBEY. Well, you certainly could make that assumption. Again, what we are talking about is trying to, again, take steps to reduce the costs to the American taxpayer, and then place those costs on the industry that is benefitting from the developing—

Mr. LAMBORN. But the costs go to the American consumer.

Mr. ABBEY. That would be, that would be a business decision made by the industry.

Mr. LAMBORN. OK. The next one there is, you are proposing a per-acre fee on each non-producing lease of \$4 per acre. How many acres are we talking about there, so I have an idea of how many dollars?

Mr. ABBEY. Well, at this point in time we have a little over 41 million acres under lease, with about 12 million acres in production.

Mr. LAMBORN. So how many acres again?

Mr. ABBEY. We have 41 million acres under lease, with about 12 million acres under production.

Mr. LAMBORN. So potentially 29 million times \$4, which would be over \$100 million, if the full extent was assessed and paid.

Mr. ABBEY. If legislation was passed that allowed us to assess that fee.

Mr. LAMBORN. OK.

Mr. ABBEY. And I should say, too, that I was just reminded that that new \$4-per-acre fee is really only going to be assessed against new leases, not on existing leases.

Mr. LAMBORN. OK. Because that would be unconstitutional. OK. And third, the BLM is proposing a rulemaking in 2011 to increase the onshore oil and gas royalty from its current 12.5 percent level, to what? I don't, what is the ending percentage, if you have your way?

Mr. ABBEY. Well, there has been no determination on what the royalty rate might be. We are doing an analysis to determine, based upon what is being charged throughout the United States by states, as well as the international, or other countries. We are going through that analysis.

I would say that the GAO has noted a couple of times in reports that have been submitted to the Department of the Interior that such an analysis is well overdue. We should determine what is a fair return to the American taxpayer, and then change our rules to reflect that fair return.

Mr. LAMBORN. But you conclude that you are seeking to raise \$900 million over 10 years, so that would be 90, so whatever the percent increase is that you have a target of \$90 million per year, or almost \$1 billion over 10 years.

Mr. ABBEY. That was a target that the Office of Management and Budget came up with, and it was based upon, again, an assumption that, at a minimum, the new royalty rate would be similar to what is charged on offshore mineral development. Which is around a little over 18 percent.

Mr. LAMBORN. Well, in response I would say if they, they either absorb it, which hurts the return to investors and lowers investment, or they pass it on to the consumer, and that hurts the economy.

Now, on the minerals side you are proposing an AML fee, abandoned mine lands fee, on the volume of material displaced, which doesn't take into account profitability or market prices; and rental payments and a royalty of not less than 5 percent on gross proceeds, once again ignoring market factors. If the commodity market is taking a hit at that point in time, and you are basing it on gross proceeds or on volume of materials displaced, you could be driving people out of business.

Mr. ABBEY. Well, the proposal that we have recommended, and we are working on draft legislation that we would be presenting to Congress, is really a very small royalty rate assessed against that industry.

Again, our interest is bringing in a fair return to the American taxpayer for the use of their public assets.

Mr. LAMBORN. Last, you talk about lower-priority programs on page 2. You want to reduce funding for lower priority—what are the lower-priority programs that you have identified in your current budget? It is in the middle of page 2.

Mr. ABBEY. Well, the lower-priority programs, again, would reflect some reductions in land conveyances in the State of Alaska. We would also be looking at reducing funding in some of our other renewable—I mean, not renewable, but resource programs, like walleye, grazing, and those type of programs.

Mr. LAMBORN. And do you have a dollar amount that these lower-priority programs total up to?

Mr. ABBEY. Well, I don't have it with me, but it is part of our budget proposal that we have submitted.

Mr. LAMBORN. OK, thank you so much. And at this point I would like to recognize the gentleman from New Jersey.

Mr. HOLT. Thank you, Mr. Chairman. Director Abbey, is it correct that 2010 saw the highest level of oil production on BLM land in more than a decade?

Mr. ABBEY. Yes.

Mr. HOLT. And the second highest on BLM land for natural gas production ever?

Mr. ABBEY. That is true.

Mr. HOLT. OK. I just wanted to make sure that I was clear on my facts here.

Now, there is interest in leases; that has not fallen off, has it?

Mr. ABBEY. Well, there was a slight decline in the interest in leasing new areas. Again, there are 41 million acres that have already been leased, with 12 million of those under production.

But it does change with the market conditions. With the market of gas going up, certainly there is a renewed interest in leasing public lands for potential development, and we are seeing that reflected in nominations of public lands for possible leasing.

Mr. HOLT. Let me understand the philosophy behind administering fees. You believe that fees on oil and gas industry are about right, too high, or too low right now?

Mr. ABBEY. We believe that there should be an adjustment in those fees to reflect the true costs of doing business, and, again, a fair return to the American taxpayer.

Mr. HOLT. If those fees are not collected, could you say that it is actually at the taxpayer's expense, then; that it is money that otherwise would have been returned to the taxpayer? Because you return to the Treasury quite a bit of money each year. Do you know what it would be in a typical year?

Mr. ABBEY. Well, again, it is a good investment. We estimated that we would be returning about \$5, in Fiscal Year 2012, for every dollar that would be invested by Congress in Bureau of Land Management activities. That is across the board, and includes more programs than just Minerals.

Mr. HOLT. And totally, what would the total amount be from BLM activities?

Mr. ABBEY. It would be over \$5 billion.

Mr. HOLT. Over \$5 billion, with a B, OK. Now, is it true that oil prices are determined on a world market, that you know, if we drilled from Asbury Park to Yellowstone Park, we would still be contributing a rather small amount of oil to the world market? And the price is determined at an international level, is that correct?

Mr. ABBEY. That is true. You know, certainly public lands have a role, but our role is very small compared to the international market.

Mr. HOLT. And so if a fee is raised, that can't be reflected in a price to the, a change in price to the consumer, can it? I mean, it is a world market price. The company will then decide whether or not they are going to go for a lease, whether they are going to de-

velop that lease, based on the world market price. But it is not passed on to the consumer, it cannot be passed on to the consumer.

Mr. ABBEY. Well, as we are looking, as far as our new fee proposals again, we believe it is well past time to do an analysis of determining what is a fair return from development of these Federal leases.

Mr. HOLT. I think most taxpayers would feel that these things should be, that generally resources of any sort should be paid for by those who use them, rather than the taxpayer underwriting profitable activities of somebody else, of some special or some individual corporation.

Now, I guess you still haven't quite answered the question, because earlier I thought I heard you say that, agreeing with the Chairman, that an increase in the fee would be passed on to the consumer. But it is a world-determined price for the oil.

Mr. ABBEY. It is a world-determined price for the oil.

Mr. HOLT. How would that be passed on to the consumer, then?

Mr. ABBEY. It would be based on a business decision made by the industry themselves, how they would absorb those additional costs.

Mr. HOLT. That is right. And it would not be passed on to the consumer. I just wanted to clarify that point.

Well, we will come back with some other questions; I see my time is exhausted. But I will be interested to hear more about your plan for fees. Thank you.

Mr. LAMBORN. OK, thank you, Mr. Ranking Member. And now we will go to the Member from Pennsylvania, Representative Thompson.

Mr. THOMPSON. Thank you, Chairman, Ranking Member, for this hearing. Mr. Ferguson, Mr. Abbey, thank you for being here and testifying.

I represent Pennsylvania's Fifth Congressional District; it includes the Allegheny National Forest. And to my knowledge, this forest has more privately owned mineral rights than any other national forest in the country. In fact, 93 percent of the mineral rights are privately owned.

A constant concern I have is over the unnecessary litigation that the Forest Service faces. And I truly believe a large part of the litigation is not for legitimate site-specific concerns, but rather, an effort by some environmentalists to slow the leasing and the permitting processes.

What is the Forest Service and BLM doing to help ensure that the permitting and leasing processes are completed in a timely manner?

Mr. FERGUSON. Well, in the situation with the Allegheny National Forest, with so much of that being privately owned, 93 percent as you have stated, the BLM is not very involved, because there is not a large percentage of Federal minerals that need to be leased in that particular situation.

But each of the forest plans, or for the Allegheny there is a forest plan that talks about the availability of public lands for leasing. And then if there is interest by a company or an individual, they would make a recommendation to the BLM to have those parcels offered through their leasing program.

I am not sure if that is where you are going with the Federal side, but that is the Federal process.

Mr. THOMPSON. OK. Well, I strongly believe that certainly some in the environmental community are only filing lawsuits against the Forest Service and BLM for no other reason to, really, to further delay production. And actually also to fund their organizations, since we have these funds that will pay their fees to do that, to sue the Federal government.

Would you agree that the process of suing your agency needs some reform?

Mr. FERGUSON. If there was a way to limit litigation, I think it would be fantastic. It takes a tremendous amount of time for our employees to respond. It takes them away from some of the other jobs they have. I am just not that familiar with some of the possibilities as far as reform actions. But I do know it takes a lot of resources in terms of responding to litigation.

Mr. THOMPSON. Are you aware that the Forest Service entered into a settlement agreement with the Sierra Club regarding oil and gas drilling in the Allegheny National Forest in April of 2009, that severely restricted and indefinitely banned new oil and gas drilling on private mineral property interests in the national forests?

Mr. FERGUSON. I was aware of that settlement, yes, sir.

Mr. THOMPSON. As a result of the settlement agreement, a preliminary injunction was granted against the Forest Service in the Federal Court in Erie, Pennsylvania, Judge McLaughlin, on December 15, 2009. And in the litigation between Minard Run Oil Company and the Pennsylvania Independent Oil and Gas Association v. the U.S. Forest Service and the Sierra Club, the preliminary injunction was issued in part because the Judge found that many small oil and gas businesses in the Allegheny National Forest would suffer irreparable harm, and potentially go out of business, unless the Forest Service was prohibited from requiring the application of the NEPA to these private mineral estates in the Allegheny National Forest.

Are you aware of this preliminary injunction?

Mr. FERGUSON. Yes, sir, I am.

Mr. THOMPSON. Does the Forest Service intend to abide by that preliminary injunction?

Mr. FERGUSON. Yes, sir, we do intend to abide by that. And we are recognizing their rights for access.

Mr. THOMPSON. It is my understanding that the Forest Service is in the process of drafting a regulation actually relating to the "management of National Forest System surface resources with privately held mineral estates."

Now, my concern is, although you are telling me your intent to abide by the preliminary injunction, that this a back-door way maybe to not do that, to violate it. Can you tell me what the status is of that regulation?

Mr. FERGUSON. Yes, sir. We are going through some of the early stages of developing the regulations. It is not ready for, it is not at the draft stage yet. We are pulling information together.

There will be a point in time where we will have a draft and a number of public opportunities will be available to get feedback. I

would be more than happy to come up and visit with you and your staff and give you an update when we get to that point.

Mr. THOMPSON. I look forward to that. And I do have one question, and I will hold the rest for my second round. Can you cite for me the legal authority that the Forest Service is using to draft this regulation, when the Federal Courts have thoroughly reviewed these facts and filed this injunction?

Mr. FERGUSON. In 1992 the Energy Policy Conservation Act had a specific statement that directed the Forest Service to develop regulations for the Allegheny National Forest. That is where the, where the effort was based, in the 1992 Energy Policy Conservation Act.

Mr. THOMPSON. OK. We will come back and talk more next round. Thank you, Chairman.

Mr. LAMBORN. I thank the gentleman, and now I would like to recognize Representative Bordallo for five minutes of questions.

Ms. BORDALLO. Thank you very much, Mr. Chairman. I have a question for Director Abbey.

While I understand no decisions have been made at your agency, if we look at what happened in 1995, it can give us some idea of what might happen if the majority forces a shutdown of the Federal government. Would a shutdown of the government mean that no new permits to drill would be issued onshore?

Mr. FERGUSON. That is true.

Ms. BORDALLO. It is true. So a shutdown could actually harm domestic oil production.

Mr. FERGUSON. It would harm domestic oil production during the period of time that the government was shut down.

Ms. BORDALLO. I see. Now, significant revenue is generated to the Federal government from visitors to BLM lands. Would that revenue stream also be lost if a shutdown occurs?

Mr. FERGUSON. It would.

Ms. BORDALLO. That sounds pretty serious.

Mr. FERGUSON. Well, again, I am not sure, you are smarter than me, no doubt. But I am not sure a shutdown would serve anyone well.

Ms. BORDALLO. Thank you. Thank you very much, Mr. Chairman.

Mr. LAMBORN. I thank the gentlelady. Now for the next Member who was here when the gavel came down, Representative Fleischmann.

Mr. FLEISCHMANN. Thank you, Mr. Chairman. My name is Chuck Fleischmann; I represent the Third District in Tennessee. My first question is for Director Ferguson.

Director Ferguson, you may recall that at one point the Forest Service had 35 million acres of Federal oil and gas leases. That figure is now 5.3 million acres. Can you please explain to me what has caused this drastic drop in leasing acreage, sir?

Mr. FERGUSON. Probably a number of factors are at play there. I am not familiar with the timeline, when we had 35 million acres, in terms of the historical time period.

We see cycles in the industry, and you know, there are fluctuations in terms of where there are expressions of interest. And it is totally market-driven. So we are trying to respond to public inquir-

ies that come in to the BLM originally that come to us, and we look at those and see if they are consistent with our land plans, our forest plans, and make recommendations along that line.

So I can't give you a real specific answer, because I don't know the timeframe. I would be happy to get some more information and try to make that a little more clear.

Mr. FLEISCHMANN. Thank you. Next question for Director Abbey. Director Abbey, given the long list of processes and regulations for leasing through environmental analysis and permitting, sir, what could the government do to streamline those processes and encourage domestic oil and gas development? Also, what are the steps that the Bureau of Land Management are taking to expedite oil and gas leasing process?

Mr. ABBEY. Well, in the President's blueprint for a secure energy future, he noted several possible provisions that might provide incentives for quicker development of existing leases and new leases. In that blueprint, there was a suggestion that Congress entertain shorter lease terms, as part of the Minerals Leasing Act. Also, there is the possibility of rewarding rapid development with lease extensions once there is an indication of progress being made in developing those leases.

And another suggestion was that we would reward rapid development through graduated royalties. Again, that would require a regulatory rule change for us. But there are opportunities for us to work together with Members of Congress, within the Administration, and with industry and all public land stakeholders, to encourage responsible development of these resources that this nation is very dependent upon.

We are willing and are moving forward in that direction. We are hosting various forums over the course of the next month to talk to the stakeholders regarding fracking, and the use of fracturing technology in development of natural gas on public lands. We are interested in hearing what the public has to say regarding that particular technology and any concerns that they may have, so that we can incorporate that as part of our analysis.

The Bureau of Land Management again takes to heart the role that we play in developing our national resources, both renewable and conventional, to serve the public. And I think the program that we have in place, and the ones that we are implementing, not only provides greater opportunities to develop these resources, both renewable and conventional, but also to do so in a more responsible and environmentally sound manner.

Mr. FLEISCHMANN. Thank you. One follow-up question in the time remaining. Director Abbey, the President's budget imposes over \$60 billion in tax and fee increases over 10 years on American energy production. Can you please tell me what the economic effect will be of these proposed taxes and fees on the energy industry?

Mr. ABBEY. I think you have some people that will be coming up on the second panel that could probably provide a response to that particular question.

I will say this. That again, as we look to the future, our desire is to pass on to the industry the cost of doing business on these public lands. We are looking at, again, assessing fees to cover the full cost of inspections and enforcement actions on all the applica-

tions for permits to drill that we are approving. And as we look to the future, we are also looking at what is a fair return to the American taxpayer.

Mr. FLEISCHMANN. Thank you, sir. I yield back.

Mr. LAMBORN. I thank the gentleman. Now the gentleman from Colorado, Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman. Mr. Abbey, I am concerned with some of the proposed funding increases. In this budget request there are \$29.9 million for an increase for recreational and cultural resources in the national landscape conservation system. There is an increase of \$20.4 million requested for land acquisition. But the BLM has not requested an increase for oil and gas processing.

Why do you rate land acquisition as more vital than energy development?

Mr. ABBEY. Well, in many cases acquisition of inholdings actually reduce the cost of managing public lands. We have worked very closely with public-land stakeholders, with interest groups, to identify those lands that would complement our management of key areas, sensitive environmental areas. We have identified those as part of the 2012 budget proposal.

Our intention is that if these, if the monies were made available, that we would acquire those lands from willing landowners.

I would point out, you know, Congressman Coffman, that managing public lands for multiple use is not just about developing our energy, or every acre for oil and gas. It is about bringing balance to public lands. Recognizing and protecting significant historic and cultural resources, sensitive watersheds and habitats, and wild and scenic rivers is just as important as providing acres for oil and gas leasing.

Mr. COFFMAN. In 2009, Americans utilized renewable energy resources, such as wind, biofuels, hydroelectric, geothermal, and solar, to meet around 8 percent of our nation's total energy needs. Obviously it is unrealistic to assume that our nation will be able to use renewable energy utilization of all of our—let's see—will be able to use renewable energy utilization for all our needs in the near future.

That being said, Mr. Abbey, I would like to know what your plan to increase conventional, non-renewable energy sources is in the future.

Mr. ABBEY. Well, Congressman Coffman, again, as consistent with our land-use plans, we are moving forward, making public lands, appropriate public lands, available for leasing. Again, we are implementing leasing reforms to try to bring greater certainty to the industry and to our public land stakeholders in those lands that we are evaluating for leasing, have the greatest chance of being leased and development.

We are doing so to ensure that leasing is performed in the proper places, and again, incorporating all the safe and environmentally responsible, in a responsible manner. In other words, adopting best-management practices for any development on these public lands.

Mr. COFFMAN. Now, as I understand it, you have specific goals for renewable energy on public lands, in terms of increasing renew-

able energy on public lands relative to output. Am I correct on that?

Mr. ABBEY. We do. Congress actually established some of those goals.

Mr. COFFMAN. OK. What are your goals in terms of oil and gas, of actually oil and gas output on public lands? Would you have specific goals on that, as well?

Mr. ABBEY. We don't have specific targets. Again, our desire is to make sure that we act responsibly, making appropriate public lands available for such development, and to ensure that best-management practices are adopted and implemented on the ground.

Mr. COFFMAN. Well, I don't understand. It is odd that you have specific targets on the renewables side, but you don't have specific targets on the non-renewables side. Why is that?

Mr. ABBEY. Well, again, it is part of the Congressional desire to see this nation diversify our energy portfolio, to release, or to decrease our reliance on foreign energy sources. Again, Congress did establish goals for us relative to renewable energy development. We are looking at, we are already halfway to achieving those goals.

This year we will be reviewing 19 renewable projects, nine solar projects, five geothermal leasing project proposals, and five wind projects.

Mr. COFFMAN. Thank you. You know, I just want to make a point. That it would seem to me that actually, that you ought to have targets on the non-renewables side. And just as you are trying to reduce our dependence on foreign oil, I have a feeling that producing more oil inside the United States might accomplish that.

Mr. Chairman, I yield back.

Mr. LAMBORN. OK, thank you. I would now like to recognize the gentleman from Oregon, Representative DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. Just in response to my colleague, I think he was here for the hearing where we had the head of the Energy Information Administration there. And he and every other expert up there agreed that in fact, OPEC sets targets, and they produce to meet those targets or restrict to meet those targets. And incremental additions, particularly in the short term, to U.S. oil supply would be offset by OPEC because they want to maintain their price targets. And we have a bipartisan problem there, because neither Clinton, Bush, nor Obama wanted to take OPEC to the WTO, but that is not for this hearing.

Mr. Abbey, you talked about greater certainty for leaseholders, and I guess that was in part of a longer response. And I just kind of want to get to what that means. I don't know whether, is the former naval petroleum reserve, is that under your jurisdiction in Alaska, the leasing there?

Mr. ABBEY. The national reserve? Yes, it is.

Mr. DEFAZIO. OK. What about all the non-performing leases in there, where there are known, very substantial reserves?

Mr. ABBEY. The challenge in developing those resources in the RA is infrastructure. Even though there has been areas that have been leased, there has been some exploration performed on those leases; the concern on the part of the industry, and I think to all of us, is the lack of infrastructure. That if those resources were developed, how do you deliver it to the market.

Mr. DEFAZIO. Well, it seems to me it is a good deal closer to the pipeline from Prudhoe Bay than is ANWR over here.

Mr. ABBEY. Well, there is. And again, it would require some additional pipelines and additional investments and costs by the industry to deliver that resource.

Mr. DEFAZIO. Investments and costs? Is it just going to spring up magically out of the ground, and go to the refinery by itself? Doesn't all this involve very substantial investment and costs?

I mean, I have been looking at this for a number of years. I mean, it was the Clinton Administration that lifted the moratorium on leasing in there, and let the leases; yet, we have had no development. That is quite a few years. And yet on that side of the aisle we hear that the government is holding people back. Is the government preventing the development of those leases?

Mr. ABBEY. No.

Mr. DEFAZIO. OK. On the other hand, does the government have stringent use-it-or-lose-it kind of performance requirements? Can you just sit on top of a pool of oil and say well, we will get to it some time?

Mr. ABBEY. Well, the government, the Bureau of Land Management issues 10-year leases. And if the industry does not develop those leases within that 10 years, that lease does expire.

Mr. DEFAZIO. Well, I would assume that quite a few of those, if they were let in the Clinton Administration, must be at or past that 10-year point. Have we taken any of them back?

Mr. ABBEY. There has been some that have been relinquished, yes.

Mr. DEFAZIO. OK, but others where there is more prospect of there being substantial amounts of oil that haven't been relinquished?

Mr. ABBEY. Well, where there has been exploration and another type of activity performed on those leases, they have not been relinquished.

Mr. DEFAZIO. OK. So if they just perform some exploration, then the 10-year limit doesn't apply. It isn't 10 years to develop and extract the oil from the lease; it is 10 years to do something.

Mr. ABBEY. Exactly.

Mr. DEFAZIO. And then what happens after they do something? Like explore and find out there is oil there? Does the 10-year clock start over again to actually extract the oil?

Mr. ABBEY. The lease can be extended.

Mr. DEFAZIO. Can be.

Mr. ABBEY. Yes.

Mr. DEFAZIO. Can it not be?

Mr. ABBEY. I am not aware that we have accepted leases back where there has been activities—well, let me backtrack. We do have areas where—

Mr. DEFAZIO. Accept them back. I am not talking about accepting them back. I am talking about taking them back if these people are sitting on pools of oil that are known, they are refusing to develop it because it would cost money. And might drive down the price a little bit if it is a large supply, and it is longer-term, as opposed to the short-term stuff.

Mr. ABBEY. If there has not been any active exploration or development in those leases within that 10-year period——

Mr. DEFAZIO. Yes, but you just used exploration. I could explore, find out there is a pile of oil down there, huge pool of oil; and then just say well, we will save that for later, when the price is even higher.

Mr. ABBEY. Well, within that 10-year period there has to be some production. That is true.

Mr. DEFAZIO. There does have to be production. That seems to contradict what you said earlier. I think this——

Mr. ABBEY. Let me get some clarification real quick.

Mr. DEFAZIO. Yes.

Mr. ABBEY. Well, I was just informed that Congress does give companies more time in the NPRA, due to infrastructure problems there. And so there is an exception there in Alaska for the National Petroleum Reserve.

Mr. DEFAZIO. But my understanding is, with the decline in Prudhoe Bay, we are not using the pipeline capacity, fully utilizing it. And this is much closer than ANWR, where we don't know if there is or isn't oil. We know there is oil in the petroleum reserve; that is what it was kept for.

I guess then I would ask, on a bipartisan basis, maybe my colleagues would like to join with me in forcing these people to do something about accessing, investing, and extracting that oil. Thank you. Thank you, Mr. Chairman.

Mr. LAMBORN. OK, I thank the gentleman. Now we will hear for up to five minutes, questions from Representative Rivera from Florida.

Mr. RIVERA. Thank you very much, Mr. Chairman. Gentlemen, thank you for being here today.

Mr. ABBEY, just to follow up on some of the line of questioning we just heard, when did companies apply for permits to build pipelines into the Naval Petroleum Reserve, Alaska?

Mr. ABBEY. I don't have the specific dates. I do know that there have been some proposals for pipelines within the National Petroleum Reserve in Alaska.

I do know that at least one company is having problems getting the necessary permit from the EPA and the Corp of Engineers.

Mr. RIVERA. Do you have any idea when those applications may have started? Weeks, months, years?

Mr. ABBEY. I don't. We would certainly be happy to provide you that for the record.

Mr. RIVERA. I would appreciate that. Because my understanding is it has been several years. And I guess the follow-up question then is what are you doing to move forward?

Mr. ABBEY. Well, the Bureau of Land Management again takes the applications that we receive, the proposals that we receive. We go through the necessary NEPA analysis. We make a determination of whether or not such an action is appropriate, but it still is consistent upon the proponent acquiring and obtaining all the necessary permits from other agencies who has a role to play, as well.

Mr. RIVERA. Well, let's talk about that a little bit, the other agencies that have the role to play. I assume you are alluding to the Army Corps, the EPA?

Mr. ABBEY. I am, as well as State agencies.

Mr. RIVERA. And in terms of the Army Corps and the EPA, why are, what are they doing in terms of preventing going forward and developing in the NPRA?

Mr. ABBEY. Well, they have their own review processes, and also they provide permits that are required in order for some of those proposals to be developed.

Mr. RIVERA. And anything that you, in your capacity, are doing to expedite any of these efforts?

Mr. ABBEY. We routinely coordinate our actions with the EPA, as well as the Army Corps of Engineers. We share our information, our analysis, with them. But they, in turn, have their own processes, and they are the ones that make a decision of whether or not they issue their permits.

Mr. RIVERA. Let me move forward then and talk a little bit about the question on the Energy Policy Act of 2005, where it states that it is the Policy of the United States that, I am quoting, "oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports."

My question is how do you square that policy direction from Congress, which I think seems pretty clear, with the recent oil shale settlement agreement with a number of environmental groups that result in taking the oil shale resource off the table, particularly at this time when it is so desperately needed?

Mr. ABBEY. Well, first, we have not taken the oil shale off the table. We have a very aggressive research and demonstration program that is in place. We have issued six oil shale leases, five in Colorado, one in Utah, that are currently being evaluated as far as the technology that is being planned to be used by the companies that have those six RD&D leases.

In addition, we are reviewing three other nominations that have come to us, and that, for additional RD&D leases. Two of those three are located in the State of Colorado; one is also located in Utah.

So we are aggressively looking at the technology to determine what would be the true impacts of developing that significant resource that does exist in Wyoming, in Colorado, in Utah primarily, so that it could help offset our needs for domestic oil and oil shale-type materials.

Mr. RIVERA. So it is your position that any agreements with these environmental groups are not essentially repealing the National Policy Directive set by Congress.

Mr. ABBEY. We do not see a repealing at all. In fact, again, it does require us to go back and do some initial analysis to determine just how much resource impacts could occur, would occur under the development of these oil shale materials. Again, we do not have a full understanding of the quantity of water that would be required in order to produce oil from oil shale. There are some other impacts that might be experienced as a result of developing such a resource.

So we wanted to make sure that we have an aggressive RD&D program that would give us the answers that we need in order to move forward responsibly to develop such a resource.

Mr. RIVERA. Thank you, Mr. Chairman.

Mr. LAMBORN. OK, thank you. I now recognize for up to five minutes the gentleman from Arizona, Representative Gosar.

Dr. GOSAR. You know, Mr. Abbey, what I am noticing is a total lack of coordination in efforts. And I am seeing this over and over. And as a businessman, it is apparent that we have some problems.

In fact, when my colleague on the other side of the aisle, Mr. DeFazio, asked you some questions, you were careful in your discussion about pinpointing about some of the problems in the process, when the process is part of the problem.

I am from Arizona's First District, and NEPAs are now taking over five years to accomplish. And all we have to take is a letter with a stamp on it to hold it up. That is where we, Mr. Ferguson, need to have some tort reform in regard to this litigation.

But it is, the problem is, particularly when you see an administration actually going and thwarting a process of putting in infrastructure. So I want to pinpoint that the problem is a lack of coordination.

Now, Mr. Ferguson, how are stone quarry reclamation bonds figured?

Mr. FERGUSON. There is a process that we follow where they look at projected reclamation costs for the type of activity, equipment use, and things along that line. Our regulations require us to update those periodically, and they look at a couple different things. They can look at local, more localized rates. They can also look at a more generalized regional rate for the reclamation efforts that are required.

Dr. GOSAR. Who has the authority to set those?

Mr. FERGUSON. That would be actually managed at the district or forest level, by the District Ranger, and ultimately from an authority standpoint, the District Ranger and Forest Supervisor.

There is usually a geologist or a minerals administrator that gets involved in the process of gathering the information from the local sources in pulling together the projection of what the reclamation costs would be, and then calculating the bond.

Dr. GOSAR. That is interesting. Is there a means to review that decision, with the checks and balances, in case somebody didn't have their facts and figures right?

Mr. FERGUSON. I would suggest having meetings with the District Ranger and the Forest Supervisor to, you know, in terms of a formal process. Once the bond is established, there probably is an appeal process. But I would encourage just having some face-to-face talking, you know, time with the local supervisor, would probably be a good, effective way to try to deal with that, as well.

Dr. GOSAR. What if the regional supervisor basically says my word is it, and that is it, and I don't care what Congress or anybody else does? Is that a prudent use of oversight?

Mr. FERGUSON. That is a good question.

Dr. GOSAR. Well, let me just make it more specific. Let me give you a nice story. I really have some concerns about the reclamation bond requirements imposed on the stone quarry industry.

As you know, the last three years have just plummeted. And in fact, my district is one of the poorest. And so when you talk about looking at rehabilitating a quarry, costs are probably pretty low; not greater, probably pretty low.

So what happened is that we had some bonds set. And in the end of 2010 the bond was set for \$627,000. In 2011, that bond went up to \$940,800. And when they questioned it, the regional geologist in Williams took that to a rate of \$1,183,800. Wow.

I am astonished here. You know, over 200 families have jobs there. And so it seems like we would have some workability with people. And what began—I want to reiterate, I am from Arizona's First District, where we seem to have a constant problem here. And it was wonderful that the Chief came out to work things out in the Schultz Pass fire.

But it seems to be that we have rogue bureaucrats at the local level deciding fates of everybody, without a discernible policy, without checks and balances. I have a whole list of questions in regards to this quarry industry, and I would like to see them answered, if I may.

Mr. FERGUSON. I would just offer that there are some opportunities to look at that bond value calculation. There are also opportunities to do some other, or look at other approaches to how some of that reclamation can be done.

If the operators have equipment out there, and they are actually able to do some of that reclamation themselves, you know, make their footprint smaller, do some of that rehabilitation, then that would be a way of decreasing that bond calculation. So it is based on the footprint on the ground.

So I think there are some possibilities that are out there to negotiate, do some reclamation. It is going to be less expensive for that operator if his equipment is already there, if they meet the standards. So I think there are some possibilities there.

Dr. GOSAR. Mr. Chairman, just one follow-up then.

Mr. LAMBORN. Quickly.

Dr. GOSAR. So there are checks and balances that we can mitigate this. And so who would people go to if they have somebody sitting in a power of authority, just saying this is the only way? I mean, actually the comment came back that Congress can't do anything about it, it is my way or the highway.

Mr. FERGUSON. Well, I think that the decision maker, as I said, is that district ranger or the forest supervisor. There is a regional forester that also exists in the organization, so I would knock it up to the next level, if that is where you feel like you need to go.

Dr. GOSAR. I would like to take it a step further. I would like to see the checks and balances all the way through, so that we can move this along for people in Main Street America.

Mr. FERGUSON. I understand.

Mr. LAMBORN. OK, let's have a second round. And you can certainly do a follow-up in the second round. Once again, I appreciate the two witnesses staying a little bit longer. I appreciate that; I know your time is valuable. But there are a lot of important questions that we would love to ask.

I will start the second round. And this question is for both of you; it affects both of your agencies. And I have also asked this question

of Interior Secretary Salazar when he was here. And it has to do with a situation, and I believe it is in the Teton Forest of Wyoming. And apparently there is a forest supervisor who has taken it upon herself to urge BLM to cancel leases that, oil and gas leases, that were duly authorized by BLM.

There is no way that this can happen, is there? And are you familiar with the situation? This is for both of you.

Mr. ABBEY. Well, certainly, I will begin the answer, and then maybe Tony would like to augment my response. But the Bureau of Land Management's position at this point in time is awaiting the final outcome, so the Forest Service administrative appeals process, before we determine how best to address those leases.

The forest supervisor has made a determination, I believe maybe based upon litigation, or certainly an appeal to go back, reevaluate the analysis that provided such lands for leasing. And that administrative appeal is still going on, as far as I know.

Mr. FERGUSON. I will just add to that. That is correct. The administrative process is running through its course right now.

The decision that the forest supervisor made was to withdraw the consent to leasing that had been previously provided to the BLM. There was an appeal process of 45 days, and then there is a final decision that will be made on that appeal by the regional forester that we expect sometime on or around the first week of May.

So we are still in the administrative process regarding the consent that was provided for leasing to occur.

Mr. LAMBORN. OK, thank you. Mr. Abbey, I want to thank you for clarifying something earlier. There was some discussion about the concept of use it or lose it. And you correctly pointed out that people make payments upfront when they are given a permit; they make annual permits thereafter. That is a use-it-or-lose-it structure, already in place, for those who understand how business and free enterprise operates.

Mr. ABBEY. They pay rent on those leases, yes.

Mr. LAMBORN. That is right. So they have every incentive right now to make their investment pay off. And if they want to watch that disappear because for some reason it is no longer economically feasible, they pay a financial penalty currently. Because they pay payments for nothing. To me, that is already use it or lose it.

Mr. ABBEY. Well, they are holding those parcels. They are not being available to other companies who might have a desire to develop those parcels.

Mr. LAMBORN. You also talk about, Mr. Abbey, about making people pay their own way. But don't we already have a system in place where they pay for permits, they pay bonus bids at the beginning, they pay annual lease payments? There are other miscellaneous fees depending on the situation. So aren't there already a lot of payments made by those being issued permits today? Aren't there already payments in place?

Mr. ABBEY. There are payments in place. There are fees that are being collected for some of the actions that you just described.

One of the concerns, and one of the greater concerns that we have, though, is making sure that there is a fair return to the American taxpayers. And that pretty much deals with the royalty

rates, the 12.5 percent royalty rate that has been in place for a number of years.

As mentioned earlier, the Bureau of Ocean Energy Management collects a royalty rate of 18.75 percent for offshore, production of offshore leases. Onshore is 12.5 percent.

Mr. LAMBORN. OK. There are so many things I would like to ask you, but to shift gears quickly to one other subject. On page 3 of your testimony you talked about transferring \$16.7 million from the realty and ownership management activity to a renewable energy project.

So my assumption from that is that the realty and owner management activity as it is currently structured is a lower priority for you, if you can just shift \$16.7 million from it. Is that correct?

Mr. ABBEY. No, sir, it is not. The amount of monies that we are proposing to shift is the amount of money that we have been using in order to process rights-of-way applications for solar and wind energy project proposals.

This would be an administrative action that requires Congressional concurrence, because it would be done through the appropriations process. But it would take the amount of money that we are currently using to manage our Renewable Energy Program, and put it in a specific sub-activity that is targeted for renewable energy. So it is more than administrative action than actually deemphasizing any aspect of the Lands Program or the Renewable Energy Program.

Mr. LAMBORN. OK, thank you. At this point I would like to recognize the Ranking Member for up to five minutes.

Mr. HOLT. Thank you. I would like to pursue this renewable energy matter for a bit longer. The goal is aggressive; I think I said earlier it would be 10 billion watts of renewable energy on public lands overall.

Can you tell us kind of what your schedule is? How you are going to do that? And whether, how the permitting process differs. I mean, are there more hurdles to jump through? Does it take longer than for the other energy permits?

Mr. ABBEY. Well, process-wise, it is very similar. In the Renewable Energy Program, when we are talking about solar or wind, the applications are filed through our rights-of-way program. So the proponents are seeking a right-of-way in order to develop commercial-scale projects on public lands.

Once we receive a perfected application, then we go through the NEPA analysis to assess the impacts or the likely impacts of approving that project, to determine whether or not the project, as proposed, is in the right location; whether or not the large footprints of solar projects or wind projects can be successfully mitigated; and to determine what terms and conditions that we would apply to a record of decision that might be issued.

Again, the process is very similar to what we perform for conventional energy, except it is different, different authorities.

Mr. HOLT. And what about the pace of this? When will we, you know, are you on track for the 10,000 megawatts?

Mr. ABBEY. Well, we are a little over halfway there. We anticipate approving another 4,000 megawatts based upon projects that are under review for this fiscal year. We have already approved a

little over 5,000 megawatts through 2010. And if we successfully approve, or if we approve in the neighborhood of 4,000 this year, we have another 4,000 to 5,000 megawatts that we would probably be reviewing in Fiscal Year 2012.

Mr. HOLT. And how quickly will that actually be electrons on the grid?

Mr. ABBEY. Well, we hope as soon as possible, just like we hope that—

Mr. HOLT. Do we need a use-it-or-lose-it requirement there?

Mr. ABBEY. No, we don't. Because we already have diligence as part of our record of decision. So the terms and conditions of the rights-of-way is that the proponent would be required to move forward and demonstrate progress toward constructing their project in a timely manner.

Mr. HOLT. Just have a short answer, Mr. Ferguson. How much of this renewable energy is targeted for Forest Service land?

Mr. FERGUSON. The only target that we have specifically identified at this point in time is in the hydropower area. And we are looking at trying to increase our current capacity by at least 10 percent. And we have a number of projects that are on the board, on the table, that would allow that to be met without any trouble at all.

Mr. HOLT. Good. Well, thank you. Mr. Abbey, under the Mining Act there is no real obligation for dealing with abandoned mines and reclaiming them. What is the status of that now? How many abandoned mines do you estimate are on lands under your jurisdiction? And what level of public hazard do they provide? Either in kind of physical hazard, or water pollution, or whatever else might result.

Mr. ABBEY. Well, many of these abandoned mines are significant. We have identified 31,000 abandoned mine sites on public lands, with almost 65,000 features. And those features, you know, include such things as open entryways, mine tailings and other environmental hazards.

Unfortunately, each year we see deaths as a result of some of these abandoned mine sites, where people have fallen into shafts or, through their own exploring of some of the abandoned mines, they get trapped, and unfortunately die.

But there is a significant environmental cost to the American taxpayer.

Mr. HOLT. Has BLM written a proposal on what should be done, under perhaps different law, to deal with this?

Mr. ABBEY. We submit an appropriations request each year to Congress, to provide funds to move forward and, to the best of our abilities, mitigate hazards associated with those mine sites that are closest to the population. The amount of money that we have received through the Appropriations process has not necessarily been sufficient in order to take the actions that are required to mitigate the hazards associated with these mines.

We believe that the fee that we are proposing as part of our 2012 budget proposal would provide us with the funding that are necessary for us to move forward as aggressively as possible to mitigate the hazards associated with these abandoned mines quicker, rather than later.

Mr. HOLT. Thank you. And let me just say to the Chairman, it is worth pointing out that I think as things exist now, going forward, any hazards that result from these activities are a cost borne by the taxpayer. Thank you.

Mr. LAMBORN. OK, I thank the gentleman. Representative Thompson.

Mr. THOMPSON. Thank you, Chairman. Mr. Ferguson, I promised we would get back to just a couple questions yet on the Allegheny National Forest.

Mr. FERGUSON. OK.

Mr. THOMPSON. And it is a situation that relates to other forests, obviously, our national forest public lands. You know, specifically where this Administration implemented a moratorium on the rights of individuals who own private, privately owned subsurface rights.

And that was overturned, not once, but twice, by a Federal Judge. And despite that, the Administration still continues to trample, it looks like finding a back-door way to trample on the rights of the taxpayers, I think, and certainly the private owners, with this regulation relating the management of national forest surface resources with privately held mineral estates.

Is it true that this rulemaking was initiated in support of the Sierra Club litigation in the Allegheny National Forest?

Mr. FERGUSON. Not to my knowledge, sir.

Mr. THOMPSON. OK. That is my understanding, that that was the event that triggered that. And again, I want to come back to how you justify in the proposed rulemaking, now you had referenced the Conservation Acts of 1990s?

Mr. FERGUSON. 1992, there was very specific language regarding the Allegheny National Forest in this regulation.

Mr. THOMPSON. OK. I was specifically going to look at that. Within the Forest Service regulations, as a general rule—and I am quoting from it—as a general rule, the Forest Service does not have the authority to deny the exercise of a mineral reservation or outstanding mineral right. Now, that is the regulations that exist today. So I will take a look at that 1992 Act.

To what extent is the Forest Service going to consult about this rulemaking with Native American tribes and States such as Pennsylvania?

Mr. FERGUSON. In terms of the tribal consultation, there is a 120-day consultation period prior to anything going out in draft that will be occurring with tribes. And then there will be an opportunity for comments and interactions with the State after the draft is published.

So consultation with the tribes occurs prior to publication of any proposed regulations.

Mr. THOMPSON. OK, thank you. I want to come back to the loss of leases that this new policy—and this is for both gentlemen. Has the agencies done a cost-benefit analysis of such a policy change, in terms of rescinding leases for, quote, non-production?

Mr. ABBEY. The oil and gas program?

Mr. THOMPSON. Yes. Well, I don't care what it is for, minerals, it doesn't matter.

Mr. ABBEY. Well, let me just point out, you know, the Bureau of Land Management has issued 7,100 applications for permit-to-drill authorizations to the companies themselves to go out and drill on public lands. Those 7,100 permits are the ones that are not being developed.

Mr. THOMPSON. Well, but my question is, has there been a cost-effective analysis done of really the cost side? I think the benefit side, too, because I think you may lose the revenue of these leases. And once the Federal government takes this move, that people aren't going to, other folks aren't going to come in and bid on them, because who is going to want to deal with this type of conditions?

Specifically, let me put out this. Have you considered the liability costs when you rescind these leases for "non-production?" Specifically, you know, when you cancel a lease, we are talking about costs which I think we are going to be liable for. Bonus bids, rents that have been paid by these companies, prospective production. Have those been, there is a cost—do we know what the costs of those, the exposure of that liability will be for your agencies, for the Federal government, and ultimately for the United States taxpayers?

Mr. ABBEY. Sir, we are not proposing to rescind any existing leases. The—

Mr. THOMPSON. I recognize it is future ones. But I am talking about the liability costs for those future ones.

Mr. ABBEY. Well, those future leases would be issued based upon the terms and conditions of the decisions affecting those leases. So there would be a diligence requirement to the companies to move forward in a more aggressive manner to develop their leases, or the leases would be lost.

Mr. THOMPSON. I understand that you are, the agency is considering rescinding leases, current leases in Wyoming. So that there are current leases on the table.

Mr. ABBEY. There are leases that we have issued that we are doing some additional environmental work, so that we can, so that the companies can receive those leases, and move forward and develop those leases.

Mr. THOMPSON. Let me finish up, because my time, I am down to the last couple seconds. Can either of you gentlemen tell me what percentage of the country that the United States owns, through our public lands, our Bureau of Land Management, Forest Service? Is it 10 percent, 20 percent, 30, 40, north of 40 percent? I am not exactly sure myself. I know I have heard it is somewhere in that 40-to-60-percent range. That is a significant amount of ground.

So the question I have for you, and this comes down to the line of questioning that was with land acquisition, how much is enough? And when we look at the consequences of taking land and putting it into the public sector out of the private sector, it comes at a cost of acquisition; you are budgeting for that. I know the Allegheny National Forest is looking at taking more land out of the private sector, and putting it into the forest. It is a cost to the taxpayer, because it comes off the tax rolls, so everybody else's property tax and tax rates go up. It is a cost-economic activity. Because

where homes were built and property taxes would be paid, or businesses would be built and jobs are created.

So my final question is, do you have an adequate budget currently, or as proposed, to manage and maintain the current public lands that the government owns? Or would you need more money to do it adequately?

Mr. ABBEY. Well, the acquisitions that we are proposing for 2012, again, would augment the management of our existing programs. And by that, I mean in some respects it will bring some efficiencies for managing some of these environmentally sensitive areas.

Let me just point out, too, that the Bureau of Land Management not only acquires lands subject to appropriations by Congress, but we also dispose of public lands that have been determined to be an excess, through our land-use planning processes. So it is not just a one-way street.

The Bureau of Land Management does have the authority to dispose of appropriate public lands that would be consistent with decisions that are reached through land-use plans.

Mr. THOMPSON. I appreciate both the testimony from both of you gentlemen. And you know, I understand it is a two-way street. I would like it to be a hiking path for us acquiring, taking any more land out of the private sector. And a four-lane highway as returning land from the public sector to the private sector.

And frankly, the Forest Service folks I deal with, they tell me they don't have enough money to maintain what they have now. So to acquire more land is, I don't understand that. Thank you.

Mr. LAMBORN. Thank you. I now recognize the gentlelady from Guam, Mrs. Bordallo.

Ms. BORDALLO. Thank you. Thank you very much, Mr. Chairman. Just to clarify an earlier point. The Administration projects that this non-producing lease fee would generate as much as \$874 million over 10 years. It will increase revenue overall for American taxpayers. You agree with that.

Mr. ABBEY. That is a projection based upon, you know, some assumptions. But we do agree with those, that projection.

Ms. BORDALLO. All right. Director Abbey, a recent GAO report raised serious questions regarding BLM's management of oil and gas wells that have not been producing for many years. Now, these wells could pose a danger to the environment and American taxpayers. What actions are you taking to mitigate the risks posed by these idled and orphaned wells?

Mr. ABBEY. Well, again, we take that report seriously, and we are moving forward to encourage the companies who are in possession of some of these idle wells who have not been producing for a number of years, to move forward and plug those wells. Unfortunately, we do have some orphan wells, as we refer to them, where still there is no responsible party holding those orphan wells.

And so, in order to mitigate the hazard associated with those orphan wells, we are actually implementing our own plug-in programs to lessen the impacts from such wells.

Ms. BORDALLO. So you have something that is ongoing, is that correct?

Mr. ABBEY. We do. And again, it can be a serious problem if we are not on top of these idle wells. And we are working very, very

closely with the industry to make sure that they are not going to sit around for long periods of time before there is some action to mitigate the hazards associated with it.

Ms. BORDALLO. Meanwhile, the taxpayers would bear the costs of these orphan—

Mr. ABBEY. For the orphan wells.

Ms. BORDALLO. I see. Director Abbey, according to the GAO, the minimum bond amounts for oil and gas companies were set in the fifties and the sixties, and have not been updated, and may not be sufficiently high to serve as a proper incentive for companies to plug wells and reclaim the land.

Would you agree that we should look at this issue of whether bonding requirements for oil and gas companies are too low?

Mr. ABBEY. Congresswoman, we are doing that right now. Again, we accepted the criticism that GAO noted in their report; we have provided new directions to our offices on what our expectations are, as well as what the American taxpayer's expectations are of our performance. And so we are updating those bonds to reflect today's costs.

Ms. BORDALLO. What would be the time period with this updating?

Mr. ABBEY. It is ongoing, but it is a very high priority for us. Because we want to make sure that the American taxpayers are protected, and reclaiming some of these areas.

Ms. BORDALLO. I have another question for you, Mr. Abbey, just to clarify your answer to the questions posed earlier by my colleague from Oregon.

Under current law, a company is issued a lease for 10 years. So a company can sit on these leases for five, six, seven, eight, nine years without doing anything to develop them, as long as they begin activity before 10 years. Is this correct?

Mr. ABBEY. That is true.

Ms. BORDALLO. All right. And then, of course, they can go on and get an extension.

Mr. ABBEY. Once they have demonstrated progress toward developing them.

Ms. BORDALLO. Before the 10-year period is up.

Mr. ABBEY. Yes.

Ms. BORDALLO. What is the payment, annual payment, to hold onto these wells?

Mr. ABBEY. Let me ask real quick.

Ms. BORDALLO. I understand it is very low.

Mr. ABBEY. It is \$2 per acre, per year. And the exception is in Alaska, where there is a different fee.

Ms. BORDALLO. Lower or higher?

Mr. ABBEY. It would be higher in Alaska.

Ms. BORDALLO. I see. Mr. Chairman, thank you, they have answered my questions.

Mr. LAMBORN. Thank you, and I thank the gentlelady. Now we will go to Representative Fleischmann. He has departed, so next on the line would be Representative Gosar.

Dr. GOSAR. Well, I was glad to hear that certain fees haven't gone up since the fifties, and yet we are dealing with ones in my

neighborhood that are going up concurrently into the next millennium.

But Mr. Ferguson, I hope you understand that these bonds are due on the 31st of March. And people have exhausted—and I am trying to work with people at the local level, so we would love to have your help in looking at this.

Mr. FERGUSON. We will sure look into it.

Dr. GOSAR. Thank you, Mr. Abbey. Or thank you, Mr. Ferguson. Mr. Abbey.

Mr. ABBEY. Yes.

Dr. GOSAR. Prior to 1970 the old Atomic Energy Commission, now the DOE, left behind a legacy of abandoned, unreclaimed conventional uranium mines on a Navajo reservation, located partially in my Congressional District, which has never been cleaned up. No bonding was required, a situation which allowed the government to mine on the reservation with reckless abandon.

This same government imposes a reclamation bond requirement for private businesses. The fact that the government has failed to clean up these exposed tailings is a scandal that led to confusion and misunderstanding regarding uranium extraction in the 1950s and sixties, and a good record of commercial uranium mining on the BLMs off the reservation were impugned.

There is a huge distinction which is lost in the public eye here. The draft environmental impact statement on the million-acre withdrawal in northern Arizona, proposed by the Secretary of the Interior, withdrawal from mining validates this. Some estimates that the full withdrawal of one million acres could mean \$29 billion in lost economic activity over 42 years, from northern Arizona and southern Utah.

At a March 21, 2011 St. George coordination meeting with Arizona and Utah county and city officials, BLM officials said that they did not recommend the withdrawal of one million acres of prime breccia-pipe uranium mines, one of the most significant deposits of energy in the U.S. The USGS estimates that 326 million pounds of uranium in the area equals to about 22.4 years' electricity equivalent for California, assuming no other resources of energy, based on its findings.

Did BLM believe that anything it found in the draft EIS make local officials believe they should recommend a withdrawal?

President Obama has reiterated, in a variety of statements recently, that his Fiscal Year 2012 budget reflects a goal of increasing the use of nuclear power to provide a good portion of this country's electricity needs. Yet, the Administration seems to be working against itself with the Energy Secretary Chu out promoting nuclear power, and the Interior Department out trying to withdraw some of the nation's highest-grade deposits of uranium in northern Arizona.

The Nuclear Energy Commission, or institute, calculated that the proposed withdrawal, now the subject of a two-year segregation order, would have major disruptive effects on future domestic supplies, even after new mines are fully operational in the State of Wyoming.

Today, the nation's utilities import over 90 percent of the fuel they use in our 104 operating reactors. When 30 years ago, Amer-

ica was entirely self-sufficient in providing uranium to fuel our nuclear power plants.

We cannot substitute reliance on foreign countries for oil, with a reliance on foreign countries for uranium. We have the resources in our country. And I am troubled that the areas withdrawn from the mining of 40 years are now being proposed for this withdrawal.

First question. We have the funding. It seems that we are lacking the prioritization about cleaning up our mess. Is that true?

Mr. ABBEY. Congressman, I am not familiar with the reclamation requirements that you noted there on the Navajo Indian reservation, but it certainly is something, now that you raised it to my attention, that I am going to have to look into and see what we can do to clean up the remnants of our past.

Dr. GOSAR. Part of that was with the Bennett Freeze, in which we arbitrarily put a line here and did nothing, did not even allow people to replace a window. They can't even drink the water, because we have unusually high radiation. So I would hope that we would get an answer in regards to that.

And then looking at the priority schedule of cleaning up a mess before we are starting to purchase something. As a businessman, there are a lot of things I would like to do, but I can't do, because I have some obligations.

Do you believe American utilities should purchase domestically mined uranium?

Mr. ABBEY. I do.

Dr. GOSAR. Do you think this is the best way of going about it? Or should we start looking at our domestic supply?

Mr. ABBEY. I do believe that we should look at our domestic supply before, you know, considering other alternatives.

I would say this. There are supplies of uranium that exist outside the Arizona strip, so there are other alternative sites and sources for uranium.

Dr. GOSAR. Should we look at these on a case-by-case basis, instead of just randomly taking out a whole segment?

Mr. ABBEY. Well, again, it is a business decision. For example, there in the area that has been in the proposed segregated area, there are 3,000 mining claims that currently exist within those areas. Any future withdrawal, if there is a withdrawal in that particular area, it would be subject to grandfather rights. So any of those mining claims with valid existing rights could continue to produce.

Dr. GOSAR. Well, I have a whole host of more questions, so I would love to submit them, Mr. Abbey, for your comment.

Mr. ABBEY. You bet.

Dr. GOSAR. Thank you.

Mr. LAMBORN. Thank you. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you all. Director Abbey, I just wanted to ask you, I kind of look at the public lands, when it comes to production of various sources of energy and resources, as like a giant outdoor laboratory, in a sense. Where we have the opportunity, on behalf of our taxpayers and the American public, to insist on a certain set of standards as these new technologies are brought to bear and so forth, and these public lands are made available to private interests to develop.

And I wondered if you could just maybe speak to that concept a little bit; and whether you could point to instances where you think the activity on public lands, as a result of the oversight that is brought to bear by your agency and others, really does kind of push the best practices to a new level and set higher standards. Particularly, I guess, when it would come to requiring certain safety standards. Things where exploration and production in another setting might not be as attentive to those kinds of standards, but where, because it is public lands, we kind of bring a higher expectation to bear.

I am sure there are examples you could cite, where maybe we haven't been as good, the government hasn't been as good at insisting on the highest standard. But I wonder if you could speak to that, that concept, and maybe point to examples where you think it is that dynamic between the private interests who are pushing forward to explore and produce, and the public oversight that has actually resulted in some pretty good best practices that have set the standard for that particular industry.

Mr. ABBEY. Well, that is an excellent question. No doubt we are living with the legacies of our past. And we would be foolish if we didn't learn the lessons from those legacies.

And I am proud to report that in many respects, we are taking those lessons and incorporating them into our decisions that we are making today, based upon the latest technologies, and based upon working with not only the industries who are proposing actions on these public lands, but also with the public land stakeholders, who care an awful lot about their assets. They want to make sure that any development to these lands or any uses that take place on these lands are done so in a responsible manner.

That is a responsibility that we have, as the Bureau of Land Management, for managing these 245 million acres of lands that we manage on behalf of the American public.

So again, as we go forward, we are working very, very closely to implement best management practices through any of the authorizations that we are issued. Whether that is reflected in the Renewable Energy Program that we are currently managing, or whether it is in the conventional energy program that we are also managing.

I am proud to report in many respects that the industries themselves are the leaders in bringing forward this technology, and sharing the lessons that they have learned elsewhere, and working with us to try to limit the footprints from future development on these lands.

There is still work to be done. There are still lessons to be learned. But again, it is a lesson and actions that we continue to move forward, so that we can be as responsible as we can in managing these public assets.

Mr. SARBANES. I would encourage you to try to position the department, the Bureau, as well as you can to bring a really high standard of expectation with respect to the hydraulic fracturing practices. The reason being that that is going to be getting a lot more attention, going forward. There are obviously new discoveries, particularly in this area. The Marcellus shale, which has set off a race to lay stakes in both private and public venues.

It would be great if BLM could end up being a resource as that industry further develops, as to what the best practices are. And you know, going forward, I will be interested to hear sort of the results of studies and investigation that you can do of how that is working on public land, so we can bring that kind of expertise to bear with respect to our, our interest in these new, these new possibilities in this area.

And with that, I yield back my time.

Mr. LAMBORN. OK, thank you. Representative Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. And Director Ferguson, Director Abbey, thank you guys for coming to the Committee today, and talking about the budget and about concerns.

You know, world events have really magnified the fact that America is very, very dependent on foreign sources of energy. We have had numerous hearings about opening up Federally owned lands to energy exploration and production.

And we had one hearing where we talked about the Wildlands Act, and the fact that Secretary Salazar issued a Secretarial Order in December to expedite the designation of wilderness areas from wilderness study areas. And a lot of questioning him on the reason behind taking those. And I believe you, Director Abbey, were here, talking about taking those lands off the table for energy production.

We have the resources in this country. And I will tell you, folks in my State of South Carolina are hurting because of rising gas prices. It is affecting commodity prices all the way down to the bread on the grocer's shelves. And I remember when, in August of 2008, we saw rising fuel prices; I remember the impact the tremendous diesel prices had on my business.

And so when we are trying to have an economic recovery from this recession, this is going to slow it, if not stall it. And so as we address those rising gas prices and our ever-increasing dependence on foreign sources of oil because of things like Deepwater Horizon and the de facto moratorium in the Gulf, and the fact that we are not harvesting American resources, it comes to light that we need to expand what we do in this country.

And so I understand that the second-largest revenue source for this country, second only to taxation, is what we receive in royalties and revenues from oil and natural gas leases, both offshore and onshore. In fact, in your written remarks you referenced that.

You also referenced that the BLM currently manages more than 38 million acres of oil and natural gas leases, but only 43 percent of that acreage is currently in production. I think at a time when we are trying to lessen our dependence on foreign oil, and we definitely have needs in this country, that that should increase from 43 percent. I think that is way low.

The Wall Street Journal had an article this past Friday I thought was kind of interesting, and it talked about the secret to Brazil's energy success. And Steven Hayward goes on to say in that article, he mentions the blueprint for a secure energy future by the Administration that was announced last week.

And he talks about the expansion of wind, solar, hydrogen, and other things, which I think are part of it. But what about expanded domestic oil production?

And the article goes on to talk about the President applauding Brazil for expanding their offshore drilling. And in fact, he expressed enthusiasm for aggressive offshore drilling in Brazil.

Brazil increased their domestic oil production over the last 20 years by 876 percent—876 percent. Most of that production has come from offshore, I understand that; but they achieved energy independence, independence from foreign sources of oil, the old-fashioned way. They drilled for it.

I think that is what Americans are wanting us to do. They are wanting us to tap the American resources that we have, oil and natural gas resources, both offshore, but also, sir, onshore. And on Federal lands that we have.

And it seems to me that the Administration continues to set aside this land, through efforts such as Secretary Salazar's effort with the Wildlands Act and the Wildland Secretarial Order that designate that property as wilderness areas. When, Mr. Chairman, I think that Congress has the only statutory authority to designate wilderness areas.

And so as we continue to address American energy independence and the budget deficits, I think we need to address the fact that we receive a large amount of our income as a nation from oil and natural gas leases, the royalties coming from production, and the fact that we do have the resources here. And I can spout a lot of different percentages and projections on what we should have under the nation's land.

But we need to tap America's resources for American energy issues. Mr. Chairman, I thank you for having this hearing so we can bring these issues out. Thank you, and I yield back.

Mr. LAMBORN. OK, and I thank the gentleman. And unless anyone else wants to ask questions who hasn't asked questions—

Mr. COSTA. Mr. Chairman, just a quick question. And I don't know, maybe it was covered in the opening statement.

Mr. LAMBORN. The gentleman is recognized.

Mr. COSTA. Thank you. Maybe it was covered in the opening statement by the Director of Minerals and Geology Management with USDA.

But the amount of revenues that we have received as part of the royalty program to the Federal government is traditionally about the second-largest source of revenues besides our tax payments to the Federal government by American citizens.

And I wonder if you offered in your testimony—if you haven't, if you could—the breakdown between those amount of revenues from royalties on public lands that are on Forest Service land, versus those that are broken down in other Federal land holdings in which we derive income from oil and gas leases.

And of course, I assume here that with mineral extractions, it possibly is also minerals, as well as other, as a part of those revenues—precious metals, gold, et cetera.

Mr. ABBEY. Well, Congressman Costa, unless Tony has the information, I don't think either one of us has that breakdown today. But we would be happy to provide that information to you as part of the record.

Mr. COSTA. No, I think it would be important to get a better understanding on those. Because obviously, as we try to reduce our

dependency on foreign sources of energy and use all the energy tools in our energy toolbox, when it comes to the USDA's management of Forest Service lands that are a part of that contribution of energy, I would like to, one, and I think the Subcommittee would probably like a breakdown of the revenues we derive from those leases on U.S. Forest Service land.

Mr. ABBEY. OK. We can sure work on that. Thanks.

Mr. COSTA. Thank you.

Mr. LAMBORN. OK. I want to thank you all for being here, for giving us of your valuable time. Members of the Committee may have additional questions for the record, and I ask you to respond to those in writing.

One last matter of business, I ask unanimous consent to put into the record a page from the BLM official web site, titled, "Leasing of Onshore Federal Oil and Gas Resources," which does point out that of the 279 million acres of Federal land that have oil and gas potential, 145 million are closed, and 20 million more acres are inaccessible because of surface occupancy or ground disturbance being prohibited. If there is no objection, that is put into the record.

[The page from the BLM website follows:]

Leasing of Onshore Federal Oil and Gas Resources

The BLM administers the leasing of minerals found beneath the 258 million surface acres managed by the Bureau, 57 million surface acres where the minerals are Federally owned but the surface is in non-Federal (mostly private) ownership, as well as another 385 million acres whose surface is managed by other Federal agencies. About half of these 700 million subsurface acres are believed to contain oil and/or natural gas.

Development of onshore Federal oil and natural gas resources happens in five phases:

- Land Use Planning
- Parcel Nominations and Lease Sales
- Well Permitting and Development
- Operations and Production
- Plugging and Reclamation

Numerous opportunities for public involvement during land use planning and then during environmental review of specific projects help ensure that development is both efficient and environmentally responsible.

Oil and gas resources found on U.S. Forest Service lands are leased under Land and Resource Management Plans (LRMPs) developed by the Forest Service.

Mr. LAMBORN. Thank you for being here. And we will call up the next and final panel. That will consist of Shawn Bolton, a County Commissioner from Rio Blanco County in Colorado; James Schroeder, President and CEO of Mesa Energy Partners, LLC, and President of the Western Energy Alliance; Laura Skaer, Executive Director of the Northwest Mining Association; and Whit Fosburgh, President and CEO of the Theodore Roosevelt Conservation Partnership.

So if you could all come to the table, that would be great. And as I pointed out earlier, you will have five minutes to present each of your testimony. You have to push the button in front of you to activate the microphone. The light will turn yellow when there is one minute left, and red when the five minutes are up.

And we appreciate your being here. You will have, as I am currently contemplating it, one round of questions; maybe two, if there

are burning questions that we still have, and if your time allows for that.

But thank you all for being here today, and we will just jump right into the testimony. Mr. Bolton, thank you for coming all the way from Colorado. It is good to see you here. You may begin.

**STATEMENT OF SHAWN BOLTON,
COMMISSIONER, RIO BLANCO COUNTY**

Mr. BOLTON. Mr. Chairman, thank you for the opportunity to appear before you today.

Rio Blanco County is a rural county in northwest Colorado, with a population of about 6,000 people—75 percent of the county consists of Federally managed lands, with about two-thirds BLM lands and one-third national forest.

In addition to serving as the Commissioner, I am the CEO of Bolton Fencing and Construction, LLC, a small business that provides full-service construction to the oil and gas industry; from well pad and road construction, to pipelines and reclamations. We employ 50 to 80 people in the high season.

My small business is like many that support the oil and gas industry in that we provide good, high-paying jobs in rural counties across Colorado and the West; and are the economic engines for our communities.

Rio Blanco County gets about 90 percent of our tax assessment from the oil and gas industry, and 75 percent of property taxes are from oil and gas. Over one-third of all jobs in the county are directly related to the oil and gas industry. Given the large amount of Federal land and high proportion of our tax base from oil and gas, the energy programs of the BLM and the Forest Service have a huge impact on job creation and government revenue in my county.

When Federal policies constrain leasing, permitting, and project approvals, it directly impacts my small business and my county. I have noticed, in my county over the last several years, that more and more decision making is being done in Washington, rather than the practical, on-ground approach by land managers who understand the lands and their natural resource values, as well as the local economic and social factors in Rio Blanco County.

Distant Federal agencies in Washington are imposing a one-size-fits-all approach. Instead of listening to local communities and the businesses like mine who support them, Washington seems to have, Washington seems driven by an environmental lobby that gives exclusive preference to removing more lands from environmentally responsible, multiple productive uses, and locking them away for passive recreational purposes only.

I am particularly concerned about the new Wildlands policy. We have already seen a situation where an 800-acre parcel was removed from a lease-sale because it supposedly met Wildlands criteria. Just because an environmental group proposes an area as wilderness does not mean it meets the criteria.

I urge Congress to defund the implementation of the Wildlands policy, and pass legislation that prevents the Interior Department from unilaterally taking lands away from multiple use, and man-

age them as de facto wilderness, without a Congressional Wilderness designation.

There is already a process in place, through Federal Land Policy Management Act, to identify wilderness-characteristic lands. There is a critical environmental concern, special recreation management areas and other designations to protect resource values on BLM lands, through the Resource Management Plan process.

In fact, the White River field office, which includes most of Rio Blanco County, is currently updating its RMP. And the county is participating as a cooperating agency.

Wilderness-characteristic areas can be identified as part of that process, but be subject to the scrutiny of local representatives, such as myself. I would urge the BLM to weigh the input of cooperators and the public in Rio Blanco County more heavily than the form letters organized by environmental groups from people across the country who are not directly impacted by these decisions made in these planning documents, and whose livelihoods and communities are not affected.

Increased State and Federal regulation and the corresponding uncertainty has caused activity in Rio Blanco County and throughout the Piceance Creek Basin, western Colorado, to plummet. While low natural gas prices affect the entire country, activity in the Piceance Basin has been slower to rebound because of the added cost of regulation.

When the Federal government adds in further regulation that slows leasing, environmental analysis required by oil and gas project approvals, and permitting, the costs become too great in our county and region, and the break-even price means that the producers will go elsewhere, to lower-cost regions of the country that don't have the additional regulatory burden of Federal lands.

Ultimately, this affects the budget of the BLM. Less activity on public lands means less revenue to the Federal government. I urge this Committee to consider the negative impact of BLM budget, which imposes more costs through new fees and new regulations, which will ultimately result in less economic activity and jobs in my county.

I look forward to addressing any questions, and thank you.

[The prepared statement of Mr. Bolton follows:]

Statement of Shawn Bolton, Commissioner, Rio Blanco County, Colorado

Mr. Chairman, thank you for the opportunity to appear before you today. Rio Blanco County is a rural county in northwestern Colorado with a population of about 6,000 people. Seventy-five percent of the county consists of federally managed lands, with about two-thirds BLM lands and one-third National Forests, including parts of the White River and Routt National Forests.

In addition to serving as commissioner, I am the CEO of Bolton Fencing & Construction LLC, a small business that provides full service construction services to the oil and natural gas industry, from well pad and road construction to pipelines and reclamation. I employ 50 people to 80 in the high season. My small business is like many that support the oil and gas industry, in that we provide good, high paying jobs in rural counties across Colorado and the West and are the economic engines for our communities.

Rio Blanco County gets about 90% of our tax assessment from the oil and gas industry and 75% of property taxes are from oil and gas. Over one-third of all jobs in the county are directly related to the oil and gas industry. Given the large amount of federal land and the high proportion of our tax base from oil and gas, the energy programs of the BLM and the Forest Service have a huge impact on job creation and government revenue in my county. When federal policies constrain

leasing, permitting, and project approvals, it directly impacts my small business and my county.

I have noticed in my county over the last several years that more and more decision making is being done in Washington. Rather than the practical, on-the-ground approach by land managers who understand the lands and their natural resource values as well as the local economic and social factors in Rio Blanco County, distant federal agencies in Washington are imposing a one-size-fits-all approach. Instead of listening to local communities and the businesses like mine who support them, Washington seems driven by an environmental lobby that gives exclusive preference to removing more lands from environmentally responsible multiple, productive uses, and locking them away for passive recreation purposes only.

I am particularly concerned about the new wild lands policy. We have already seen a situation where an 800 acre parcel was removed from a lease sale because it supposedly met wild lands criteria. Just because an environmental group proposes an area as wilderness doesn't mean it meets the criteria. I urge Congress to defund implementation of the wild lands policy and pass legislation that prevents the Interior Department from unilaterally taking lands away from multiple use and managing them as de facto wilderness without a Congressional wilderness designation. There is already a process in place through the Federal Land Policy Management Act (FLPMA) to identify wilderness characteristics lands, areas of critical environmental concern (ACEC), special recreation management areas, and other special designations to protect resource values on BLM lands through the Resource Management Planning (RMP) process. In fact, the White River Field Office which includes most of Rio Blanco County is currently updating its RMP, and the county is participating as a cooperating agency. Wilderness characteristics areas can be identified as part of that process, but then subject to the scrutiny of local representatives such as myself. I would urge BLM to weigh the input of cooperators and the public in Rio Blanco County more heavily than the form letters organized by environmental groups from people across the country who are not directly impacted by the decisions made in these planning documents, and whose livelihoods and communities are not affected.

Increased state and federal regulation and the corresponding uncertainty has caused activity in Rio Blanco County and throughout the Piceance Basin in western Colorado to plummet. While low natural prices affect the entire country, activity in the Piceance Basin has been slower to rebound because of the added costs of regulation. When the federal government adds in further regulation that slows leasing, environmental analyses required for oil and gas project approvals and permitting, the costs become too great in our county and region, and the break even price means that producers will go elsewhere to lower cost regions of the country that don't have the additional regulatory burden of federal lands.

Ultimately, this affects the budget of BLM, as less activity on public lands means less revenue to the federal government. I urge this committee to consider the negative impact of BLM's budget, which imposes more costs through new fees and new regulations which will ultimately result in less economic activity and jobs in my county and less revenue to the federal government as oil and gas activity is driven to other areas of the country without federal public lands.

I look forward to addressing any questions or comments the Committee may have. Thank you Mr. Chairman for your time today.

Mr. LAMBORN. Commissioner Bolton, thank you for coming all this way to be here, and thank you for your testimony.

Mr. Schroeder.

**STATEMENT OF JAMES SCHROEDER, PRESIDENT AND CEO,
MESA ENERGY PARTNERS, LLC; PRESIDENT, WESTERN
ENERGY ALLIANCE**

Mr. SCHROEDER. Mr. Chairman and the members of the Committee, thank you for allowing me to appear today.

The BLM and Forest Service budgets set the tone for how Federal land managers implement their multiple-use mandates, and whether they enable the productive use of Federal lands or whether they discourage production of energy that all American citizens own.

The fees proposed in the budget on the oil and gas industry would have a significantly negative impact on energy development, production, jobs, and economic development in communities across the West.

Mesa Energy Partners is a privately held oil and natural gas development production partnership. We employ seven folks. Mesa is currently developing a six-well project on a 74,000-acre government unit on BLM land in the Piceance Basin of Colorado.

Independent producers such as Mesa are small businesses, averaging 20 employees. Yet this community of companies drill 90 percent of the wells, produce 82 percent of America's natural gas.

I have been operating on Federal lands, both BLM and National Forest, for 20-plus years, and have conscientiously worked closely with BLM field offices, local Forest District offices, regional foresters, State BLM offices, and the Washington office of both agencies.

The ever-increasing and often over-reaching bureaucratic procedures on public lands have resulted in expensive and inefficient operations when compared to operations on State and private lands. These prolonged procedures ultimately mean that Federal lands cannot be developed in a timely manner; and as such, not as productive as they may be.

These inefficiencies have negatively affected the budget deficit, and result in less energy for the American people. Fewer jobs, less economic energy, or economic activity in the western community.

Producers provide an extraordinary return on investment to the American taxpayer. In year 2010, oil and gas companies returned in excess of \$40 per every \$1 spent by the government.

Over the last two years, policy changes in Interior have added additional layers of analysis and rework of prior decisions that are causing public land energy development to be less efficient and return less revenue to the Federal government.

Just two years ago, BLM's onshore program returned in excess of \$46 for every dollar spent by the Administration. The balance has tipped too far toward constraining oil and gas development at the expense of government revenue, jobs, and the economy. The justification for increased fees rings hollow when the government is already reaping a more-than-healthy return of 40 to one on investment.

In order to effectively evaluate budget requirements, it is necessary for any business to perform a look-back and determine what and where expenditures and budget allocations have been made, in order to effectively allocate capital in the future. With that in mind, I would like to reflect on the fact that the BLM has been put in a position to spend an inordinate amount of time in dealing with avoiding litigation. We have heard that the BLM may spend nearly half of its resources on litigation and legal reviews.

BLM is constantly harassed by lawsuits from special interest groups with an agenda of preventing any oil and gas development on public lands. DOI's approach to alleviate the situation has been a further delay of the oil and gas development in order to remove the controversy. But the source of the problem still remains: the ease with which financially unaccountable groups can sue.

Litigation threatens to reduce the productive use of Federal lands, the development of critically needed resources, and impacts creating jobs and economic growth.

Last year alone, new regulation and bureaucratic delays prevented nearly \$4 billion in investment by oil and gas companies, and a corresponding 16,000 jobs in the West. That is according to the Western Energy Alliance.

In Mesa County, western Colorado, a county that is dependent on resource development, and in which there is a disproportionate percentage of Federal acreage, the unemployment rate is currently in excess of 11 percent. Not healthy, nor satisfactory.

In stark contrast, development on non-Federal lands in North Dakota, the unemployment rate is below 3 percent. The allocation of funds for litigation needs to be brought under control, and managed in a fashion that allows BLM to make decisions in the best interests of the American people.

Congress needs to pass legislation that prevents the Federal government from using taxpayer dollars to reimburse special interest groups who abuse the Equal Access to Justice Act to fund their litigation programs, and to hold these groups financially responsible for frivolous lawsuits that prevent this country from delivering economic growth.

I look forward to questions that you may have. Thank you.

[The prepared statement of Mr. Schroeder follows:]

Statement of James Schroeder, President and CEO, Mesa Energy Partners, and President, Western Energy Alliance (formerly IPAMS)

Mr. Chairman and Members of the Committee—thank you for the opportunity to appear before you. The BLM and Forest Service budgets set the tone for how federal land managers implement their multiple-use mandates and whether they enable the productive use of federal lands, or whether they discourage production of energy that all American citizens own. The fees proposed in the budget on the oil and gas industry would have significant, negative impacts on energy production, jobs and economic development in communities across the West.

Mesa Energy Partners, LLC is a privately held oil and natural gas development and production partnership of seven employees. Mesa is currently developing a six well project on a 74,000 acre government unit on BLM land in the Piceance Basin of Colorado. Independent producers such as Mesa are small businesses, averaging twenty employees, yet this community of companies drills 90% of the wells and produce 82% of America's natural gas.

I have been operating on federal lands, both BLM and National Forests, for 20 plus years, and have conscientiously worked closely with BLM field offices, local forest district offices, regional foresters, state BLM offices and the Washington offices of both agencies. The ever increasing and often over-reaching bureaucratic procedures on public lands have resulted in expensive and inefficient operations when compared to operations on state or private lands. These prolonged procedures ultimately mean that federal lands cannot be developed in a timely manner and as such are not as productive as they might be. These inefficiencies have a negative effect on the federal budget deficit and result in less energy for the American people, fewer jobs, and less economic activity in communities across the West.

Producers provide an extraordinary return on investment to the American taxpayer; in FY 2010, oil and gas companies returned \$40.12 for every dollar spent by the government. Over the last two years, policy changes at Interior have added additional layers of analysis and rework of prior decisions that are causing public land energy development to be less efficient and return less revenue to the federal government. Just two years ago, BLM's onshore program returned \$46.07 for every dollar spent administering the program. The balance has been tipped too far towards constraining oil and gas development, at the expense of government revenue, jobs and the economy. The justification we often hear that new fees are necessary because industry needs to pay it's fair share rings hollow, when we are already doing so 40 times over.

In order to effectively evaluate budget requirements, it is necessary for any business to perform a “look back” and determine where expenditures and budget allocations have been made in order to effectively allocate capital in the future. I would like to reflect on the fact that the BLM has been put in a position to spend an inordinate amount of its budget dealing with or trying to avoid litigation. We have heard that the BLM may spend nearly half of its resources on litigation and legal reviews.

BLM is constantly harassed by lawsuits from special interest groups with an agenda of preventing any oil and gas development on public lands. DOI’s approach to alleviate the situation has been to further slow oil and gas development in order to remove the controversy, but the source of the problem remains—the ease with which financially unaccountable groups can sue. Litigation threatens to reduce the productive use of federal lands and the corresponding jobs and economic growth. Last year alone new regulations and bureaucratic delays prevented \$3.9 billion in investment by oil and gas companies and a corresponding 16,200 jobs in the West, according to Western Energy Alliance.

The allocation of funds for litigation needs to be brought under control and managed in a fashion that allows the BLM to make decisions in the best interests of the American people. Congress should pass legislation that prevents the federal government from using tax payer dollars to reimburse special interest groups who abuse the Equal Access to Justice Act to fund their litigation programs, and to hold these groups financially responsible for frivolous lawsuits that prevent this country from delivering economic growth.

Budget Details

Royalty Rate Increase

The budget contains the line “The Administration believes that American taxpayers should get a fair return on the development of energy resources on their public lands” and states that Interior will undertake rulemaking to adjust onshore royalty rates. Yet industry already returns \$40.12 for every dollar spent administering the onshore oil and gas program. Interior Secretary Salazar has indicated publicly that Interior is considering applying the 18.75% offshore rate. Currently set at 12.5%, the onshore rate provides an excellent return to taxpayers. Paradoxically, although the offshore rate is higher, it returned just \$30.08 for each dollar spent by the government in 2010.

Comparison of the onshore rate to the offshore royalty rate is misleading. The reserves found on onshore federal lands are significantly different from the conventional reserves offshore, such as in the Gulf of Mexico. Unconventional reserves on public lands in the West are less productive and more expensive to develop, and the 12.5% onshore royalty rate reflects that difference. Producers assume 100% of the risk and expense for developing these unconventional resources with no guarantee of any return on investment whatsoever, while providing a huge rate of return to the taxpayer.

Administration officials often compare the federal onshore rate to states such as Texas which have a higher royalty rate in some instances. The comparison does not take into account the fact that these states have a regulatory and permitting environment that encourages production. For example, permitting is done within an average of nineteen days in Texas, versus over a year for federal permits. Environmental analyses that take several years and cost hundreds of thousands if not millions of dollars on federal lands are not required by these states. Increasing the royalty rate for federal lands, which are already extremely expensive to develop, could become prohibitively expensive with a higher royalty rate.

Fees

All fees are unnecessary, as industry returns over \$40 for each dollar spent administering the entire onshore program, including all permitting, inspection, enforcement, leasing, and environmental costs.

Inspection Fees: The inspection fees seem to be another way for the government to decrease efficiency while removing more capital from the actual production of domestic energy. The inspection fees proposed in BLM’s budget would create a huge administrative burden for BLM, which would have to determine which leases meet one of four categories depending on surface disturbance and number of wells, track the data, and invoice operators accordingly. Despite the additional administrative burden, BLM’s budget projects a return of \$38 million to the federal government. BLM is already trying to do too much with too few people, and coupled with all the other new requirements this Administration has placed on them, would further constrain the onshore oil and gas program. In the end, it is feasible to suggest that the fee would return a lot less than anticipated, even before taking into account the

production and economic activity that would be lost capital is shifted away from production and into increased fees.

Non-producing Acreage Fee: The budget proposes a \$4 annual non-producing acreage fee. The fee does not take into account all the preparatory work done on a lease before it goes into production, such as geophysical exploration, environmental analyses, permitting, wildlife and cultural resource surveying, and numerous other regulatory activities necessary before a well is drilled. Besides being inequitable to charge companies a non-producing fee when, in many cases, the government is the entity holding up production on federal leases, the fee would significantly increase the cost of developing on federal lands, making less capital available for producing American energy and creating jobs. A DOI IG report, *Oil and Gas Production on Federal Leases: No Simple Answer* already addressed how punitive fees on non-producing acreage would de-incentivize industry (*Oil and Gas Production on Federal Leases: No Simple Answer*, U.S. Department of the Interior, Office of Inspector General, Royalty Initiatives Group, February 27, 2009). That same report found that Interior's systems were so bad, that they could not tell with any certainty whether leases are producing. The IG recommended that those data problems be fixed before the Department could adequately determine ways to encourage diligent development.

APD Fee: The Application for Permit to Drill (APD) fee continues to create problems for my company. We are required to pay a fee for each APD submitted, whether that APD is approved or not. Besides the fact that this is akin to charging taxpayers to file their income taxes, the fee has been particularly inefficient since its enactment in 2008 at \$4,000, now at \$6,500 and proposed to become permanent in the FY 2012 budget. Since the fee was first enacted, BLM has consistently delivered less service and permitting times have increased significantly, from a few hundred days to over 500 days in many cases. In addition, the permitting process has become more ad hoc, resulting in more Conditions of Approval, surveys and other requirements, many of which are not supported by law and regulations.

Mr. LAMBORN. OK, thank you, Mr. Schroeder. Ms. Skaer.

**STATEMENT OF LAURA SKAER, EXECUTIVE DIRECTOR,
NORTHWEST MINING ASSOCIATION**

Ms. SKAER. Thank you very much for the opportunity to testify here today on behalf of our more than 2,000 members located in more than 40 States.

Since 1973, we have been painfully aware of the need to lessen our dependence on foreign oil. But until recently, our growing dependence on foreign sources of minerals always took a back seat to energy with the public and our policymakers. There is evidence this is changing, and the fact this Committee is holding this hearing indicates you understand the seriousness of our mineral vulnerability.

But unfortunately, the Obama Administration's budget priorities not only fail to address this issue, they actually compound the problem, resulting in serious national defense and economic consequences, while impeding private sector job creation.

The Administration talks the talk, but its 2012 budget doesn't walk the walk. And agency testimony today ignores the reality that all energy production, including renewables, requires minerals, minerals we have in America.

Instead of advancing policies to increase access to mineral deposits, reduce unconscionable permit delays, and encourage domestic mineral exploration and development, the Administration prioritizes protection and wilderness over multiple-use and resource production, and proposes fees and taxes resulting in fewer private sector jobs, less mineral production, and an increased reliance on foreign sources of minerals.

Specifically, the President's budget and regulatory legislative proposals will increase the costs to explore and produce hardrock minerals critical to infrastructure development, manufacturing, national defense, energy production, in every aspect of our lives by imposing a gross royalty and increased fees on top of what is now the highest corporate tax rate in the world. Demonstrate a lack of understanding of the differences, both in terms of geology and capital investment, between finding and producing hardrock minerals and oil, gas, and coal, by imposing a leasing system.

Proposals do not address the most significant risk to mining projects in the U.S.—permitting delays that have caused our country to rank dead last among 25 mineral-producing countries, and attract only 8 percent of worldwide exploration spending. If this isn't a call to action, I don't know what is.

They further exasperate permit delays by requiring three procedural Federal notices to unnecessarily go through a four-month Washington office review and approval process per notice. No permits, no jobs.

They threaten to lock up access to rare and hard-to-find mineral deposits through regulatory initiatives like Secretarial Order 3310, the Wildlands Order, and propose mineral withdrawals like northern Arizona. Again, no access, no jobs.

They do not address critical work-force retirement and training issues in the BLM and Forest Service locatable mineral programs, where more than 60 percent of those professionals will be retiring within the next five years. And the proposals do not include Good Samaritan legislation to encourage AML cleanup.

Mr. Chairman, members of the Committee, we are entering an era of resource nationalism, where many countries, led by China, are using country over resources to attract long-term manufacturing jobs. In a nutshell, they are saying you want the minerals you need for manufacturing? Locate your plant where we control the minerals. And in today's highly competitive global-minerals industry, geologic, economic, and political risk factors determine where a company invests, and where high-paying jobs are created; not only mining jobs, but the manufacturing jobs, as well as many indirect jobs.

If we are going to attract new wealth-creating, job-creating mining investments that pay an average wage of \$75,000, with an indirect job multiplier twice the national average, our country must adopt policies that will encourage investment and production of America's vast mineral resources to supply the metals and materials necessary to create and sustain U.S. manufacturing jobs, a robust economy, and our standard of living.

Unfortunately, the President's budget and legislative proposals do not move us in that direction.

We urge this Committee and Congress to reject the President's budget proposals, and instead access, enact policies that will guarantee access to mineral-potential lands; guarantee the certainty and security of tenure required to invest hundreds of millions to more than \$1 billion to find and develop a mine, all before any return on investment; most importantly, to guarantee timely permits, and to address the work force retirement issues.

Mr. Chairman, we look forward to working with the Committee to find solutions to these issues, and we will be happy to answer any questions you might have. Thank you.

[The prepared statement of Ms. Skaer follows:]

**Statement of Laura Skaer, Executive Director,
Northwest Mining Association**

Executive Summary

Chairman Lamborn, Ranking Member Holt and Members of the Committee, the Northwest Mining Association (NWMA) appreciates this opportunity to provide testimony on the *Effect of the President's FY-2012 Budget and Legislative Proposals for the Bureau of Land Management and the U.S. Forest Service's Energy and Minerals Programs on Private Sector Job Creation, Domestic Energy and Minerals Production and Deficit Reduction*.

At a time when Members of Congress, the Administration, the media and the public are acknowledging that the United States has become increasingly vulnerable and dependant on foreign sources of strategic and critical minerals, the Administration's budget and legislative priorities not only fail to address this serious issue, they actually compound the problem. As you know, this vulnerability has serious national defense and economic consequences. This increased vulnerability and reliance on foreign sources of minerals is not new to NWMA or the mining industry, as we have been delivering that message for the past ten years.

While Members on both sides of the aisle are beginning to introduce legislation to address these mineral vulnerability issues, the Administration's budget ignores this reality by proposing increased fees and royalties; advocating policies that make access to mineral lands and permits more and more difficult; fails to address serious workforce issues in both the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS); and basically ignores Congressional mandates to manage public and National Forest Lands for multiple-use, sustained yield and the production of fiber, food, minerals and energy the Nation requires.

The *Federal Land Policy and Management Act* of 1966 (FLPMA) 43 U.S.C. 17.01 *et seq* lists twelve policies with respect to the public lands of the United States. Section 102(a)(12) states that it is the policy of the United States that:

the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber and fiber from the public lands including implementation of the *Mining and Minerals Policy Act* of 1970 (30 U.S.C. 21a) as it pertains to the public lands;

The *Mining and Minerals Policy Act* of 1970 declares, in part:

[t]hat it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, . . .

The *Multiple-Use and Sustained Yield Act* of 1960 (16 U.S.C. 528) and the *National Forest Management Act* of 1976 contain similar policy declarations for the USFS.

It is within the context of these statutes and congressional declaration of policy that NWMA finds the Administration's budget proposals relating to private sector job creation, domestic minerals and energy production, and deficit reduction woefully lacking. Instead of allocating budgetary resources to wealth and job creating mineral and energy resource programs, and providing incentives and required certainty to attract mineral investment, the Administration's budget and legislative proposals focus on protection, removing lands from productive use, increasing royalties, fees, and taxes, increasing uncertainty and regulatory burdens and implementing controversial and job killing policies revolving around climate change. While the Administration talks the job creation talk, their proposals clearly do not walk the job creation walk.

The Administration's job killing budget and legislative proposals include increased fees and a gross royalty/leasing system for seven hardrock minerals that will discourage exploration, development and production of those metals on public lands and increase our Nation's dangerous reliance on foreign sources of minerals as well as energy. The President's FY-2012 budget also fails to address project delays caused by bureaucratic red tape, a broken NEPA process and a failure to address workforce issues.

Finally, if the Administration was truly interested in reducing the environmental impact of abandoned hardrock mines, it would have included Good Samaritan legis-

lation similar to H.R. 3203 introduced by Chairman Lamborn in the 111th Congress.

Northwest Mining Association: Who We Are

NWMA is a 116 year old, 2,000 member, non-profit, non-partisan trade association based in Spokane, Washington. NWMA members reside in 42 states and are actively involved in exploration and mining operations on public and private lands, especially in the West. Our diverse membership includes every facet of the mining industry including geology, exploration, mining, engineering, equipment manufacturing, technical services, and sales of equipment and supplies. NWMA's broad membership represents a true cross-section of the American mining community from small miners and exploration geologists to both junior and large mining companies. More than 90% of our members are small businesses or work for small businesses. Most of our members are individual citizens.

Bureau of Land Management Budget and Legislative Proposals

Our testimony will focus on the budget and legislative proposals impacting the hardrock mining industry, namely the proposed gross royalty and leasing system for seven locatable minerals, the abandoned mine land fee for hardrock minerals, regulatory proposals, such as Secretarial Order 3310 and the proposed Northern Arizona withdrawal, the failure to address delays in the NEPA/permitting process and replacing and training new professionals to replace an aging workforce. Instead of focusing on enhancing the programs that create jobs, lessen America's reliance on foreign sources of minerals and promote the production of the minerals, food, timber and fiber Americans require, the Department has elevated protection as its budgetary and legislative priority.

A. Proposed Leasing/Gross Royalty System for Seven Hardrock Minerals

The President's FY-2012 budget includes a legislative proposal to institute a leasing process under the *Minerals Leasing Act* of 1920 for seven hardrock minerals—gold, silver, lead, zinc, copper, uranium and molybdenum. These seven minerals currently are subject to location under the General Mining Laws of the United States. The President's proposal would include a new leasing process and subject these seven minerals to annual rental payments and a royalty of not less than 5% of gross proceeds. One half of the royalty proceeds would be distributed to the states and the other half would be deposited in the General Treasury. Existing mining claims would be exempt from the leasing system but would be subject to increases in annual claim maintenance fees.

This proposal would have the effect of killing private sector job creation and discouraging private investment in the exploration, development and production of domestic mineral resources. It would increase our nation's reliance on foreign sources of minerals and lower the United States' standing among the twenty-five largest mineral producing countries in the world.

The leasing proposal will increase uncertainty by failing to recognize that unlike coal and oil and natural gas, which are typically located in vast sedimentary basins, economically viable deposits of the seven minerals mentioned in the President's proposal are rare and hard to find. Discovery, delineation and development of metallic ore bodies require years of fact-finding, including ground, aerial and satellite reconnaissance, exploration drilling, environmental baseline gathering, workforce hiring and training, mine and mill planning, design and construction and closure and reclamation.

In a 1999 report, the National Research Council of the National Academy of Sciences recognized just how rare economically viable mineral deposits are: "Only a very small portion of Earth's continental crust (less than 0.01%) contains economically viable mineral deposits. Thus, mines can only be located in those few places where economically viable deposits were formed and discovered." *Hardrock Mining on Federal Lands*, National Research Council, National Academy Press, 1999, p. 2-3.

On page 24 of the same report, the National Research Council Committee included a sidebar on "How Hard is it to Find a Mineral Deposit?" This is what the NRC Committee had to say:

The art and science of finding new mineral deposits is much better than pure luck, but it is still far from perfect. Moreover, the search for new mineral deposits is costly, time consuming, and without guarantee of success. For example, Roscoe (1971) showed that the number of mineral indications in Canada that had to be investigated to discover a significant mineral deposit was about 100 in 1951 and rose to about 1,000 in 1969. There is no reason to expect that this trend has changed. Similarly, in a probabilistic analysis of exploration experience in the United States by Homestake Min-

ing Company, Anderson (1982) concluded that from an initial sample of 1,000 reconnaissance examinations (more or less equivalent to casual use activities), 100 drillable exploration targets (roughly equivalent to notice-level activities) would emerge in which there would be a 75% chance of finding one deposit with 3 million ounces of gold. The statistics may not be quite as grim as they first appear, because there are many cases of someone with a better concept, more persistence, or luck finding an economic deposit in a prospect or worked-out mine that several companies have deemed worthless. Successful projects can be spectacularly profitable, but overall, mining has one of the lowest returns on investment of major industries (Dobra, 1977).

It is not uncommon for mining companies to spend millions of dollars just to identify 100 drillable exploration targets. Sometimes more than \$100 million can be expended before a decision is made to build a mine. At a recent mining conference in Denver, the chief financial officer of a large gold company told the audience that his company was initially surprised when it spent \$2 billion dollars to explore for, develop and build a mine but they now consider that to be a common figure. Bear in mind that all of this investment occurs up front *before* production and the beginning of cash flow. Furthermore, the combination of cyclical price volatility and the variations in the concentration and geologic characteristics of these seven metals within a single ore body can turn ore with economic value into waste rock at a sudden downturn in the market.

These are among many reasons that these metals were not removed from the operation of the Mining Law when the *Mineral Leasing Act* was passed in 1920. Congress recognized then, as it should today, that in order to encourage private enterprise in the development of hardrock minerals, there must be an incentive for those who take substantial risk to explore for, find and develop a mineral deposit. The Mining Law has served this Nation well for 139 years by providing a self-executing process to enter upon federal lands open to mineral entry to explore for, find, use and occupy those lands for all uses reasonably incident to prospecting, exploration, processing and mining. The Mining Law has provided the necessary framework and security of tenure or certainty required to attract mineral investment and take the risk to find that true needle-in-a-haystack, one-in-ten thousand economically viable mineral deposit.

Removing these seven minerals from the operation of the Mining Law and placing them in a leasing system will result in less mineral investment in the U.S. and exacerbate our dangerous reliance on foreign sources of critical and necessary minerals.

The President's proposal came as a surprise because it is inconsistent with Secretary Salazar's testimony before the Senate Energy and Natural Resources Committee on July 14, 2009. While supporting a need to amend the *Mining Law of 1872*, including patent reform and providing a fair return to the taxpayers for the extraction of valuable resources and the creation of an AML Fund that included a Good Samaritan provision, the Secretary never suggested a leasing program. In fact, neither Congressman Rahall's Mining Law Reform bill introduced in the 110th (H.R. 2262) and 111th (H.R. 699) Congress nor Senator Bingaman's bill (S. 796) introduced in the 111th Congress contained a leasing system for hardrock minerals. Both Representative Rahall and Senator Bingaman's legislation recognized the importance of the self-initiation rights under the Mining Law to encourage the search for and production of hardrock minerals.

B. A Gross Royalty Not Less Than 5% Will Adversely Impact Investment in Domestic Mining.

A royalty assessed on gross proceeds increases the economic risk of a given mining project investment and acts as a disincentive to investment. This disincentive becomes pronounced when one considers the cyclical nature of commodity prices. In other words, as commodity prices decrease, the rate of return required to justify a mining investment increases. A gross royalty becomes a fixed cost that, in times of low commodity prices, can mean the difference between a mine closing prematurely, resulting in lost jobs, and a mine continuing to operate because it can cover its fixed costs thereby keeping people employed during times of low prices. In other words, a gross royalty raises the "cut off grade" between recoverable ore and waste rock. The life of a mine is shortened by causing what otherwise would be valuable minerals below the cut off point to be lost. A gross royalty prevents conservation of the resource and is not an environmentally sustainable policy. Early mine closures waste public minerals by leaving minerals in the ground. Premature closures of mines means more mineral deposits have to be discovered, more mines built, impacting more land.

Unlike oil, natural gas and coal which are generally marketable as found in place in the ground, hardrock minerals require extensive and costly processing and beneficiation to produce a marketable product. A gross royalty does not consider these costs. A gross royalty is punitive in periods of low commodity prices. During periods of low commodity prices, a mining company would continue to have to pay the gross royalty even if it meant operating at a loss. Since no mine can be operated at a loss for any significant amount of time, the result is that some mines will shut down prematurely creating loss of jobs; loss of federal, state and local taxes; and indirectly adversely impacting suppliers of goods and services to the mine and the mine employees. The economic devastation from a gross royalty would be significant, especially in the rural West where most hardrock mines are located and mining provides some of the best jobs available, jobs that average more than \$75,000 per year.

On the other hand, a net royalty does not cause a mining company to operate at a loss. With a net royalty, operators pay higher royalties when their net is high during periods of robust mineral prices and/or operating costs are lower. When mineral prices are depressed, and/or operating costs are higher, operators pay lower royalties, so the royalty does not cause premature mine closures resulting in job losses. Because mineral prices are cyclical in nature, there have been and always will be periods of lower commodity prices. A net royalty provides the best incentive to explore for minerals on federal lands, regardless of the economic cycle. A net royalty promotes conservation of the resource, ensures a longer royalty stream from operating mines, and promotes job retention.

The Metals Economics Group produces an annual report "World Exploration Trends" which tracks global exploration and industry trends. The 2011 report estimates that nonferrous exploration budgets for 2010 will total \$12.1 billion. Despite significant mineral resources, the United States attracts only 8% of total world-wide exploration dollars, while Latin America attracts 27%, Canada 19%, Africa 13%, and Australia 12%. The following report provides insight into why the U.S. lags in attracting job creating exploration dollars.

An internationally respected minerals industry advisory firm, Behre Dolbear, prepares an annual report ranking the twenty-five largest mineral producing countries in the world. The latest report is entitled 2011 Ranking of Countries for Mining Investment—Where "*Not to Invest*" and is attached and incorporated by reference. Behre Dolbear considers seven criteria in ranking countries:

- The country's economic system
- The country's political system
- The degree of social issues affecting mining in the country
- Delays in receiving permits due to bureaucratic and other delays
- The degree of corruption prevalent in the country
- The stability of the country's currency
- The country's tax regime

While the United States ranks high (eight or above on a one to ten scale) for its economic and political system, the United States received a ranking of three with respect to social issues affecting mining; ranked last in delays and receiving permits (the only country to receive a one on the one to ten scale); and a rating of three with respect to its tax regime. Behre Dolbear considers the total taxes applicable to a mining project, including income taxes, severance and excise taxes, duties and imposts, and royalties. The reason the United States received a three is that its "corporate tax rate is 35% plus, which, when combined with state levies effectively makes it the highest corporate tax rate in the world." This high corporate tax rate provides a significant disincentive for mineral investment in the United States. A gross royalty would only exacerbate this disincentive, and any net royalty must take into consideration the overall government take." According to the study, when the "government take" from combined taxes and royalty reaches 50%, a mining project's economic viability is threatened.

In addition, the Administration doesn't seem to understand that our lifestyle and standard of living is made possible by mining. Furthermore, it doesn't understand that the production of solar, wind and geothermal electricity capacity requires minerals. The Administration proposes key funding increases for renewable energy development while proposing new fees and taxes on mineral production, proposing a new leasing system and enacting policies that will adversely impact the security of tenure necessary to attract mineral investment, and failing to address significant workforce issues in the Mining Law program. The bottom line is that all energy production, including renewable energy requires minerals, and lots of them. And they need American minerals—unless, of course, we are willing to trade our unhealthy dependence on foreign oil for a dangerous dependence on foreign sources of critical minerals. In 1995, the United States Geological Survey reported that the United

States was import reliant on 43 nonfuel minerals with a \$51 billion value. In 2010, the U.S. had become import reliant on 63 minerals and 100% reliant on 19 minerals with a value of \$90.4 billion. Unfortunately, the President's budget and legislative proposals will discourage mineral production in the United States and further increase our Nation's reliance on foreign sources of minerals.

C. Abandoned Mine Land Fee

The President's FY-2012 budget proposes to levy an undetermined fee on the production of hardrock minerals beginning January 1, 2012 with the receipts distributed through a competitive grant program. The President's AML proposal of a fee based on the volume of material displaced is significantly different than any AML fee proposed in the past either through Mining Law Reform bills introduced in the last two Congresses or the Secretary's testimony in July, 2009. What is noticeably absent from the President's proposal is a Good Samaritan provision.

A Good Samaritan law, similar to the one introduced by Chairman Lamborn in the last Congress (H.R. 3203), will do more to bring about the cleanup and reclamation of abandoned hardrock mines than any fee imposed on production or material moved.

It appears the President's proposal is based on the coal AML program administered by the Office of Surface Mining (OSM). As was discussed in more detail earlier in this testimony, increasing fees on hardrock production is counterproductive to private sector job creation, domestic energy and minerals production and deficit reduction. Because most currently producing mines are located in the same mining districts as most abandoned hardrock mines, a Good Samaritan provision would enable mining companies to utilize current permitted processing and tailings facilities, equipment and mine personnel to reclaim nearby abandoned mines without the legal risk of incurring cradle to grave liability under the *Clean Water Act* (CWA) and the *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA).

On October 2, 2007 at a legislative hearing on H.R. 2262 entitled *Royalties and Abandoned Mine Reclamation*, I provided testimony on hardrock AML issues including the need for Good Samaritan legislation. As I stated at that time, the mining industry supports the creation of a new federal AML fund to be financed from royalties owing under any Mining Law legislation enacted by the Congress to augment the monies available to state AML Funds to address safety and, where needed, environmental hazards at AML sites. Our industry also strongly supports the enactment of comprehensive Good Samaritan legislation like H.R. 3203, which would allow mining companies with no previous involvement at an AML site to voluntarily remediate and reclaim that site in whole or in part without the threat of potential enormous liability under the CWA, CERCLA and other federal and state environmental laws. I have attached a copy of that testimony for the record of this hearing and incorporate it by reference.

Rather than imposing a new AML fee on the production of hardrock minerals for reclaiming abandoned mine sites, Congress should first pass Good Samaritan legislation and use, in addition to state AML funds, monies collected from existing claims maintenance and location fees that are not used to administer the General Mining Laws or provide for mineral program workforce hiring and training as discussed below. Over the past five years, the amount of claim maintenance and location fees collected has exceeded the amount allocated by the Secretary of the Interior for administration of the General Mining Laws by more than \$20 million per year. We submit that this would be a much better use of those excess funds than depositing them into the General Treasury.

Addressing Permit Delays and Workforce Training

The hardrock mining location and claim fees have brought in between \$51.5 and \$67.3 million over the last five years. These monies are earmarked for administering the Mining Law Program, yet, over the same time period, only \$32.7 to \$36.7 million have been appropriated to run the program. The balance has gone to the Treasury.

During this same time period, Mining Law/Minerals Program managers and BLM/USFS field personnel responsible for the locatable minerals programs have been retiring at an unprecedented rate. Within the next five years, more than 60% of BLM and USFS employees responsible for the respective locatable minerals programs will retire or be eligible for retirement. Yet, there appears to be no effort at the departmental level to address this issue. The President's FY-2012 budget certainly doesn't address it.

The 2011 Behre Dolbear report ranking countries for mining investment ranked the United States dead last in delays and receiving permits due to bureaucratic and other delays, and near the bottom with a rating of three out of ten on the degree

of social issues affecting mining in the country. Here is what Behre Dolbear had to say about social issues in the United States:

The United States' rating remained at three. Mining projects in the United States (especially those proposed on public lands) continue to be fiercely opposed. The 2010 mid-term Congressional elections refuted the Democratic Party's singular control of the government, which may give the mining industry breathing room from the onslaught of unchecked regulatory initiatives that have reduced its cost competitiveness. Unable to achieve its goals through legislation, the Obama Administration has turned to regulation through the Environmental Protection Agency (EPA) and other agencies.

With respect to permitting delays, Behre Dolbear ranked the United States worst among the twenty-five countries rated stating:

Permitting delays in the United States are the most significant risks to mining projects. A few mining friendly states (Nevada, Utah, Kentucky, West Virginia, and Arizona) are an exception to this rule but are negatively impacted by federal rules that they are bound to enforce. The United States is ranked lowest at a one due to the average 7-to 10-year period required before mine development can begin.

The delays are not due to environmental regulations being stronger in the United States than in other countries because most countries have environmental regulations equal, at a minimum, to the standards established by the World Bank Group. Rather, it is abuse of the NEPA process, unnecessary bureaucratic red tape and the fact that virtually every mining project is litigated.

Attached as Table 1 is a list of hardrock mining projects in Nevada that have been through the NEPA process to obtain plan of operation approval from the BLM. I have highlighted the length of time it has taken to complete the process and obtain a plan of operation. This chart is evidence supporting the United States' current ranking of last among 25 mineral producing countries in the world with respect to the time it takes to process plans of operations and obtain necessary permits (Behre Dolbear Group Inc., 2011 Ranking of Countries for Mining Investment—Where “Not to Invest”) These delays represent jobs that are not being created, jobs by an industry that pays an average wage of \$75,000 and has an indirect job multiplier equal to twice the national average.

Most of these projects do not reflect the substantial delays resulting from a BLM Instruction Memorandum issued on December 23, 2009 (IM 2010-043) requiring *all* Federal Register Notices be sent to the BLM Washington Office for review and approval prior to publication in the Federal Register. This Instruction Memorandum also implemented a 12 to 14 step review and approval process that is taking approximately four months per Notice, prior to publication. Included are three procedural notices required by NEPA: (1) Notice of Intent to prepare an EIS which starts the public scoping process; (2) Notice of Intent to publish the Draft Environmental Impact Statement; and (3) Notice of Intent to publish the Final Environmental Impact Statement and Record of Decision. Note that all three Notices are purely procedural—nothing substantive.

Contrast the BLM policy with the USFS policy which allows these purely procedural *Federal Register Notices* to be sent directly to the *Federal Register* by the local forest supervisor. This is not to say that the USFS NEPA process does not have its own problems, rather, merely to contrast the USFS' policy with the BLM's policy that is inhibiting job creation by unnecessarily adding up to a year to what is already a very broken, anti-job NEPA process. We can think of no rational reason for the BLM to require these three procedural Notices to each undergo a four month review and approval process in the Washington, D.C. office prior to publication in the Federal Register. It is no wonder the United States ranks last in terms of permitting delays.

As mentioned previously, claim maintenance and location fees are bringing in \$20 million a year more than is being appropriated to administer the BLM's locatable minerals program. This is not taxpayer money. This is money from the mining industry, and we believe some of this more than \$20 million per year could and should be used to hire and train the necessary professionals to help break the backlog of permit delays and replace an aging workforce. We believe this should be BLM's and the USFS's number one budgetary priority for locatable minerals.

Among all of the programs administered by the BLM and USFS, hardrock mining is the most technically complex, legally complex and capital intensive. Hardrock mineral deposits result from complex geological forces, and, as discussed earlier, are rare and hard to find. The variation in geology among the different metals as well as variations within a metal require specific geologic and engineering knowledge and training.

In addition, BLM and USFS professionals responsible for managing the locatable mineral programs require an understanding of the General Mining Laws of the U.S. and their relationship with other laws and regulations, including environmental laws and regulations. The technical and legal issues are far more complex than other mineral resources like coal, oil and gas. Additionally, hardrock mine development is the most capital intensive activity taking place on federal lands. Hundreds of millions to several billions of dollars of investment is required, up front, before there is any cash flow or return on investment.

These factors demand professionals with specialized education and training in geology and mining engineering, so they understand the complex technical, legal and capital investment issues associated with hardrock mining.

The U.S. Forest Service

While we have focused our testimony on the BLM's budget proposals, the U.S. Forest Service budget contains many of the same misguided priorities as the BLM, with a focus on protection and climate change rather than production. Based on information compiled by the USFS Minerals and Geology Management staff, the nine largest locatable mineral mines producing on National Forest Lands produce metals worth \$1.03 billion, more than all other USFS programs combined. This represents wealth creation, high paying jobs and significant state and local tax revenues. It also supports U.S. manufacturing jobs by helping to ensure a domestic supply of minerals.

As mentioned above, the USFS faces similar workforce issues as the BLM. As of January 25, three-quarters of the USFS's certified mineral examiners were eligible for retirement. A December 20, 2010 workforce analysis by the USFS shows 61% of USFS employees eligible for or will be eligible for retirement by 2015. Thus, it is likely that within the next three or four years, the USFS will lose over 60% of its mineral management expertise, yet, little is being done to replace this workforce, and the Administration's proposed budget actually reduces the amount of monies budgeted to manage the mineral wealth of our National Forest System Lands. The budget shows reductions in monies to administer mineral operations, process mineral applications and manage the abandoned mine land program.

In these times of robust mineral prices, we believe the Forest Service should be increasing its budget request for mineral application processing, so it can hire and train the professionals needed to administer the program and process plans of operation.

Conclusion

The U.S. minerals industry operates in a highly competitive global environment. The search for new mineral deposits occurs around the globe. Major mining companies operate internationally and weigh many factors in determining whether the potential return on mineral investment is worth the geologic, economic and political risk.

There can be no question that mining creates new wealth and provides high paying jobs with an indirect job multiplier more than twice the national average. As mining companies weigh the geology/mineral potential, economic and political risk, they will invest in mineral development where they can obtain access to the land; access to regulatory approvals; access to capital; and access to the resources necessary to build and operate the mine such as people, water and energy. While the United States scores high in terms of its economic and political systems, lack of government corruption and currency stability, it ranks last or near the bottom in terms of permitting delays, social issues and tax policy. Thus, in the Behre Dolbear 2011 Ranking of Countries, the United States is sixth behind Australia, Canada, Chile, Brazil and Mexico.

We also are entering a period of resource nationalism where many countries, led by China, are asserting control over natural resources located within their country. Unlike the Arab oil embargo of the early 70's, countries like China are using resource nationalism not to control the market or the market price for a given commodity, but to attract long term manufacturing jobs. Manufacturing requires minerals. Manufacturing concerns require a stable and affordable supply of metals and minerals. In a nut shell, resource nationalism says "if you want our minerals, locate your manufacturing facility in our country."

This is most evident and transparent in China with rare earth minerals. China currently controls 97% of global rare earth production. China has announced that it is cutting back on rare earth exports in favor of internal consumption. Rare earths are required not only in wind turbines and hybrid vehicles, but also in dozens of consumer products like flat screen TV's, computer monitors, and energy saving CFL light bulbs. China is telling these manufacturing concerns that they have a choice.

They can hope to obtain the rare earths they need in the global market place at the global commodity price, or they can relocate their manufacturing facility in China and be guaranteed a supply of rare earths at a discount. China has been very transparent in this policy because first and foremost they want to create manufacturing jobs.

If the United States is going to compete in this global mineral environment fueled by resource nationalism, it must adopt policies that guarantee access to lands with mineral deposits, must provide a competitive tax regime, and must reduce permitting delays. We should be embarrassed that we rank last among the twenty-five largest mineral producing countries in terms of permitting delays. The fact that a country with a mineral resource base as rich as the United States attracts only 8% of world-wide exploration spending should be a call to action.

Unfortunately, the President's FY-2012 budget and legislative proposals for the BLM's and USFS's energy and mineral programs do not answer this call to action. Instead of advancing policies that will encourage mineral production, job creation and deficit reduction, the Administration's proposals will result in less domestic energy and minerals production, adversely impact private sector job creation, and increase the United States' dangerous reliance on foreign sources of strategic and critical minerals. This will have a negative impact on our balance of payments and will not contribute to deficit reduction, as we watch other countries reap the benefits of mineral investment and the resulting private sector jobs, both in mineral exploration and development as well as manufacturing.

We urge this Committee and Congress to reject the President's budget and legislative proposals and, instead, enact incentives that will encourage investment and production of America's vast mineral resources to supply the strategic and base metals and materials necessary to create and sustain U.S. manufacturing jobs, a robust economy, and our standard of living.

Thank you for the opportunity to provide testimony on these important issues. I will be happy to answer any questions.

Table 1 Time Required for BLM to Prepare EIS/SEIS Documents for Gold Mining Projects						
Project	BLM District Office	NOI or Scoping Meeting	Draft SEIS/EIS Published	Final EIS/SEIS Published	Elapsed Time	Project Description (Proposed Action)
Betze Expansion	Elko	8/31/1994	9/15/2000	1/31/2003 (FSEIS)	100 months	Water management operations including dewatering and water discharge with NPDES permit
		2/9/1995	3/2001	1/11/2002	83 months	Develop two pits, expand existing pits, expand heap leach facilities, build new mill and tailings facility, reclaim old mining areas. Substantial delays due to EPA comments. The Record of Decision/Plan approval was not issued until November 2003
Ruby Hill		3/1995	8/8/1996	1/3/1997	22 months	Develop open pit, waste rock dumps and heap leach facilities
South Pipeline		1/26/1996	7/1999	2/2000	49 months	Expand Pipeline pit and develop South Pipeline pit, new heap leach facilities, expand waste rock dumps, expand tailings facilities
Newmont South Operations Area Project Amendment (SOAPA)	Elko	6/19/1997	10/31/2000	4/26/2002	58 months	Expand and deepen pit, continue dewatering, discharge up to 25,000 gpm, expand waste rock dumps and heap leach facilities. (See SOAPA Cumulative Effects SEIS below)
Marigold Expansion	Winnemucca	10/6/1998	2/11/2000	3/9/2001	29 months	Expand two pits and two waste rock dumps, build new waste rock dump and heap leach facilities, increase existing heap height, expand tailings facilities
South Pipeline Pit Expansion		12/18/2001	6/10/2004	12/2004 (FSEIS)	36 months	Expanded and new facilities within boundary of approved Plan of Operations, expand and deepen pit, partial pit backfill, increase height of heaps and waste rock dumps, build new waste rock dumps
Marigold Millennium Expansion	Winnemucca	8/14/2002	3/31/2003	12/1/2003 (FSEIS)	16 months	Consolidate and deepen two pits, build five new pits, expand waste rock dump, develop three new waste rock dumps, develop two new heap leach pads and expand existing heap leach facility

Project	BLM District Office	NOI or Scoping Meeting	Draft SEIS/EIS Published	Final EIS/SEIS Published	Elapsed Time	Project Description (Proposed Action)
Emigrant	Elko	5/24/2004	11/21/2008 (original DEIS in 2005)	12/21/2010 ROD 1/25/2011	80 months	Develop open pit mine, waste rock dumps and heap leach facility Substantial delays due to EPA comments pertaining mainly to waste rock characterization.
Ruby Hill Expansion East Archimedes	Battle Mountain	6/16/2004	1/2005	7/2005 (FSEIS)	13 months	Expand pit, waste rock dumps and heap leach facility, pit dewatering
Cortez Hills Expansion	Battle Mountain	2/2/2005	10/5/2007	10/3/2008	44 months	Expand existing pit, construct new pit, three waste rock dumps, heap leach facility, and underground mine.
Round Mountain Gold Expansion/Gold Hill	Battle Mountain	12/26/2006 (Plan submitted in 6/2006)	7/21/2009	6/30/2010	48 months	Expand pit, waste rock dumps, mill and tailings facility. Develop the Gold Hill deposit and new heap leach facility and construct a new haul road and utility corridor to connect Gold Hill to Round Mountain.
SOAPA Cumulative Effects SEIS (Court ordered)	Elko	3/7/2007	8/31/2007	7/2/2010	35 months	2006 U.S. Court of Appeals for the Ninth Circuit decision in <i>Great Basin Mine Watch v. Hanks</i> (appealed the 2002 EIS) required BLM to prepare a Supplemental EIS to evaluate cumulative effects
Leeville Cumulative Effects SEIS (Court ordered)	Elko	3/7/2007	8/31/2007	7/2/2010	35 months	2006 U.S. Court of Appeals for the Ninth Circuit decision in <i>Great Basin Mine Watch v. Hanks</i> (appealed the 2002 EIS) required BLM to prepare a Supplemental EIS to evaluate cumulative effects
Betze Pit Expansion	Elko	5/29/2007	8/21/2008	3/12/2009 (FSEIS) 5/5/2009 (ROD)	22 months 24 months	Record of Decision - 5/5/2009 Expand pit, construct new waste rock dump and tailings facility

Mr. LAMBORN. OK, and thank you for your testimony. Next we will have Mr. Fosburgh.

**STATEMENT OF WHIT FOSBURGH, PRESIDENT AND CEO,
THEODORE ROOSEVELT CONSERVATION PARTNERSHIP**

Mr. FOSBURGH. Thank you. My name is Whit Fosburgh; I am the President and CEO of the Theodore Roosevelt Conservation Partnership, a national nonprofit that is dedicated to guaranteeing every American quality places to hunt and fish.

My testimony is going to stand in fairly stark contrast to the other folks on this panel. But in summary, one, over the last decades sportsmen have seen a massive push to open Federal lands to unbridled oil and gas development, often with devastating impacts to fish and wildlife.

Two, industry is only using a relatively small percentage of its lands that are already available to it to produce energy.

Three, the reforms recently announced by the Obama Administration, including leasing reforms, massive release planning, and the Wildlands Policy, are steps to restore some balance to the system—not to block oil and gas development, but to ensure that it happens in a responsible manner, and that special places for fish, wildlife, and recreation can be conserved through an open public process.

First, let me state upfront that the TRCP and our partners in the conservation business support energy development on public lands. Increasing domestic energy production is an important national goal, and energy production is a legitimate component of public lands multiple-use mandates. As are mining, fish and wildlife conservation, and wilderness.

But there are ways to do energy development right, and to do it in the proper places. And too often this has been avoided, forgotten, or ignored.

In the last six years, as Mr. Holt pointed out, more than 40 million acres of public lands have been opened up to oil and gas development. Laws were changed to make sure that oil and gas development took precedence over other uses, including fish and wildlife conservation.

The meager BLM Wildlife staff has literally been overwhelmed by the onslaught of drilling proposals, often forcing agency biologists to expedite applications, rather than to monitor and manage fish and wildlife habitat. This problem promises to get even worse if proposed budget cuts actually happen.

The rush in applications and permits has even outpaced industry's ability to produce. Of the 40-plus million acres of public lands already leased by industry, development is occurring in only about 12.2 million acres.

In 2010, BLM approved 4,090 wells; only 1,480 were spudded. According to recent press reports, 7,200 approved APDs were available to industry as of early 2011.

While there is clearly not a lack of land available for energy production, where it is occurring, the impacts to fish and wildlife should give everyone reason to pause before rushing headlong into further streamlining the process, or opening up more lands for leasing. And I will use mule deer as an example here.

Mule deer, unlike their brethren white-tails in the East, are easily disturbed by human activities, especially when they are in their critical winter ranges. A recent report on mule deer and how mule deer have been addressed in energy projects in the Greater Green River Basin of Wyoming, Colorado, and Utah showed that of the 10.2 million acres of mule deer critical winter range on BLM and Forest Service lands, 2.4 million acres have already been leased for development. Many of these leases came with stipulations limiting or preventing winter drilling activity, which is appropriate. But such stipulations are routinely waived or modified at the request of industry.

For example, in Wyoming 83 percent of the waiver requests were approved in the 18-month period between 2007 and 2008. Not surprisingly, according to a scientific study commissioned by BLM and the industry, and released last November, the mule deer herd in the Upper Green River Basin has declined by about 60 percent since development began in Pinedale in 2000. And industry touts the Pinedale Anticline project as a model for responsible development on public lands.

The leasing reforms proposed by the Administration will help ensure that fish and wildlife needs are better considered in future energy leasing on public lands. But these reforms really do nothing to conserve fish and wildlife and hunting and fishing on the 40-plus million acres that have already been leased. Frankly, the greatest threat to energy production on public lands is not restricted policies from this or any other administration; it is a failure on the ground to achieve real balance and real multiple use, thereby inviting controversy, protests, or lawsuits.

When mule deer, sagegrass, cutthroat trout, and other iconic western species continue to decline, and hunting and fishing opportunities are lost, we will have squandered a national legacy that was left to us by Theodore Roosevelt and held in trust for future

generations. We will have traded short-term profits for a sustainable natural resource that provides jobs forever.

2010 saw more than 58 million visitors at BLM lands, with the resulting benefit of \$7.4 billion to the economy. In Wyoming, Colorado, and Utah, the three States I noted in my mule deer example, hunters and anglers, more than 2.2 million hunters and anglers bought fishing and hunting licenses, providing license revenues of more than \$1.2 billion back to those States.

You can have energy projects and healthy fish and wildlife on public lands, but that means that the agencies need the will and the budgets to do their jobs. It means that game and species of fish and wildlife, not just endangered species, should be considered before projects begin, not just after declines are seen. And it means that there should be a way to protect special places, either for biological reasons or the fact they are simply too important for outdoor recreation to millions of people who enjoy them.

Thank you very much for the opportunity to be here, and I would be happy to answer any questions.

[The prepared statement of Mr. Fosburgh follows:]

**Statement of Whit Fosburgh, President and CEO,
Theodore Roosevelt Conservation Partnership**

Mr. Chairman:

Thank you the opportunity to testify before the House Natural Resources Committee, Subcommittee on Energy and Mineral Resources. My name is Whit Fosburgh, and I am the president and CEO of the Theodore Roosevelt Conservation Partnership, a national nonprofit conservation organization (501-3c) that is dedicated to guaranteeing every American places to hunt or fish. As a lifetime hunter and angler and a long-time professional in the conservation field with experience at numerous levels of government and non-governmental organizations, I am honored to provide comments on the important issue of energy development and its potential impacts on fish, wildlife and sportsmen. The quality of life in this nation, one enjoyed by sportsmen and non-sportsmen alike, depends on a sound economy fueled in part by responsible energy production that is balanced with the needs of fish, wildlife, habitat and water.

First and foremost, the TRCP and the sportsmen's community in general support responsible energy development. We understand and appreciate the need for exploration and production of our domestic energy resources but maintain it must be done responsibly and in a way that conserves and sustains other values with those of energy production. We advocate true multiple use and sustained yield of public-lands resources, including energy production, while maintaining a fish and wildlife conservation legacy for this and future generations.

Policy changes during the last two years are positively affecting the management of public-lands energy resources and beginning to return balance to a dynamic that previously held energy as the primary value of millions of acres of our Western landscapes. Energy leasing reform announced by Secretary Salazar is a very positive step toward resolving this bias. Federal budgets for fish and wildlife programs, however, have been neglected and are inadequate. Further budget cuts would cause irreparable harm. The model for public-lands energy development is broken, and we wish to provide recommendations for fixing it based on our extensive experience working on Western energy and fish and wildlife issues.

Our energy policy must acknowledge that two-thirds of the nation's land is privately owned land and that significant access and permitting on Western public lands for energy development already has occurred there. We do not support energy policies that eliminate protections for fish and wildlife resources, reduce or eliminate public involvement in public-lands energy development, or prioritize energy development over valuable fish and wildlife uses and values. We believe that evaluation to potential impacts from energy development should be done before leasing occurs and that the public, the owners of federal mineral interests, should have more opportunity to provide needed input on how their public lands are affected by energy development. The leasing reforms implemented by Secretary Salazar are a needed step in the right direction and will allow for a better application of multiple-use on public

lands. This also applies to the Master Lease Planning part of the lease reforms which will map out where and how energy will be developed in those areas that have not already been significantly affected. We also believe that clear air, clean water, and a healthy environment are essential to our well being as a country and no shortcuts, loopholes, or other actions should diminish proper environmental reviews or limit the federal government from protecting these essential resources. Administrative actions that addressed these problems have our support as well. Overall, we believe more can be done at the planning or leasing stages for protection of fish, wildlife, water and recreation that will allow for less conflict, better multiple-use, and more certainty for the development of our public land energy resources. Finally we believe that fish and wildlife agencies need an adequate budget to manage fish and wildlife resources and that draconian cuts are not acceptable, nor is diverting funding intended for fish and wildlife programs to other uses. Having given an overview of our position I will discuss some of these issues in detail.

The TRCP is addressing problems with development of oil and gas resources on public lands in the Rocky Mountains and elsewhere. Since 1995, the conservation and sporting community has been working with officials from USDI, USDA and CEQ to address inadequate energy policies and practices. In 2001, we began discussions with former DOI Secretary Gale Norton and other officials to fix the problems in places like Wyoming and New Mexico, where development was accelerating. The rapid pace and narrow approach of development was preventing the BLM from sustainably managing wildlife and fish resources. We were especially concerned with the severe impacts on mule deer, pronghorn, elk, sage grouse, trout and other desirable fish species and the recreational opportunities they provide for tens of thousands of sportsmen every year on public lands.

During the energy boom that began in the late 1990s, energy development practices and policies on public lands drastically changed. In the face of pressure to gain access and permitting to meet industry demands, fish and wildlife were determined by federal officials to be an impediment to development rather than a valuable resource to be managed in tandem with development. This approach is borne out by congressional testimony by industry, policies guiding BLM management of lands with energy potential, public statements by industry associations and the previous administration, and the authorization and development of major energy projects, such as Wyoming's Pinedale Anticline, Atlantic Rim and Jonah natural gas fields and coal-bed natural gas fields in New Mexico and Wyoming.

The 2005 Energy Policy Act further prioritized energy development over other resources and concerns through actions like the Halliburton loopholes for the Clean Water Act and Safe Drinking Water Act, the establishment of pilot offices in seven BLM offices for the purpose of expediting permits for drilling, and the establishment of "statement of adverse impacts to energy development" for actions that were perceived to delay or deny immediate approval. All led to BLM policies that fostered a "minerals trump everything else" direction given by BLM directors to employees. This paradigm shift within the BLM led to practices that detracted from the agency's ability to manage other resources like fish and wildlife, including redirecting appropriated funding intended for fish and wildlife management to energy planning and permitting, instructing biologists and other specialists to prioritize energy above their fundamental tasks of managing fish and wildlife habitats, and reinterpreting or rewriting long-standing policies of the multiple-use, sustained-yield mandate from FLMPA and MUSYA. In a very short time, the culture of the BLM changed. Minerals development, sportsmen, the public, and fish and wildlife played second fiddle to energy development.

As previously mentioned, the TRCP and sportsmen support responsible energy development but will not sit idly by while public resources are ignored to meet the financial needs of energy companies. Public lands are held in trust for the American people and must be managed to meet the multiple needs of the citizenry—today and in the future. This includes the mineral wealth located on public lands and held in split-estate situations. Public polling consistently finds that Americans, particularly sportsmen, want development and fish and wildlife on public lands. In fact, polls show that public-lands users want the federal government to do more to protect fish and wildlife during energy development. Polling results have been consistent regardless of energy prices and the fiscal recession our country has experienced.

In 2007, the TRCP commissioned a poll of public-lands users. Results of the poll included the following:

- 85 percent wanted more protection for fish and wildlife during energy development;
- 79 percent opposed unlimited energy development;
- 90 percent wanted energy development to be adjusted to protect fish and wildlife;

- 89 percent wanted energy planning to encompass sustaining fish and wildlife resources;
- 94 percent wanted plans to be clearer for lay people and allow for better public participation;
- 91 percent supported revenues derived from energy development to be used to benefit or mitigate fish and wildlife.

Polls executed after the recession and high gasoline prices in 2008 showed similar results. A poll commissioned by Trout Unlimited and Sportsmen for Responsible Energy Development showed that 75 percent of respondents wanted more protections for fish and wildlife on public lands during energy development and 85 percent opposed limiting or eliminating the ability for the public to be involved during energy development planning and permitting. A poll done this year done by Public Opinion Strategies and FM3 (a Republican and a Democratic polling company) showed that 77 percent of respondents wanted stronger laws and enforcement for fish and wildlife protection rather than lessening restrictions (this is up from 74 percent in 2009). Clearly the American public and public-lands users and sportsmen want more to be done for fish and wildlife, even after experiencing some serious pain at the gas pump and through the hardest financial times since the Great Depression.

Because of this and the fact that policies and process used to lease and develop public energy resources did not adequately take into account fish and wildlife resources, the TRCP and sportsmen began to take action. Unlike other activities on public lands, public minerals leasing historically included little opportunity for public involvement. Lease parcels were secretly nominated by industry six to nine months ahead of a sale, and 45 days before sale they were made available for public review. Interested or affected citizens then had 30 days to find the information on a BLM website, print sale notice, review, interpret, and decide whether to express concerns about these irretrievable commitments being made on our public lands. If concerns were great enough, the public was forced to formally protest to the BLM 15 days before the sale date. Some of these sales included hundreds of thousands of acres across numerous states.

Problems plague the management of our federal mineral estate, as evidenced by the disaster in the Gulf of Mexico last summer and facts brought to light by the investigation into the former MMS. Onshore, the BLM has experienced similar problems. In 2005, the Government Accountability Office released a report, "Oil and Gas Development: Increased Permitting Activity Has Lessened BLM's Ability to Meet Its Environmental Protection Responsibilities." The report highlighted the fact that the dramatic increase (255 percent) in permitting and approvals for oil and gas activities from 1999–2004 in six BLM field offices had caused the agency to ignore or neglect its responsibility to inspect and enforce environmental protections or ensure environmental impacts were properly mitigated. This shift in priorities basically created single-use focus for energy development at the expense of multiple use, including fish and wildlife management. This exclusionary approach created unmanageable workloads, fostered industry expectations that their interests were above all others, and gave BLM the excuse to move monies intended for fish and wildlife management to energy programs. It created bureaucrats whose only job was to process and approve permits in timeframes that made adequate review impossible. BLM biologists and other resource specialists who were supposed to be managing habitats, range resources and other valuable natural resources became office fixtures dealing with mountains of paperwork related to drilling permits. Because of promises made at higher levels and a focus on maximizing access and permitting at industry's request, the BLM had its ability to manage public lands outstripped by the demand for more permits. This led to programs like fish and wildlife management being ignored or neglected even where world-class wildlife resources were at stake. This cultural shift still is evident, although recent market downturns and recession along with new policies from the current DOI have allowed for some catching up. Thousands of permits are still approved by BLM each year, however. In FY2010, the BLM approved 4,090 wells, while only 1,480 were spudded. (Greenwire recently reported 7,200 approved APDs were available to industry as of early 2011.) Additionally, of the over 41 million acres of public lands leased by industry, development is occurring only on 12.2 million acres. A GAO report from 2008 showed that in a 20-year period from 1987 to 2007, only 6 percent of onshore leases had any development activity, and only 5 percent of the leases ever produced oil and gas. This same report reported that DOI was not doing enough to encourage diligent development, and companies allow many leases to expire (after 10 years) without attempting to develop oil or gas resources. The report concluded that changes were needed to ensure development proceeded in a timely fashion and that the American public's resources were being developed as promised.

Industry already has significant access to public lands with high and moderate potential to produce oil and gas. In fact there are less than half of all the leases in effect producing oil and gas with 22,676 leases producing oil or gas out of 50,544 leases in effect, meaning only 45% of the valid leases producing energy. Public lands are a big contributor to our nation's energy demand with 114,367,122 barrels oil and 2,825,507,717 MCF gas produced in FY 2010. This is even with the practice of companies shutting in wells that could be producing oil and gas while waiting for prices to rise to make a better profit. These numbers prove that public lands are a big contributor to our domestic energy supply even though industry has not developed 55% of the leases they currently hold. The energy lease reforms implemented by DOI will have no affect on these existing leases and should provide more certainty for industry and fish and wildlife for new leases.

The business strategy used by industry is competitive in nature and based on market forces that do not accurately reflect the access and availability that industry has to public lands. In fact, more acres are leased on high-potential producing areas than can be drilled in near future, and a limiting factor has been rig availability and investment strategies by the companies. The fact is the policies used to develop our energy resources on public lands were developed in different times and did not account for some of the concerns of today. The last significant revision of the Mineral Leasing Act was in 1987 (FOGLRA), and much has changed since then. Also, the model used by business worked when energy resources were relatively easy to access and produce, but it does not work where significant conflict exists with other values, such as fish and wildlife resources.

Probably one of the best examples of the need for better policy and coordination concerns mule deer management. Mule deer are a Western deer species related to white-tailed deer but with very different requirements. They respond to human-caused disturbance much differently. Where white-tailed deer are generalists and highly adaptable, mule deer mostly inhabit larger Western landscapes and often rely in different seasonal habitats that allow for annual migrations from summer to winter range. Mule deer experts agree that one of the limiting factors for mule deer is available winter habitat. These winter habitats often are deemed "crucial" for survival by state game and fish agencies and have been afforded protection from disturbance for more than 40 years in many states. Energy leases that are within winter range often restrict development seasonally, restrictions not specific to energy development, as most winter ranges are closed to vehicle traffic and human activity to protect deer from unnecessary stress.

A recent evaluation and report of how mule deer have been addressed in federal land use planning and major energy projects of the greater Green River Basin of southwestern Wyoming, northwestern Colorado and northeastern Utah showed that of the 10.2 million acres of mule deer crucial winter range on BLM and FS lands, 2.4 million acres already have been leased for development. More than 15,000 wells have been drilled in this winter habitat, mostly outside of the critical winter season. But how long these protective measures will continue to be applied to mule deer crucial winter range is unknown. Recent statements from industry indicate that these measures intended to protect deer and other wildlife are perceived as unnecessary and impediments to development. Requests for relief from these stipulations have increased in recent years. In Wyoming, where the bulk of requests for an exception, modification or waiver to wildlife protective restrictions were processed, 83 percent of requests were approved in an 18-month period in 2007–2008. Fewer requests were made in Colorado and Utah, but they were approved at a rate of 95–100 percent in the same time period. These protective stipulations were not intended to be enforced and granted as standard practice. State game and fish agencies and BLM offices indicate that requests for relief are becoming harder to reject and pressure is mounting for major modifications or elimination of winter protection policy for big game and sage grouse.

At the Pinedale Anticline in western Wyoming, the BLM has granted thousands of wells to be drilled during the winter season, and the results on the deer herd have been staggering. As of the latest monitoring report in 2010, the wintering population of the segment of the deer herd that winters within the project area has dropped by 60 percent from levels that were documented before development began (approximately 6,000 deer used to winter on the mesa before development, now approximately 2,000 deer do so). This reduction is well documented and has occurred with less than 3 percent of the surface (habitat) being disturbed and under 1,000 wells. Additionally, most of this development occurred with only limited winter drilling, but the BLM ignored the science and data available and authorized, in 2008, unlimited winter drilling and more than 4,000 additional wells. This pressure, along with proposed development on important migratory and fawning habitats, could further reduce this renowned mule deer herd. The BLM promised to use adaptive man-

agement on this project, but recent official responses by BLM managers indicated they are opting not to adjust development operations, even though evidence of unacceptable impacts is well documented. This is probably the most egregious example of how wildlife has been pushed aside for the sake of energy development and a result of past policies and existing culture within the BLM. Furthermore, the “Pinedale model” is showing up in proposals in other important habitat such as Colorado’s Piceance Basin.

One should not discuss problems with past public-lands energy development policy and management without mentioning sage grouse. Sage grouse are sagebrush obligates that require large tracts of quality sagebrush habitats to persist. Science and experience have shown that sage grouse do not do well in areas developed for energy. In Wyoming’s Powder River Basin, research has shown that more than 80 percent of leks (breeding grounds) were significantly impacted by development. In addition, the standard practice of quarter-mile buffers has been proven to be ineffective at maintaining local leks.

States like Wyoming recognized the need to do something different, and through the leadership of former Governor Dave Freudenthal, Wyoming instituted a strategy to preserve sage grouse “core” areas to balance development with wildlife. This effort has received much attention and has the potential to protect important sage grouse habitats and populations. It is being replicated by other states. Even though the BLM was part of Wyoming’s core strategy, it was slow to agree to coordinate on federal public lands (the Wyoming strategy and executive order signed by the governor only applied to state lands), and to date no similar policy is in place for conservation of core habitats on BLM lands. Also with significant amounts of core sage grouse habitats already leased for development, how effective these efforts will be for sage grouse conservation if they apply only to future leasing is unclear. In Wyoming, where more than 50 percent of the remaining sage grouse populations reside and the best habitat remains, 14 million acres of sage grouse habitat (47 percent) and 6.2 million acres of designated core sage grouse habitat (40 percent) already were leased as of 2008. In fact, the Wyoming BLM continued to lease areas within core habitats while the core conservation strategy was being developed—while they served on the sage grouse implementation team. In one area of southern Wyoming called the Atlantic Rim, the BLM authorized development of a coal-bed methane project of more than 300,000 acres that included some of the region’s best sage grouse habitat and more than 80 active sage grouse leks with the acknowledgment that sage grouse would be significantly impacted or eliminated. (This took place during the FWS review of Endangered Species Act listing petitions, which I will mention next).

In 2010, the FWS determined that sage grouse were “warranted but precluded” for listing under the ESA as a threatened species. This means that enough evidence exists to list the species, but because of federal resources or higher-priority species, the service will not move forward with listing at this time. Now a candidate species, sage grouse are one step closer to listing (and thereby complicating energy development activities) and will be evaluated annually to determine whether their status will be changed. In its review, the FWS identified energy development as a real threat to habitat and noted that the BLM did not have “adequate regulatory mechanisms” to prevent a listing. The FWS has basically identified what the BLM must do to prevent a listing, and adjusting how it manages energy development is at the top of the list. Worth noting is that the TRCP and sportsmen do not want an ESA listing and have initiated many actions to prevent a listing from occurring, as it would undoubtedly affect hunters first because most states would immediately stop hunting these game birds. In 2008, TRCP along with some of our conservation partners asked the DOI to undertake an evaluation of the current management actions being done by BLM during energy development and make adjustments for the benefit of the sage grouse. This was done outside of the ESA process and through a rule making request, which would have given DOI great flexibility to accommodate the needed changes based on the science while coordinating with the energy industry and other affected stakeholders. Unfortunately, DOI ignored our request and now sage grouse futures lie in the more restrictive ESA process.

The problems with mule deer and sage grouse are important to this testimony because they offer examples of how BLM policy for energy development has affected fish and wildlife resources and therefore sportsmen. Significant new information and science are available regarding these two species to better balance wildlife with energy development during project planning, but unfortunately this science has not been embraced by the BLM and often is ignored or discounted because energy development is prioritized. Instances exist of adjacent BLM offices not treating the same science the same way and, more than once, not even recognizing that new information was available during its analysis. Ironically, much of the recent research on

mule deer and sage grouse has been funded in part by the BLM, and the BLM participates in numerous technical working groups for these two species. In the most extreme case, long-term research projects on the Pinedale Anticline that began in the late 1990s were abandoned in 2008 for less-rigorous “monitoring,” and BLM stated that there “is not enough information” to do things differently. Having been extensively involved in this project, the TRCP was only able to conclude that the BLM and industry did not like the results of the research; therefore, they ensured it did not continue. Even more perplexing is that BLM managers now state that this information cannot be used in future attempts to address the impacts to grouse and deer. This is not how science should be used in management or how we should be managing public lands and resources.

The development of National Environmental Policy Act documents to deal with proposals from industry has become a primary function of many BLM offices that manage energy development. Much time and effort are spent over many years to accommodate industry’s desire to develop their leases, detracting from other functions of BLM employees. Given the “energy first” culture that exists in many offices, the goal is to build a defensible NEPA document and subsequent decision, after which the BLM moves on to the next document. The BLM also has allowed commitments made in the decision documents to go unmonitored and are all too eager to modify decisions or complete new NEPA documents at industry’s request. Land use plans are altered, ignored or reinterpreted to meet the demands of lease holders, and employees find themselves constantly attending planning meetings, processing permits or writing NEPA documents. All of this activity benefits energy development and takes away from other important duties like managing fish and wildlife habitats.

BLM policies also significantly affect state wildlife agencies’ workloads and duties. These agencies have the legal authority for management of fish and wildlife within their borders, with the exception of species listed under ESA and migratory birds. Western states have very little property of their own and have to rely on public lands, FS or BLM, to provide habitat to meet state-set population objectives. Coordination between state and federal agencies is essential for proper management, and often states serve as cooperating agencies during federal energy development activities and planning. The recent boom in development activities has overwhelmed state agencies, and they are struggling to keep up with the workload. State employees are tied up in endless meetings, embroiled in controversial decisions regarding development in sensitive wildlife habitats and neglect duties enable proper management of species for the public’s benefit. States also are being pressured to support development in winter range and other important habitats. Because of the non-regulatory relationship the states have with federal agencies, recommendations for addressing impacts to fish and wildlife do not have to be followed, and therefore increased impacts are experienced during development. State agencies feel the impact of political or economic pressures from their governors and can be made to feel helpless when deals are struck at high levels within states. Additional resources to deal with the increased workload have been slow in coming, and recent budgets in many states leave even less resources for the future.

Federal agencies are not immune to resource shortages. The BLM has increased its energy program budgets as it increased the priority for energy development without commensurate increases in fish and wildlife program budgets. A slight increase was implemented in order to process more permits more quickly, mainly through the pilot energy offices, but no increase was requested to deal with mitigation of impacts from energy development or maintain functional fish and wildlife programs within offices where energy development boomed. The result has been neglect of long-standing fish and wildlife programs, high turnover of employees because of the nature of the energy workload, and a loss of important habitat management plan implementation at local levels. Future requests will be much harder to achieve, and any cuts to existing fish and wildlife programs will be much more pronounced. Add on the fact that renewable energy development will increase energy workloads further and many experienced fish and wildlife biologists are retiring rather than change jobs to administrative roles, the future is not bright.

Until now I have discussed problems with previous policies and budgets, but now I want to focus on some of the benefits of responsible fish and wildlife management of our public lands. The American system of public lands is unique, found nowhere else in the world. A fundamental American value, it was left to us by our predecessors and held in trust for future generations. FY 2010 saw more than 58 million visitors to BLM lands with a resulting benefit of \$7.4 billion dollars to the economy. Most of these visits were to enjoy scenery, hunt, fish, camp, watch wildlife or have other great outdoor experiences. Americans and people from all over the world come year after year to experience our public lands, and they bring the economic benefits

with them. This sustainable economic engine is dependent on healthy environments, clean air, clean water and abundant fish and wildlife. In 2010 in Wyoming, Colorado and Utah, more than 2.2 million hunters and anglers bought licenses, providing license revenues of more than \$1.2 billion dollars back to those states. This figure does not include the federal match generated through the Pittman-Robertson and Dingell-Johnson acts or revenue from expenditures on food, hotels, equipment, or other purchases made by these hunters and anglers. Nationwide it is estimated that 1.2 million jobs are provided annually by the outdoor industry, many hunting and fishing related. These jobs and economic benefits are sustainable, provide growth in hard times, and allow people to reconnect with nature. Federal policies and budgets significantly affect our ability to continue these benefits.

Some places in this country are valuable or special and should not be developed. These “special places” have values that could not be replaced or mitigated if development took place. Places like the Rocky Mountain Front in Montana, Valle Vidal in New Mexico and Wyoming Range in Wyoming provide unique experiences for hunters and anglers and critical habitats for fish and wildlife. In the past decade, these areas have been threatened through lease nominations and sales and other development proposals. Previous policy prevented the BLM from identifying all but congressionally designated lands or previous administrative withdrawn areas during land use planning development. Local campaigns or legislation have been required to deal with threats to these areas, many of which have very little energy development potential or would be very difficult to develop because of their landscapes. We promote the identification and protection of these places to balance fish and wildlife values with areas that have been and will be developed for energy development. Not all lands are suitable for development; nor is development compatible with other uses in all areas.

We also promote responsible development when energy development takes place. Acknowledging that some places will be developed more than others and some may become industrial zones, most lands can be developed while concerns about fish, wildlife and recreation are addressed. As stated previously, sportsmen want to see energy development balanced with fish and wildlife resources. The TRCP and our conservation-sportsmen partner organizations have developed a set of recommendations, revised in 2011, that can help achieve balance during energy development. The “FACTS for Fish and Wildlife” comprise 25 specific recommendations in five targeted areas—Funding, Accountability, Coordination, Transparency and Science. The FACTS recommendations accompany this testimony. If the FACTS are employed, conflicts with sportsmen-conservation groups can be reduced, and we can expand development of our domestic energy resources.

Finally, I deliver this testimony to ensure a bright future for fish and wildlife, voice concerns about past policies and budget allocations, and express interest in working with Congress to address these important issues as we determine future energy policy. Sportsmen want some certainty that Western fish and wildlife resources can be sustained at levels that provide quality hunting and fishing opportunities—ones of which we can be proud. We want a system of public lands that provides energy AND fish and wildlife, not one that provides energy OR fish and wildlife. We believe recent policy changes by the Obama administration take a positive step toward that goal, but we still have concerns about successful implementation and benefits on the ground. We also are concerned that future cuts to fish and wildlife budgets in our federal natural resources agencies could have drastic consequences for hunting and fishing, along with other important uses of our public lands.

FACTS for Fish and Wildlife—Revisited

Balanced Management for Energy and Fish and Wildlife Can Be Accomplished with the FACTS

Energy and our ability to access affordable, reliable fuel and electricity are fundamental to the American way of life. Oil, natural gas, coal and biomass, as well as wind, solar, geo-thermal and nuclear energy, must be transported via pipelines or transmission lines. These realities pose challenges for both energy development activities and natural resources management in our nation.

Energy production and transmission have been controversial for a long time in America, and in 2011 we still have no comprehensive policy that drives energy production and transmission. As a result, both have followed a scattershot approach throughout the country, often based around variables such as markets, investment, permitting and access instead of an agreed-upon national strategy. One consequence of this approach is neglect of how energy production and transmission affects fish,

wildlife and outdoor recreation, often to the detriment or exclusion of these values and resources.

Sixty-seven percent of U.S. lands are privately owned. In the West, the division of private and public lands is about 50/50 with some states like Nevada (81 percent) and Utah (63 percent) being mostly publicly owned. Because wildlife do not understand or respect artificial boundaries like state lines or property lines, it is imperative that lands be managed across boundaries.

Traditionally, conservation and sportsmen organizations with a stake in energy issues have focused on public lands, and rightfully so, as those lands are held in trust for all Americans and are mandated to provide multiple-use, sustained yield for many values, including fish and wildlife. But as our needs for expanded energy resources (particularly renewable energy) and transmission capacity increases, the impetus for managing fish and wildlife throughout all lands—regardless of ownership—is increasing as well. Good stewardship and conservation benefit both public and private lands, and management recommendations for fish and wildlife on public lands can easily be adopted on private lands.

In 2006, the TRCP released the “FACTS for Fish and Wildlife,” specific recommendations for balancing fish and wildlife needs with the development of energy resources. This revision, developed in 2011, updates those recommendations, expands their applicability to broader geographic regions and private lands, and addresses forms of energy development beyond traditional oil and gas. The “FACTS Revisited” will allow for better fish and wildlife stewardship through better policy and management during energy development.

The FACTS recommendations are applicable, with a few exceptions, to land and water, traditional or renewable energy, public or private lands, and infrastructure associated with development. They can increase our ability to responsibly manage fish and wildlife during energy development, balance competing values, become conservation stewards and ensure a future for our fish and wildlife populations. These practices—driven by the FACTS—will sustain and uphold our nation’s shared natural resources and unique outdoor legacy.

Funding Accountability Coordination Transparency Science

The TRCP’s recommendations and priorities regarding management of fish and wildlife during energy development are organized under the five fundamental areas of Funding, Accountability, Coordination, Transparency and Science.

Funding

Successful fish and wildlife management requires adequate funding. Traditionally, fish and wildfire programs are underfunded or rely on funding sources other than federal monies. While funding alone will not solve the problem, it plays a critical role in our ability to balance energy development with the needs of fish and wildlife. Funding must be secure, substantial and properly allocated to make a difference.

- Determine adequate funding for sustainable fish and wildlife management, including monitoring, in areas proposed for energy development.
- Prior to development, identify and secure appropriate funds for fish and wildlife monitoring and mitigation, including compensation if necessary or required.
- Establish a long-term, dedicated “mitigation trust” to benefit fish and wildlife that is funded by royalties, rents, fines or voluntary payments.
- Ensure that funds designated and intended for fish and wildlife management are not redirected to other causes.
- Work cooperatively with various funding sources to leverage additional federal or state grants.

Accountability

Doing what you said or promised defines accountability. It also entails accepting responsibility for actions that you may or may not have taken. On public lands, promises are made through various decision strategies and should be considered “contracts with the people” that mandate proper stewardship of the nation’s lands and minerals. On private lands, accountability increases trust, enabling projects to transcend conflicts that can delay or stop development.

- Proactively address fish and wildlife management and needs with a specific “**conservation strategy**” for each energy field or project. Finalize conservation strategies before development starts and specify recommendations and actions to minimize impacts and establish plans for mitigation, detailed monitoring and adaptive management.
- Establish and update regularly a system of tracking commitments, in plans or agreements, along with any actions contrary to those commitments.

- Ensure that laws, regulations and policies intended to conserve and protect fish and wildlife during energy development are not abdicated or abridged.
- Utilize lease development plans or master lease planning to evaluate and address potential impacts to fish and wildlife prior to development.
- Notify the public and allow public comment on energy development projects involving public lands or resources. Provide the public with information regarding modifications to current development plans.

Coordination

Energy development and natural resource management do not occur in a vacuum. Coordination is essential in ensuring that fish and wildlife are properly managed between boundaries. All stakeholders must be involved, and experts that manage fish and wildlife at the local, state or national levels must be included in energy project planning and implementation. Coordination enables us to address unanticipated or unforeseen actions that arise during development. A key stakeholder in the administration of public lands and fish and wildlife resources, the public must be included to build trust and brainstorm management tactics.

- Foster broad-based coordination between fish and wildlife managers, land-owners and affected stakeholders to ensure fish and wildlife sustainability.
- Establish expanded coordination across geo-political boundaries between property owners (public and private). Ensure that managers consider the movement corridors of fish and wildlife.
- Coordinate among all affected stakeholders during planning and implementation of public-lands energy projects.
- Include state fish and wildlife agencies in energy development planning and monitoring fish and wildlife during and after development.
- Establish a process for annual review and adjustments of actions that affect fish and wildlife. An adaptive management strategy is appropriate if based on established adaptive management guidelines and science.

Transparency

“There is no disinfectant like sunshine.” That statement was used to describe how transparency can avert undesirable activities, particularly in the public interest. Transparency is essential to building trust among stakeholders. Transparency can prevent unnecessary delays, stoppages or bad press. Openness during energy development enables fish and wildlife management that benefits all stakeholders, not just project proponents.

- Identify “**special places**” with exceptional resource concerns or values where energy development should not be allowed. Map these places and incorporate these values into management plans.
- Provide up-to-date information through a range of media and informational outlets to the public and fish and wildlife managers for energy development projects.
- Guide leasing and development by complete and up-to-date baseline information on fish and wildlife resources and by coordinated plans for energy development and fish and wildlife management.
- Provide the public with information about all proposed public-lands energy leases and development; allow sufficient time for public comment.
- Make all meetings related to public-lands use and energy development part of the public record.

Science

Science is the foundation of good land and resource management. It is essential to understanding how fish and wildlife react to energy development and maintaining sustainable populations during and after development. Utilizing known science enables a balanced approach that sustains both energy AND fish and wildlife instead of either energy OR fish and wildlife.

- Utilize science in all fish and wildlife decisions, particularly when specific research has been conducted on the impacts of energy development. Assure that mitigation and monitoring based on new scientific information is implemented in the energy development process.
- Incorporate science-based mitigation, using tested and proven methods of adaptive management, when making decisions about fish and wildlife management and energy development. Identify and address “gaps” in science prior to development and implement coordinated research to address these gaps.
- If necessary, utilize a third-party review of development and mitigation proposals.

- Establish a credible and qualified “science review team” and engage science-based organizations for fish and wildlife management and development decisions.
- Establish a process to incorporate new information and science into planning and implementation of existing and new energy projects.

The TRCP supports and promotes responsible energy development that balances land and resource values that sustain fish and wildlife populations and maintain opportunities for hunting and fishing. Our work is guided by the HTRCPHH HHFishHH, HHWildlifeHH HHandHH HHEnergyHH HHWorkingHH HHGroup, a team comprised of representatives of our conservation partner organizations, and a staff of experienced wildlife and policy experts. By combining the science-based expertise of the FWEWG with an active network of sportsmen, the TRCP Center for Responsible Energy Development is working with hunters and anglers throughout the country to conserve our outdoor traditions by supporting a balanced approach to energy development and the management of fish and wildlife resources.

A 501c3 nonprofit corporation, the TRCP is a coalition of hunting, fishing and conservation organizations, labor unions and individuals who represent the wide spectrum of America’s outdoor community. In order to guarantee all Americans quality places to hunt and fish, the TRCP strengthens laws, policies and practices affecting fish and wildlife conservation by leading partnerships that influence decision makers.

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Mr. LAMBORN. Thank you, and I enjoyed your comment there, particularly toward the end, that these uses are not incompatible.

We are going to have a round of questions. And then since it is just the two diehards here, we will have a second round of followup questions, assuming your time allows for that.

First of all, I will start for my five minutes with Mr. Schroeder. According to the Interior Department, industry has over 38 million acres of leases, yet is producing from only 16 million acres. Why isn’t industry producing on the acreage it already has? We have heard something about that during our hearing today.

Mr. SCHROEDER. From an independent perspective, which I represent, the independent is burdened by process. First and foremost, the costs associated with bureaucratic delays, and uncertainty of receiving a permit.

I was speaking to a party outside, and they were indicating that with the budget of the government coming to a close on Friday, that the efficiencies of the government are not there by virtue of not being able to plan ahead. That is exactly what happens with the environment of the bureaucratic process that we are caught in, in the Federal land bank, if you would. You can’t reach out, you are delayed. APDs, drilling permits are normally a year in abeyance. Other issues, such as species evaluations and what-have-you, take an inordinate amount of time.

I don’t deny that we don’t have compatibility, that we are all striving for the same. But when the inefficiencies of the bureaucracy cause delays, there is no way that you can get to the properties and develop them in a timely sense.

Second, the activity that has been suggested that has not taken place on public lands, there are a number of pre-drill explorations,

such as seismic and what-have-you, that aren't in those numbers. There is a lot of geologic and geophysical acquisition, if you would, before you can make the final decision of whether to drill or not to drill.

Last, some of the acreage is not defined as being productive once you go through the initial evaluation phase. So there is a multiple of issues that affect these numbers. And until you really drill down and understand what activity is being generated on those lands, I am not sure that you can just arbitrarily say we have X number of acres leased, and only Y number of acres that really are receiving any type of development.

Mr. LAMBORN. So the bottom line is you can have a lease, but that doesn't mean you have a permit.

Mr. SCHROEDER. Absolutely. And that is one of the biggest problems, is that you can get a lease, followed by litigation to that lease, after you have paid for it. And then second, it takes probably a year to a year and a half to get a drilling permit to allow you to develop that lease.

So your property rights, if you would, are being imposed upon by virtue of you paying for that property.

Mr. LAMBORN. OK, thank you. Now, speaking of litigation, Commissioner Bolton, I would like to ask you a question. How are environmental lawsuits affecting your county? Do you believe they inhibit economic growth?

Mr. BOLTON. Very much so, in the same aspect as Mr. Schroeder was talking about. When you go out and you lease something, when they can't come in and drill it in a county such as ours with so much public lands, then we don't get the jobs. We don't get the tax base in our county that, you know, is derived from those activities.

That is about how simple it is. No jobs, no money. And in rural communities in particular in Colorado, we can be hurting for jobs, most definitely. We have probably dropped about 600 people in our county, I think, over the last couple of years, with this decrease in activity.

I think we had, the numbers might not be exact, but we probably had 20 to 30 rigs running in our county. And now, by April here, I think we are going to be down to maybe four. So with those rigs, you lose all the jobs, you lose all the service companies that work with them companies.

Mr. LAMBORN. Thank you. One last question. Ms. Skaer, you stated—well, let's see. I will save it for the next round, because we are almost to the end of our five minutes.

Mr. HOLT. Go ahead. You are on a roll.

Mr. LAMBORN. OK. OK, thank you, thank you. Ms. Skaer, you have stated that the NEPA process is partially to blame for the difficulty mineral resource companies have in getting exploration and mining permits in a timely fashion; and that the cost of delays caused by this process prevents some projects from being realized.

Please comment further on the degree to which this is a problem. And what do you recommend as to possible changes to the NEPA process to help eliminate this problem?

Ms. SKAER. Right now, the average to obtain a permit in the United States is between seven and 10 years for a mineral project.

There is significant capital investment that goes on upfront. And after that seven to 10 years, which is assuming there is no litigation, but you can't assume that any more. Because in my 14 years at Northwest Mining, I have begun to see that every mineral project, every mining project gets sued, at every step of the, of the process.

You compare that to provinces in Canada, which have essentially the same environmental requirements that we have, yet large-scale metal mines are receiving permits in two to three years. And it is, their process doesn't have this need of agency need to try to get a bulletproof, litigation-proof proposal, which is just impossible.

A few years ago, Representative Cathy McMorris-Rodgers chaired a NEPA task force that looked at ways to reform the NEPA process. You know, I would like to see the Committee kind of dust that off and take a look at it. It has some very good recommendations in it, including putting some sidebars on the time to process permits.

We would also like to see proposals that would require an organization that would oppose a mine, if they want to appeal, they should have to post bonds. Alaska and Montana are two States I know of that have that requirement, where you have to post a bond if you are going to appeal, to pay the costs of delay if you lose that appeal.

The same should be true on the litigation side. If an organization that goes through the administrative appeal process, and the project is approved, turns to the Courts, they should have to pay the costs if they lose in Court of the delay, and the opportunity costs, and the lost jobs that are caused by preventing that project from coming into production.

Mr. LAMBORN. And there is precedent for that in other parts of our legal system, our Judiciary.

Ms. SKAER. Yes, there are.

Mr. LAMBORN. And one last thing. If you have to take seven to 10 years, I would imagine that that would have a chilling effect on investors, because you also have to factor in where will the market for that mineral be in seven to 10 years. And if it is marginal, they may just pull the plug.

Ms. SKAER. That is certainly true, you know. Metals, minerals, commodities have cyclical markets. And while we are in a time of unprecedented high metal prices right now, it was just 10 years ago that we had unprecedented low mineral prices, and we will have low mineral prices again.

So in making those business decisions, as companies weigh the political risk involved in how long does it take to get a permit versus, you know, trying to look in your crystal ball and determine where metal prices will be down the road, you begin to understand why companies will take the political risk of investing in countries where they might risk nationalization of their investment down the road; but because they can get their permits quicker, you know, they believe that they might be able to get that return on investment before, you know, some change of a dictatorship occurs in some of these countries.

Mr. LAMBORN. OK, thank you. Representative Holt.

Mr. HOLT. Thank you, Mr. Chairman. Ms. Skaer, I would like to ask you to elaborate briefly on your suggestion of a Good Samaritan cleanup procedure. What sorts of projects would be covered by that?

Ms. SKAER. They would be covered, what we would look at is what we call the orphaned or abandoned mines, mines that were built in this country prior to a regulatory system in place, prior to our first environmental law, which was NEPA, in 1969. Projects which, you know, lack a current responsible party.

Mr. HOLT. And the idea, of course, would be to do away with an impediment for cleaning them up. But what would provide the incentive?

Ms. SKAER. Well, there are a couple of incentives. One is that most of these abandoned mines happen to occur in the same mining district where existing mines are. Mr. Holt, the fact is that these historic abandoned mines are an albatross around the industry today. When you go to permit hearings, scoping hearings on new projects, mining opponents will go into the past and use—

Mr. HOLT. My question is, what would provide the incentive for a company, for a miner, for a person, to clean it up? If we remove the impediments, some of the liability that results, that may be to the good. But what would provide the incentive?

Ms. SKAER. Well, part of the incentive—

Mr. HOLT. Is it just to look after the welfare of the industry, because it looks bad for the industry?

Ms. SKAER. No. It is cleaning up, you know, one, it is the right thing to do to clean up these abandoned mines.

Mr. HOLT. But do companies make decisions out there just out of straight altruism? You know, invest money to clean it up just because, you know, it is the right thing to do?

Ms. SKAER. In part, that is true. There is also a business—

Mr. HOLT. If you could give us, you know, draft legislation on that, I would be interested to see it.

Mr. Schroeder, do you really believe that all fees to the oil and gas industry are unnecessary?

Mr. SCHROEDER. No. I hope I didn't give that impression.

Mr. HOLT. Did I misunderstand you? Could you clarify that, please?

Mr. SCHROEDER. No, I hope I didn't give that impression. I was talking strictly to new fees. Currently we have fees associated with lease bonus, which gives us the opportunity at some point to develop those leases. And they have an annual lease rental, as we discussed earlier.

In addition there are application fees with respect to drilling permits.

Mr. HOLT. And so they are plenty high already, I guess you are saying. And we don't need any—

Mr. SCHROEDER. I believe they are, yes. You know, they have been raised over the last few years, and in addition of covering, quote-unquote, the expenses by the BLM, a good portion of the BLM activities are done through third-party consultants. And we pay for those.

Mr. HOLT. And if they were raised, they would cut into profits, I guess?

Mr. SCHROEDER. Excuse me?

Mr. HOLT. If they were raised, they would cut into profits.

Mr. SCHROEDER. Absolutely.

Mr. HOLT. That is your reasoning.

Mr. SCHROEDER. Yes.

Mr. HOLT. I see. All right. Now, what does it mean to you about the size of the fees? The fees don't seem to be any impediment here. There are applications made, and thousands of permits issued. There doesn't seem to be a lack of demand; companies seem to think that they are getting a bargain here.

Mr. SCHROEDER. I can't respond to what other companies feel they are receiving or not. You would have to take a look at where that fee structure is with respect to who is making the applications. And again, I am representing the independent producer, and by virtue of we run on a different scale, if you would, than, quote-unquote, all the references to big oil. We can't afford to have non-performing dollars out of our capital budget, put forward into receiving a permit on acreage that we have successfully purchased, and have property rights to, to sit there for a year or two waiting for a response, to be able to develop that acreage.

Mr. HOLT. And to whom do we owe the greater responsibility for return on this use? Is it the developer, the extractor, or is it the public?

Mr. SCHROEDER. I think it is a shared rate of return. And I think that is demonstrated by virtue of the royalties, the bonuses, the permits that have been received by the American citizen relative to development on public lands.

Mr. HOLT. With your permission, Mr. Chairman, may I go? Mr. Fosburgh, do you think that BLM actions, such as implementation of the Wildlands Order, would adversely affect oil and gas production? Or to turn it more to your area of expertise, do you think that they, that particularly the Wildlands Order, would benefit the constituency that you are speaking of here?

Mr. FOSBURGH. Well, I have no doubt, Mr. Holt, that the Wildlands Order will benefit hunters and anglers. Because it becomes, it creates a process whereby the public, including the folks that we represent, can get engaged to say what areas matter to them. And that they get them set aside so they not get trashed. I mean, that is the bottom line.

Now, clearly that is probably going to mean that some areas are going to be off limits to oil and gas development. But there are probably some areas that ought to be off limits to oil and gas development. It is not appropriate every place. There are special places that ought to be protected, and this is finally a mechanism, you know, which we lost when that Norton-Leavitt settlement back in the 2000s happened, to set these areas aside. Because it would really mean a lot to the general recreationalists and hunters and fishermen.

Mr. HOLT. And would you have any comments on the effects on revenue, of these actions?

Mr. FOSBURGH. Well, I think that people understate routinely the value of the recreation economy, including hunting and fishing. I threw out some statistics in my remarks, but every time somebody goes to Grand Junction or Pinedale or anyplace like that to hunt

and fish, they do a lot more than just buy a license. You know, they go there, they stay in a motel, they stay at restaurants. They buy ammo, they buy fishing rods.

You know, the trickle-down economy is pretty well documented by the Outdoor Industry Association and lots of others. The Fish and Wildlife Service makes some documentation of this every 10 years. And it is significant.

And the good thing about it is these are jobs that give forever. You are not going to play out, you know, a mule deer herd if you manage them properly. You are always going to play out a non-renewable resource eventually.

Mr. HOLT. And do you have any comment on Mr. Schroeder's assertion that any new fees would be unnecessary?

Mr. FOSBURGH. Well, you know, frankly, I don't know that the issue is fees as much. I mean, obviously we have a budget deficit and we need to deal with it. You know, I am not the National Taxpayers Union. You know, I don't really, it is not my job to say that they are paying too much or they are paying too little.

What I want to make sure of is that the special places out there in the fish and wildlife are getting protected. And if that is, a way to do that is to have a little bit higher fees, I think the polling all shows that the general public supports making industry pay a little bit more if that means better protection over fish and wildlife.

If it is simply an issue of putting more money into the coffers of the Federal government, I am a lot less passionate about that. I would much rather see, you know, if there are new fees, that translate into better management on the ground.

Mr. HOLT. Well, I thank you for your articulate comments, because it is often the case in a hearing such as this that ordinary citizens who are not engaged in development activities are not as heard, not as well heard. And I thank you for your testimony.

Mr. LAMBORN. And I have a couple of follow-up questions, and then—

Mr. HOLT. Yes, I have completed mine.

Mr. LAMBORN. OK. But if one gets sparked, feel free to jump in.

Mr. Schroeder, I have two final questions. If costs are increased on oil and gas—and I realize that my colleague, Representative Holt, correctly pointed out that sometimes they cannot be passed on, because there is an inelastic price ceiling set by a global market. Like in oil, for instance.

So if prices cannot be passed on and have to be absorbed, what does that do to profitability; and hence, investment? By either shareholders, if it is a public company, or other investors if it is a privately held company.

Mr. SCHROEDER. Generally, it marginalizes profitability. And you are right that a lot of those costs cannot be passed on. Even with natural gas, which is a domestic resource, it is governed by marketplace and competition within the United States.

And with respect to investment for smaller companies, as Laura indicated, that if you can't invest in a timely manner, that investment opportunity usually diminishes, and they can go elsewhere to invest in a given project.

Mr. LAMBORN. So if we look at the raw numbers from one of the Federal agencies saying that so many permits have been issued,

that doesn't address the marginal ones that fell away and were never done in the first place.

Mr. SCHROEDER. That is correct. And again, we have to understand, too, without getting in too much detail, not knowing where these permits are and what areas are located in, you can have multiple permits off of a given well pad, after the initial well is drilled.

So therefore, it doesn't, it doesn't evaluate, let's say perhaps maybe on an acre-by-acre basis, the numbers that are being proposed that we have X number of tens of millions of acres undefined.

Mr. LAMBORN. OK, thank you.

Mr. SCHROEDER. You really need to drill down into those numbers to see what they represent. But the bottom line is for small independents, your equity capital goes away, and your profitability diminishes. And with the imposed numbers that are coming from Washington, it gets pretty marginal, relative to can a small independent stay in business.

Mr. LAMBORN. OK. Thank you. And finally, Ms. Skaer addressed litigation and its impact on minerals. What is the impact of litigation in the environment we have, where almost everything that moves gets sued, in oil and gas? And then do you have any—what is that doing, and do you have any recommendations how to keep that under control?

Mr. SCHROEDER. Is that directed to her?

Mr. LAMBORN. No, to you. Yes, she addressed mineral, and if you could address oil and gas.

Mr. SCHROEDER. Excuse me, excuse me. As far as litigation? Litigation is just a nasty process, it really is. There is no way that with anyone being able to sue for any occasion, that allows you, from an efficiency standpoint, either by the agencies themselves or by operators themselves, that they can logically and efficiently process and develop. There is no way that you can do that.

And I feel sorry for the BLM, to be honest with you, from the standpoint that over 50 percent of their time is wrapped up in litigation.

Now, we are talking about raising fees to offset their permitting inspections and what-have-you. That is not where the money is going. The money is going into litigation. It is not, it is not helping them at all to raise money whereby you think that there are going to be more efficient inspections, or a better process.

The litigation is chewing up their budget, and it is chewing up their resources.

Mr. LAMBORN. Any recommendations on keeping that under control?

Mr. SCHROEDER. There has to be, like Laura indicated, there has to be some ramifications of a party suing for the purpose of suing. That if it isn't legitimate, that they pay for their own costs associated with that.

Right now the American public is paying for all of those costs. Again, a net back against the revenue that is generated from energy per se, a good portion of that is going back in to offset that litigation. And I don't think that is where the American people—

Mr. LAMBORN. And is the leaseholder having to pay lease payments while these lawsuits wend their way through the Courts?

Mr. SCHROEDER. Oh, absolutely, absolutely.

Mr. LAMBORN. So the lease isn't shortened, the lease isn't extended, and the annual payments aren't forgiven.

Mr. SCHROEDER. And many times over, there is no opportunity to develop that lease while that litigation is going on. So we talk about well, we have all these permits out there, we have leased all of this acreage. But how much of it is being challenged through litigation, whereby the operator who purchased that lease has no rights to develop it until the litigation is finalized?

Mr. LAMBORN. OK, thank you. Anything from—

Mr. HOLT. No, thank you, Mr. Chairman.

Mr. LAMBORN. OK. I want to thank you all for being here. Be aware that Members of the Committee may submit questions to you in writing. We would ask for a prompt response on those for the record.

Thank you for being here, and this hearing is adjourned.

[Whereupon, at 12:44 p.m., the Subcommittee was adjourned.]

