

# COLLIER RESOURCES COMPANY

---

2600 GOLDEN GATE PKWY, SUITE 112, NAPLES, FL 34105-3227 ❖ TEL: (941) 262-0900 ❖ FAX: (941) 262-7378

October 19, 2001

James L. Connaughton, Chairman  
Council on Environmental Quality  
Executive Office of the President  
17<sup>th</sup> & G Streets, N.W.  
Washington, D.C. 20503

**Re: CEQ's Notice and Request for Comments With Respect to the Energy Task Force (Executive Order 13212), 66 Fed. Reg. 43586 (Aug. 20, 2001)**

Dear Chairman Connaughton:

For past fourteen years, Collier Resources Company ("CRC") has been responsible for managing over 800,000 acres of mineral interests comprising the Collier family mineral estate in Southwest Florida. The Collier family has owned minerals in Collier, Lee and Hendry counties since the early 1900s. Approximately 400,000 acres of the mineral estate are located beneath the Big Cypress National Preserve ("BCNP"), a unit of the National Park Service ("NPS") located approximately 30 miles east of Naples, Florida. The Collier mineral estate is situated in a geologic formation known as the "Sunniland Trend." Since 1943, over 110 million barrels of oil have been produced from the Sunniland Trend, and today over 2,000 barrels of oil are being produced each day from privately held minerals beneath the BCNP. <sup>1/</sup> Prior and current development as well as data developed by CRC demonstrate that there are substantial quantities of producible oil and gas

---

<sup>1/</sup> The current production is conducted by Calumet Florida, Inc. in two BCNP fields, Raccoon Point and Bear Island. CRC and other minority mineral owners have royalty interests in Calumet's existing oil production.

James L. Connaughton, Chairman,  
Council on Environmental Quality  
& Energy Task Force  
October 19, 2001

accumulations beneath the BCNP, the majority of which is under CRC's management.

The exploration and development of privately-held minerals beneath BCNP and other NPS units is permitted and conducted pursuant to the regulations found at 36 C.F.R. Part 9B. <sup>2/</sup> A permit application under 36 C.F.R. Part 9B is called a "Plan of Operations." Over the past four years, CRC has submitted twenty-four plans of operations proposing exploratory operations of portions of its mineral estate. The proposed exploratory operations generally consist of a seismic exploration program and an exploratory well. <sup>3/</sup> Within most program areas, Collier owns the majority of mineral estate.

In an effort to provide the information CEQ requested in its Notice and Request for Comment, <sup>4/</sup> CRC has attached to this letter a chart which includes the following information: the name and number of each plan, the type of proposed activities, the approving and consulting federal agencies; the date the plan was submitted to NPS and the date of NPS's adequacy review <sup>5/</sup> of the plan. The applicant for each plan is CRC, on behalf of the Collier mineral owners.

---

<sup>2/</sup> In addition to the 36 C.F.R. Part 9B regulations, the exploration and production of minerals in BCNP is regulated by a Minerals Management Plan appended to the 1992 General Management Plan/Final Environmental Impact Statement of the BCNP. This summer, the NPS initiated a new EIS to create an Oil and Gas Management Plan ("OGMP") for the BCNP. Presumably, the OGMP, once finalized, will supplant the current Minerals Management Plan.

<sup>3/</sup> The bulk of CRC's exploration plans propose 3-D seismic surveys over areas ranging between 20 to 40 square miles in size.

<sup>4/</sup> CEQ's Notice and Request for Comment asked the commenting party to describe, among other items, the category of the project. Under CEQ's list, CRC's plans of operations would be characterized as "Other" since they propose activities related to the exploration for oil.

<sup>5/</sup> The first step in NPS's review of a plan of operations is a determination of whether the plan contains all necessary information required for further agency processing. See 36 C.F.R. § 9.36(c) (2001). Although the regulations do not contain a timeline for completing the initial review, usually referred to as "adequacy" review, it is the policy of NPS to complete the initial review and issue a letter to the applicant stating its determination whether the plan is complete, and if not, the particular information needed to make the plan complete, within thirty days of plan submission. See NPS Procedures Governing Nonfederal Oil and Gas Rights at 22 (NPS, Feb. 1992).

James L. Connaughton, Chairman,  
Council on Environmental Quality  
& Energy Task Force  
October 19, 2001

After four years of preparing, revising and amending its plans of operation, CRC has not received a record of decision for any plan. The past four years have been filled with innumerable instances of delay and lack of response to Collier's plan submissions. To CRC's knowledge, despite CRC's repeated letters, meetings and other inquiries concerning CRC's plans of operations, NPS has not taken any action with respect to any plan, with only one exception, <sup>6/</sup> in over two years. In other words, CRC believes that NPS is not reviewing the majority of its plans at all. In one instance, Collier filed an administrative appeal claiming that NPS's failure to take any action over a period of months on one plan of operation constituted a *de facto* denial of the plan under 36 C.F.R. § 9.37(c). To this day, NPS has not taken any action on, or even acknowledged the existence of, CRC's appeal.

Over the course of the past four years, NPS has given CRC a number of explanations for NPS's failure to take action on CRC's plans. NPS frequently asserts that it lacks sufficient personnel and budget resources to process plans of operations, although a 1988 Act of Congress, the Big Cypress National Preserve Addition Act, P.L. 100-301 § 8(f) (1988), specifically authorized the Department of the Interior to fund a Minerals Management Office within BCNP.

NPS has also explained that NPS management has dictated that BCNP personnel treat other BCNP management issues as priorities. (It is certainly clear that oil exploration and development has not been considered a priority.) For example, to the detriment of any 36 C.F.R. Part 9B applicant, the resources of BCNP were consumed during part of the four-year period by BCNP's effort to complete a management plan for off-road recreational vehicle use in the BCNP. Based on past experience, it appears that the BCNP considers the rights of private property owners to have no greater importance than the rights of persons seeking recreational and other uses of BCNP resources.

NPS has also explained its failure to take any action on CRC's plans of operation as caused by its concern over the cumulative impacts of CRC's twenty-four plans. This explanation is especially galling because BCNP is governed by a 1992 General Management Plan with an accompanying Minerals Management Plan

---

<sup>6/</sup> NPS has completed a substantial part of its review of CRC's Landing Strips Plan of Operation although a Record of Decision has not yet been issued.

James L. Connaughton, Chairman,  
Council on Environmental Quality  
& Energy Task Force  
October 19, 2001

which specifically developed management policies to prevent cumulative impacts from oil and gas development. In other words, there is a complete and finalized NEPA management plan that sets forth policies – policies which impose stringent restrictions on the type and quantity of activities permitted at any one time<sup>2/</sup> – under which CRC's plans must be evaluated and approved in order to prevent cumulative impacts. All BCNP has to do is apply the existing policies to CRC's plans.

NPS has also explained its inaction by way of unspecified assertions that the agency is undergoing policy-related interpretive changes to 36 C.F.R. Part 9B. Frequently, NPS personnel have expressed the need for policy determinations with respect to various issues it perceives to be presented by CRC's plans. However, it appears that NPS personnel either do not seek or do not receive adequate direction from NPS management to decide such issues.

Considering the types of problems CRC has experienced in the permit process over the past four years, CRC offers the following recommendations to improve the permitting process concerning nonfederal mineral interests under the regulation of NPS:

- First and foremost, NPS should adhere to its internal policy of responding to plan applications within 30 days of submission. NPS should then comply with the timelines for plan processing set forth in 36 C.F.R. Part 9B.
- NPS should provide BCNP, or some other office or agency within NPS, with sufficient, committed resources to timely review and process plans of operation submitted pursuant to 36 C.F.R. Part 9B. Alternatively, NPS should delegate its duties under 36 C.F.R. Part 9B to an office or agency more practiced in the efficient evaluation of oil and gas exploration and development operations, such as the Minerals Management Service or the Bureau of Land Management.

---

<sup>2/</sup> CRC has consistently objected that the BCNP mineral management policies are unduly restrictive. Regardless of CRC's objections, however, there is no doubt that the BCNP's Management Plan is binding on CRC's proposed plans of operations and need only to be applied.

James L. Connaughton, Chairman,  
Council on Environmental Quality  
& Energy Task Force  
October 19, 2001

- NPS should give unit superintendents sufficient discretion to process plans of operation, from initial review through a Record of Decision on the required Environmental Assessment, prior to forcing applicants to obtain all other regulatory permissions and complete documentation of third party mineral permissions in cases where substantial portions of the private mineral estate are owned by the applicant. In view of the lengthy and stringent regulatory process under 36 C.F.R. Part 9B, applicants should not be required to undertake the substantial investment required to obtain other required permits and collect third party mineral permissions until the NPS permit approval is reasonably complete and the result foreseeable. Specifically, superintendents should have the discretion to:
  - Review and process plans of operation up to the point of a final disposition, with final approval subject to the applicant presenting (1) all other required permits; and (2) necessary third party mineral owner permission.
  - Review and process plans proposing 3-D seismic programs that include a mix of applicant-controlled and third party mineral interests in their entirety if the majority of minerals in the proposed operations area is owned or controlled by the applicant, subject to the requirement that necessary third party mineral owner permissions be obtained prior to final approval.
  - Alternatively, review the portions of a 3-D seismic program that are owned or controlled by the applicant without requiring the design to be modified to exclude operations in areas over minerals owned by third parties.
- NPS should designate a point-person with sufficient authority to expeditiously decide policy questions or discretionary issues beyond the authority of park superintendents so that superintendents can receive timely direction concerning issues arising during the processing of a plan of operations from NPS management. Applicants should also be permitted to seek decisions from the designated official in cases in which the superintendent fails to direct an inquiry

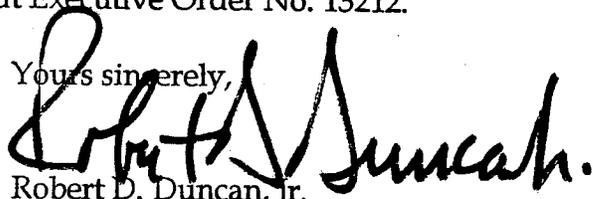
James L. Connaughton, Chairman,  
Council on Environmental Quality  
& Energy Task Force  
October 19, 2001

to the designated official or fails to follow clearly established policy or regulations.

- NPS should involve the necessary agency consultants (e.g., petroleum engineers) from the beginning of its review of a plan of operations.
- NPS should provide a means by which applicants can obtain timely and accurate information about the status of the agency's review of any plan. For example, NPS could post information at frequent and regular intervals on its website.
- NPS should make all the environmental and resource data it relies upon in assessing plans of operations available to applicants at the outset so that applicants can prepare informationally-complete analyses in the original submission of plans of operations. This would reduce or eliminate the delays that accompany NPS's request for additional information or analyses.

CRC appreciates the opportunity to provide comments to CEQ and the Energy Task Force. CRC would be pleased to provide any further information that might assist the Energy Task Force in carrying out Executive Order No. 13212.

Yours sincerely,



Robert D. Duncan, Jr.  
General Manager

Attachment

cc: Ben Dillon & Deena McMullen,  
IPAA

**COLLIER PLANS OF OPERATIONS SUBMITTED TO THE NATIONAL PARK SERVICE  
BIG CYPRESS NATIONAL PRESERVE (SOUTH FLORIDA)  
(AS OF SEPTEMBER 2001)**

NAME	SCP #	PROJECT (1) TYPE	APPROVING AGENCY	ORIGINAL PLAN SUBMITTED
BAXTER ISLAND SOUTH	14	3-D SEIS/EXPL WELL	NPS	10/9/97
FIFTY MILE BEND	28	2-D, 3-D SEIS/EXPL WELL	NPS	12/17/97
MONROE STATION - SE	27	2-D, 3-D SEIS/EXPL WELL	NPS	12/29/97
THOMPSON PINE ISLAND	7	3-D SEIS/EXPL WELL	NPS	1/27/98
WHIDDEN LAKE	11	3-D SEIS/EXPL WELL	NPS	1/27/98
BAXTER ISLAND - NE	6	3-D SEIS/EXPL WELL	NPS	2/2/98
BAXTER ISLAND - SE	16	3-D SEIS/EXPL WELL	NPS	2/4/98
BAMBOO RIDGE	17	3-D SEIS/2 EXPL WELLS	NPS	2/13/98
MUD LAKE	18	3-D SEIS/EXPL WELL	NPS	2/18/98
LANDING STRIPS	19	3-D SEIS/EXPL WELL	NPS	3/2/98
WHIDDEN LAKE - E	8	3-D SEIS/EXPL WELL	NPS	5/5/98
PEPPER HAMMOCK - S	12	3-D SEIS/3 EXPL WELLS	NPS	7/29/98
ORANGE CAMP - W	9	3-D SEIS/EXPL WELL	NPS	8/7/98
ORANGE CAMP - E	10	3-D SEIS/EXPL WELL	NPS	8/12/98
BAMBOO BARRENS	13	3-D SEIS/EXPL WELL	NPS	8/18/98
AIRPLANE PRAIRIE	20	3-D SEIS/EXPL WELL	NPS	1/20/99
PALMETTO PRAIRIE	21	3-D SEIS/EXPL WELL	NPS	1/20/99
HORSESHOE HEAD	16	3-D SEIS/EXPL WELL	NPS	1/20/99
GATOR HOOK	25	2-D, 3-D SEIS/EXPL WELL	NPS	1/20/99
MONROE STATION - NE	26	2-D, 3-D SEIS/EXPL WELL	NPS	1/20/99
JET PORT	29	2-D, 3-D SEIS/EXPL WELL	NPS	1/20/99
BEAR ISLAND SOUTH	4	3-D SEIS/EXPL WELL	NPS	1/20/99
TAYLOR MOUND	2	3-D SEIS/EXPL WELL	NPS	1/20/99
PINE HAMMOCK	1	3-D SEIS/EXPL WELL	NPS	1/20/99

(1) Collier Resources Company is the applicant. National Park Service is the approving federal agency. Consulting federal agencies include US Fish & Wildlife Service and US Army Corps of Engineers (USCOE). Other consulting entities include the Florida State Historic Preservation Officer, Southeast Archeological Center, Florida State Clearinghouse and the Seminole and Miccosukee Tribes of Florida. Permit approvals must also be obtained from USCOE, the State of Florida and Collier County. In addition, NPS directly solicits comments from 22 other federal and state agencies, companies and organizations.