



October 30, 2001

James L. Connaughton
Chairman
Council on Environmental Quality
Executive Office of the President
17th and G Streets, NW
Washington, DC 20503

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

Dear Chairman Connaughton:

The Independent Petroleum Association of America (IPAA) appreciates the opportunity to comment on the proposed nature and scope of the interagency Energy Task Force activities. IPAA represents thousands of independent petroleum and natural gas producers that drill 85 percent of the wells drilled in the United States. Independent producers of both oil and natural gas have grown in their importance, and are a key component of a national energy policy. Independent producers produce 40 percent of the oil – 60 percent in the lower 48 states onshore – and produce 65 percent of the natural gas.

The presence of independents in the offshore is rapidly increasing. Independents hold 80 percent of all acreage under lease on the OCS and have amassed as much acreage in the deepwater as have the majors. Independents participated in half the wells drilled in the deepwater Gulf of Mexico (Gulf) in 2000. In total, it has been estimated that independents hold more than 40% of the active leases in the deepwater Gulf.

The March 2001 sale in the central Gulf further demonstrated the substantial presence of independents in the offshore. With high bids from 90 companies totaling over \$505 million – up from around \$300 million a year ago – industry has clearly stepped up its activity level in response to today's marketplace. At sale 178, of the 90 companies bidding, 77 were independents.

The oil and natural gas reserves lying beneath federal onshore and offshore lands will play a critical role in meeting the nation's energy needs. The Administration's National Energy Policy highlights the need to examine the potential increase of oil and natural gas development on federal lands as part of increasing energy supplies. We agree with President Bush that we can increase our energy supply while protecting the environment. We can accomplish both goals to ensure this country has access to its oil and natural gas resources lying beneath government controlled lands.

Congress and the Administration need to take steps now to increase production tomorrow. If some of these steps had been taken yesterday, our nation's energy situation would be far less uncertain today. IPAA believes your efforts are extremely important in the area of land access. One of the predominant areas that will increase energy supply is expediting the permitting process.

While expediting the permitting process, please recognize the importance of accessing the entire natural resource base. The 1999 National Petroleum Council (NPC) entitled "Meeting the Challenges of the Nation's Growing Natural Gas Demand," concluded:

The estimated natural gas resource base is adequate to meet this increasing demand for many decades.... However, realizing the full potential for natural gas use in the United States will require focus and action on certain critical factors.

Much of the nation's natural gas underlies government-controlled land both offshore and onshore. These resources can be developed in an environmentally sound and sensitive manner. The Department of Energy recently released a comprehensive report, "Environmental Benefits of Advanced Oil and Gas Exploration and Production Technology", demonstrating that the technology is available to the exploration and production segments of the industry. And, it is being employed, when exploration and production are allowed.

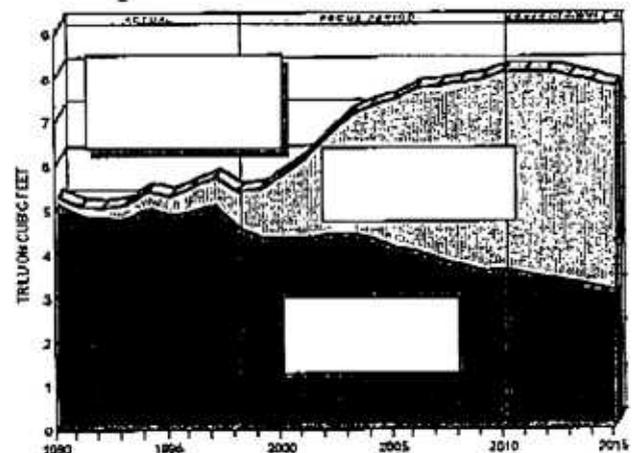
Without a much more improved permitting process, the nation may not be able to meet its energy needs. The NPC study projects demand increasing by over 30 percent over the next decade. This will require not only finding and developing resources to meet this higher demand, but also replacing the current depleting resources. While many analysts are focusing on how much more natural gas demand will grow, it is equally important to recognize what is happening to existing supply. All natural gas wells begin to deplete as soon as they start producing. However, as our technology has improved, we now are able to identify probable reservoirs more effectively. This allows us to find and more efficiently produce smaller fields.

Unlike petroleum, natural gas supply is dependent on North American resources with 80 to 85 percent coming from the United States. However, much of this domestic supply is most cost effectively accessible from government controlled lands. The current restrictions affecting access to these lands differ depending on the area, but all must be altered to meet future demand, including the permitting process.

The areas in the Western and Central Gulf of Mexico have proven to be a world-class area for natural gas as well as petroleum production, accounting for over 25 percent of domestic natural gas production. Production comes from the continental shelf, the deepwater, and the emerging ultra-deepwater. The NPC study projects that future production increases in these areas are essential to meet projected demand.

A Minerals Management Service (MMS) report on Future Natural Gas Supply from the OCS, estimates the future natural gas production from the shelf and slope of the Gulf of Mexico in a high case peaking at 6.7 trillion cubic feet (TCF) in 2010 followed by a decline. However, recently published MMS data indicates much lower expected natural gas from the Gulf of Mexico. Using new data, the high case estimation could peak in 2002 at about 5.22 TCF.

The Subcommittee on Natural Gas on the U.S. Outer Continental Shelf of the OCS Policy Committee recently reported, "Based on this projection, it can be concluded that unless exploration and development scenarios in the Gulf of Mexico changes dramatically, the production from the Gulf of



Mexico may not be able to meet the expected share of natural gas supply to meet the expected future natural gas demand of the U.S.”

The substantial domestic natural gas reserves in the Eastern Gulf of Mexico, Atlantic Ocean, and California are unavailable because of Congressional or Administrative moratoria. President Clinton extended these moratoria until 2012 saying, “First, it is clear we must save these shores from oil drilling.” This is a flawed argument ignoring the state of current technology; it results in these moratoria preventing natural gas exploration and development as well as oil exploration and development. In fact, both the Eastern Gulf and the Atlantic reserves are viewed primarily as gas reserve areas, not oil. Too often, these policies seem to be predicated on the events that occurred 30 years ago. Federal moratoria policy needs to be reviewed and revised to reflect advances in the industry’s technology. Based on the MMS’ 2000 resource assessment, the MMS determined that offshore moratoria forgo access to conventionally recoverable 16 billion barrels of oil and 62 trillion cubic feet of natural gas. Of course these estimates are based on little or no exploration and could be much more significant if exploration is allowed. In the Western and Central Gulf of Mexico, estimates have proven to be much greater after exploration.



Onshore, the NPC Natural Gas study estimates that development of over 137 TCF of natural gas under government-controlled land in the Rocky Mountains is restricted or prohibited. A recent study by the Energy Information Administration concludes that about 108 TCF are under restriction. Regardless of the exact number, the amount is significant. A Congressionally mandated inventory of these resources is underway. While an important first step, it is equally important to recognize that access to these resources is limited by constraints other than explicit moratoria. These constraints that often result in ‘de facto’ moratoria vary widely. Examples include monument and wilderness designations, Forest Service “roadless” policy, and prohibitions in the Lewis and Clark National Forest.

At the same time, the permitting process to explore and develop resources often works to effectively prohibit access. These constraints include: federal agencies delaying permits while revising environmental impact statements; habitat management plans overlaying one another thereby prohibiting activity; and unreasonable permit requirements that prevent production. There is no single solution to these constraints. What is required is a commitment to assure that government actions are developed with a full recognition of the consequences to natural gas and other energy supplies. IPAA believes that all federal decisions – new regulations, regulatory guidance, Environmental Impact Statements, federal land management plans – should identify, at the outset, the implications of the action on energy supply and these implications should be clear to the decision maker. Such an approach does not alter the mandates of the underlying law that is compelling the federal action, but it would likely result in developing options that would minimize the adverse energy consequences.

To ensure these important domestic oil and gas supplies lying beneath federal land becomes accessible, IPAA recommends that your task force take the following recommendations into consideration:

1. All permits should comply with the energy accountability mandate as contained in the President's Executive Order 13211. It needs to be implemented immediately and made permanent via legislation. This accountability mandate needs to be implemented at all decision-making points throughout the government permitting process.
2. Energy accountability implementation should include Memorandums of Understanding (MOU), Environmental Documents, interactions with bureaus within the Department of Interior, such as Fish and Wildlife, performance standards for managers.
3. The permitting process should be streamlined and shortened. Specific approval timeframes are appropriate. Senator Murkowski's bill, S.388, contains provisions similar to this.
4. Expediting and fully funding the NEPA process for priority plays in the Rockies. If funding is not available, provide for a credit against royalty payments. A detailed description of how the full funding of the NEPA process, including reimbursement, affects the permitting process and supply can be found in attachment 1.
5. Establish an onshore gas and oil advisory committee that reports to the Secretary of Interior. This advisory committee would set environmental document and permitting processing priorities and instill accountability in the leasing and permitting process.
6. Eliminate unwarranted denials and stays of lease issuance.
7. Transfer oil and gas permitting approvals to states, which are much more efficient.
8. Execute a MOU making energy approvals more efficient among Forest Service, BLM, F&WS, and other involved agencies.
9. Eliminate permits that have been backlogged over the last eight years.
10. Replace the royalty payment process with the much more efficient royalty in-kind process, including using royalty in-kind for low-income assistance programs. The royalty payment process contains a number of "permits" or permissions resulting in much litigation.
11. Renew meaningful deepwater royalty relief and other lease term relief for other difficult wells such as subsalt, high deviated, deep shelf drilling, and other areas to eliminate the "after the fact" costly and uncertain application process. This never ending "permit" process results in little or no relief which creates reduces leasing and drilling activity in the offshore.
12. Solve numerous "permit" problems with regard to conflicts between Department of Commerce and Department of the Interior stemming from the Coastal Zone Management Act. A recommendation confirmed in the President's National Energy Policy.
13. Streamline the offshore pipeline process. When pipelines are to cross shipping fairways and/or anchorage areas, the Department of the Army, Corps of Engineer (COE) can take up to six months for approval. The reason, per the COE, is an increase in applications and reduction in personnel.

In summary, especially with regard to the onshore, the root cause of permitting delays is the environmental documentation process. In 1998, the oil and gas industry provided Congressional testimony outlining problems associated with this "permitting" process (see attachment 2). Unfortunately, these problems still exist today. Your efforts should consider these problems outlined in attachment 2.

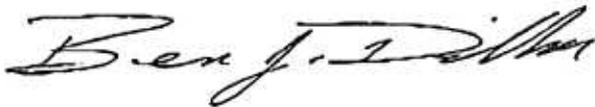
Attachment 3 is in the form of a flow chart which depicts the incredible number of permits/approvals required to drill and hopefully produce a well in the Gulf of Mexico. As shown in the chart, there are also a number of reporting obligations to as many as three federal agencies. The task force should address these approval steps and determine how they can be streamlined.

As you requested, attachment 4 is a small sample of the specific type of permitting delays America's oil and gas independents are experiencing on the ground. We believe this is a small sample of the actual delays being experienced by producers, especially producers that are attempting to operate on federal lands. In discussing our request for permitting delay examples with members from across the Rockies, we found that companies were hesitant to submit examples to your office. The reason for this is companies feared that once a delay was reported the BLM office causing the delay could react negatively, thereby further hindering the permitting process.

We also have included Collier Resources comments that were submitted to CEQ as another example of the problems companies are facing with permitting delays (attachment 5) and New Mexico Oil and Gas Association's (NMOGA) "Access to Public Lands in New Mexico - Fall 2001 (attachment 6). If you would like further information from the companies submitting the examples, please contact Deena McMullen at (202) 857-4722, so she can provide you contacts.

We appreciate the opportunity to provide the CEQ with comments on permitting delays and we look forward to working with the task force in the future. Streamlining the permitting process is a top priority for IPAA and its members. It is a critical component of providing additional access to our domestic oil and gas supplies.

Sincerely,



Ben Dillon
Vice President of Political Affairs
And Public Resources

Attachments

- 1- Reimbursement of Costs for NEPA
- 2- 1998 Congressional Testimony regarding NEPA
- 3- OCS Permit Process
- 4- Actual Permitting Delay Experiences
- 5- Collier Resources Comments
- 6- NMOGA Access to Public Lands in New Mexico - Fall 2001



Reimbursement For Costs Of NEPA Analyses, Documentation And Studies

Contained in H.R. 2436, *Energy Security Act*, Title II, Subtitle C, Sec. 235

The following talking points explain why a funding mechanism is needed to pay for the costs of environmental studies related to energy development on federal land.

- The reimbursement concept is a true win-win for government, the public, and the environment. It is an innovative and cost effective idea for funding the agencies' unfunded mandate to perform energy related environmental studies. This concept will also increase energy development in the United States while giving environmental concerns the attention they deserve in a timely and thorough manner.
- Independent operators drill more than half of the onshore wells, but these same companies cannot afford to voluntarily pay for the escalating costs of environmental studies that agencies are required, but unable, to perform.
- Creating a reimbursement mechanism will level the playing field, allowing smaller companies the same opportunity as major companies to explore for oil and gas on federal land. Without such a mechanism, the escalating costs of environmental analysis will increasingly limit development opportunities to only the largest of oil and gas companies.
- It is important to note that this not a proposal for royalty reduction. Rather, producers would be allowed a credit against future production royalties for the cost of environmental studies performed in the public interest.
- A Federal Advisory Committee made up of environmental groups, operators, BLM, DOE, and the State of Wyoming recommended a similar concept to the Secretary of the Interior in 1996. In their consensus recommendation, they submitted economic analysis from the DOE showing that such a concept would expedite development, resulting in a net gain to the Federal Treasury.
- A reimbursement mechanism would increase the economic viability of marginal projects, resulting in additional production and revenues, thus generating positive royalty revenue impact to federal, state and local governments.
- Efforts to develop the nation's abundant supplies of oil and gas are seriously impaired by significant time delays and excessive costs associated with environmental analysis required under the National Environmental Policy Act (NEPA). A reimbursement mechanism would speed up development by allowing third party contractors to perform necessary environmental studies when needed.
- While improving timeliness of document processing, the mechanism would also enhance accountability and compel federal agencies to be fiscally responsible for environmental studies that they authorize.

Independent Petroleum Association of Mountain States
Independent Petroleum Association of America
Independent Petroleum Association of New Mexico
New Mexico Oil and Gas Association
Public Lands Advocacy

STATEMENT OF THE AMERICAN PETROLEUM INSTITUTE, THE NATURAL
GAS SUPPLY
ASSOCIATION, THE INDEPENDENT PETROLEUM ASSOCIATION OF
AMERICA, THE MIDCONTINENT
OIL AND GAS ASSOCIATION, THE WESTERN STATES PETROLEUM
ASSOCIATION,
AND THE NATIONAL OCEAN INDUSTRIES ASSOCIATION

The nation's leading petroleum industry associations appreciate the opportunity to present their views on NEPA process and how it affects our companies' applications to explore for and produce hydrocarbons on Federal lands. This statement is presented on behalf of the American Petroleum Institute (API), the Natural Gas Supply Association (NGSA), the Independent Petroleum Association of America (IPAA), the Mid Continent Oil and Gas Association (MCOGA), the Western States Petroleum Association (WSPA) and the National Ocean Industries Association (NOIA).

API represents more than 400 companies involved in all aspects of the oil and natural gas industry, including exploration, production, transportation, refining and marketing. NGSA represents integrated and independent companies that produce and market natural gas. IPAA represents explorers and producers that drill some 85 percent of the nation's oil and gas wells. MCOGA represents petroleum companies in Alabama, Louisiana, Mississippi, Oklahoma and Texas. WSPA promotes policies that will help meet energy needs of the West and the nation. NOIA represents more than 280 companies and many individuals involved in exploration for and development of domestic offshore oil and natural gas resources.

In section 102 of the National Environmental Policy Act (NEPA), the Congress directed all Federal agencies "to use a systematic, interdisciplinary approach . . . in planning and decision-making which may have an impact on man's environment . . . which will ensure that presently unquantified environmental amenities may be given appropriate consideration in decision-making along with economic and technical considerations."

Although NEPA contained few mechanisms to achieve its goals, it has had tremendous impact on public land management decisions as a result of the procedural mandate from Congress, which directs all Federal agencies to "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affective quality of the human environment, a detailed statement by the responsible official on the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local shortterm uses of man's environment and the maintenance and enhancement of longterm productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented." The Council on Environmental Quality (CEQ), created by Title II of NEPA, promulgated

regulations implementing these action-forcing procedures of NEPA that are binding on all Federal agency decisions.

The requirement that Federal agencies prepare an environmental impact statement (EIS) prior to major agency actions significantly affecting the environment has spawned a body of law that now governs a variety of predominantly private activities involving any degree of Federal oversight, funding or approval. The lead agencies preparing EISs for oil and gas activities on Federal onshore lands are the Bureau of Land Management (BLM) and the U.S Forest Service of the Department of Agriculture. For activities on Federal offshore lands, the lead agency is the Minerals Management Service (MMS) of the Department of the Interior. In both offshore and onshore projects, other agencies, such as the Environmental Protection Agency and the Army Corps of Engineers, are typically involved in consulting roles, sometimes recommending requirements or stipulations for the lead agency to impose as a condition for granting a permit. Although the EIS process has helped achieve many of NEPA's goals, it has at times and in different places imposed unnecessary delays and costs on petroleum company operations without significant environmental benefits. Although statutory change is probably unnecessary and existing regulations are adequate, considerable change in the way the process is administered would be beneficial to Federal agencies, project applicants and American taxpayers. The only groups that would oppose change would be those which use the NEPA process to inflict costly and protracted delays in Federal decision-making, so as to sink projects through procedural maneuvering when opposition on the merits is groundless.

Among the problems that need to be addressed are the following:

- Fear of litigation has forced Federal agencies to seek "litigation proof" reviews, which leads to unnecessary analysis, cost and delay. A lower confidence level should be satisfactory.

- Too often the Environmental Protection Agency (EPA) only provides comments on draft EISs, frequently at the end of the comment deadline. EPA should identify its concerns early in the NEPA process, as contemplated in NEPA and the CEQ regulations. Extraneous analysis could be eliminated if salient issues were identified earlier and analysis were kept focused on important issues.

- At times lead agencies have difficulty getting other agencies with jurisdiction or relevant expertise to become "cooling agencies." If a request to a sister agency is denied, lead agencies are often unwilling to enforce CEQ regulations that require all agencies with jurisdiction to participate in the process.

With regard to onshore projects in particular, we would note the following difficulties:

- There is a tendency in the BLM and Forest Service to slow down the process simply because a project may be controversial, rather than moving forward with an efficient "issue management" approach.

- Cooperating agencies do not always reflect an adequate understanding of the multiple-use mission of the BLM and Forest Service. Hence, they often try to force projects to comport with their own narrower agendas.

- Agencies have demonstrated a lack of understanding of CEQ regulations implementing NEPA and/or a lack of commitment to following CEQ guidelines.
- NEPA team leaders often have little or no experience or training in managing the NEPA process or dealing with the type of project under consideration. There is a lack of support and oversight on NEPA projects by agency managers and NEPA specialists.
- There is no agency accountability for the NEPA process.
- Often there is poor communication between the project proponent, the lead NEPA agency and any third-party contractor retained to conduct the analysis.
- When project proponents are paying third-party contractors for EIS work, there is no obligation or incentive on the agency's part to streamline the work, improve efficiency or otherwise reduce cost.
- Agencies often fail to explore preferred mitigation efforts early in the process with other appropriate agencies and stakeholders. Agencies are often unwilling to dismiss frivolous public commentary and to separate ideological commentary from that focused on project-specific environmental impacts.
- The NEPA process sometimes creates timing difficulties when understaffed agencies are asked to meet tight comment periods and time lines. Cooperative planning memorandums of understanding between lead agencies and state and local regulatory authorities could minimize difficulties and duplicative efforts while still allowing for meaningful input from all parties.

Offshore projects encountered their own unique problems over the years. However, the MMS, in working with industry public commenters, has been able to significantly streamline the offshore NEPA process in the traditional offshore areas. In the past, after a preliminary environmental assessment (EA) of proposed agency actions, the MMS routinely prepared full-blown EISs prior to offshore lease sales, *and* prior to implementation of each 5-year Outer Continental Shelf (OCS) Leasing Program.

Numerous full-blown EISs were prepared over the years for lease sales in the central and western Gulf of Mexico. It is our understanding that, on average, it took MMS approximately 2 years to identify, design, conduct, evaluate, draft, respond to comments, and publish full-blown EISs. In these traditional areas, the final EISs contained similar information. Since CEQ's implementing regulations provide for the agencies to develop "categorical exclusions" to avoid duplicative EIS requirements, MMS has moved significantly to streamline the process in the traditional offshore areas.

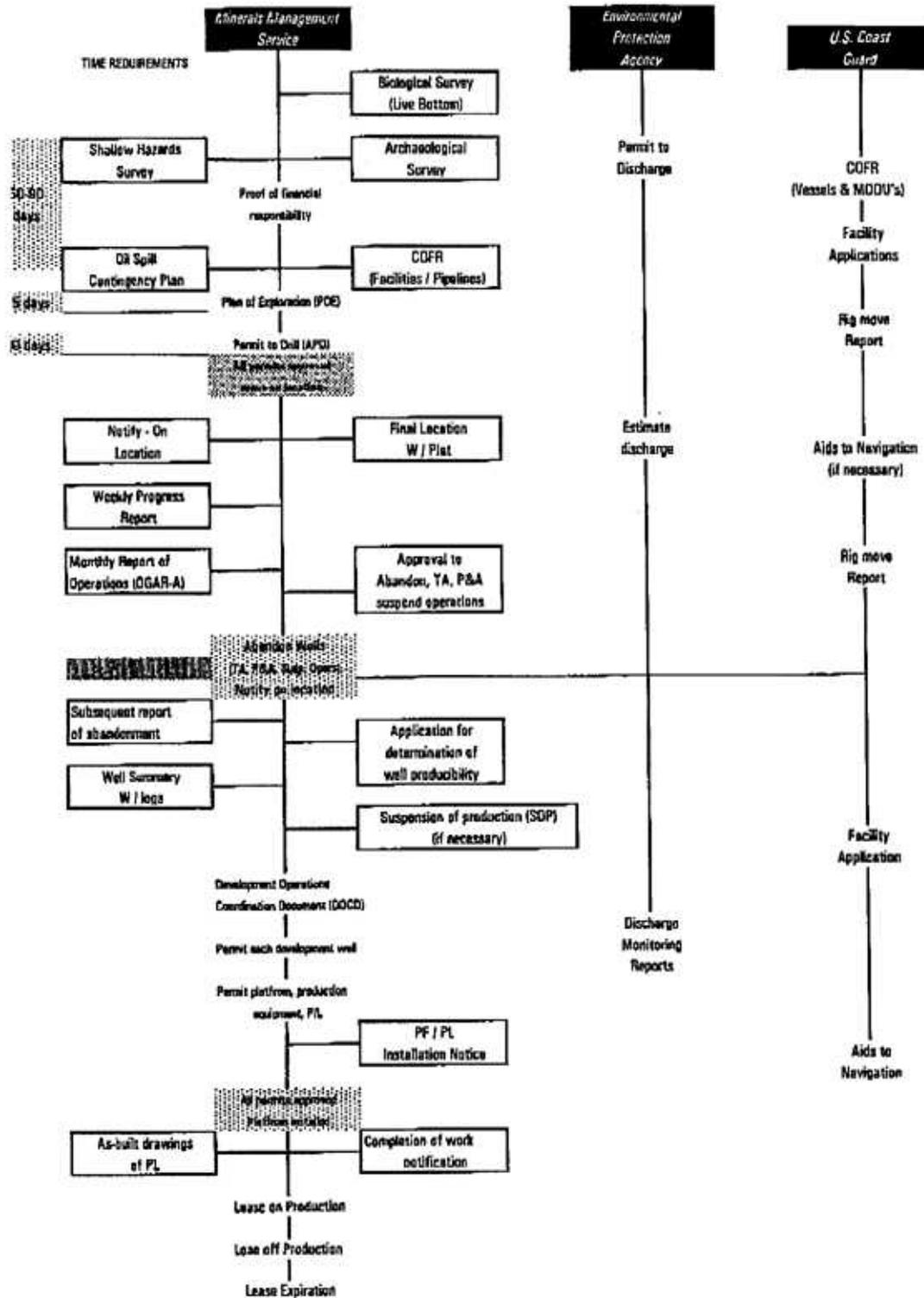
Oil companies must seek numerous Federal, state and local approvals for offshore activities, such as Exploration, Development Operation Coordination Documents, Plans of Development, and right-of-way applications. As part of MMS's former review and approval process of each application, it had to make redundant internal environmental assessments for each step, adding unnecessary time and costs to the approval process. As a result of MMS's evaluation of these past delays and redundant compilations of information, MMS has become one of the most responsive and

cooperative of Federal agencies involved in the NEPA process. Current MMS NEPA requirements, as applied to the Gulf of Mexico OCS, include preparing one EIS for multiple sales. In the central Gulf of Mexico, MMS prepared a single EIS covering the next five proposed OCS lease sales.

With thousands of operations conducted annually on the OCS, and with strict liability regulations in place to assure that those operations are performed prudently, using the highest environmental mitigation technologies, MMS has concluded that additional full-blown NEPA reviews in traditional areas such as the central and western Gulf of Mexico are unnecessary.

The full-blown EIS process in frontier areas—for example, in ultra deep waters and the Eastern Planning Area in the Gulf of Mexico—is important to provide MMS as the lead agency with new environmental information. These studies should be expedited so that MMS will have the body of data necessary to decide if categorical inclusions for these areas are warranted.

OCS PERMIT PROCESS





Attachment 4

October 30, 2001

Examples of Permitting Delays - IPAA has permission to submit the following statements were submitted to the IPAA by its membership. IPAA has not altered or verified the statements.

1. HEYCO

HEYCO began its exploration and leasing in Southeastern New Mexico, northeast of El Paso, Texas in the early 1980's. In 1996 HEYCO formed a federal exploratory unit in Otero County. An application to drill was approved by the district office of the BLM in Roswell, New Mexico in May 1996 and an initial exploratory well was drilled and completed as a producer on August 3, 1997.

Subsequently, HEYCO nominated additional federal lands for leasing. The BLM declined to offer those lands for public sale. In January 1998, HEYCO applied for additional locations for the purpose of confirming its discovery and to determine the size of the gathering system necessary to transport natural gas to an El Paso natural gas transmission line approximately 14 miles south.

Eleven months later, HEYCO was informed by the BLM that the drilling permits for the confirmation wells were approved but onerous stipulations conditioned this approval. The BLM also informed HEYCO that, notwithstanding approval to drill, approval to produce was not granted.

The basis of BLM opposition to development of the natural gas resources in the Orogrande Basin has ranged from the suggested presence of an endangered species (the Aplamado Falcon) to the resource value of native grass. One sighting of the falcon was noted during the 50 years until seven sightings were reported by a BLM employee (with no witnesses) subsequent to the HEYCO discovery.

After some 30 months of study the BLM released, in November 2000, a draft Environmental Impact Statement/Resource Management Plan (EIS/RMP) which, when approved, would become the basis for further oil and gas activity on federal lands in the Orogrande Basin. The document proposes three alternatives that severely restrict surface use and would render exploration and development of natural gas uneconomic. This planning document could potentially deny access to over 1 trillion cubic feet of gas equivalents.

BLM would deem this land "accessible", because they propose that all wells drilled should be directionally drilled from existing roads. However, given the depth of the target formation, it is physically impossible to drill directional wells in the area. So, when some claim that 95% of federal lands are available for development, they may want to drill a little deeper in to the facts and determine if drilling can physically occur under the stated stipulations. There is a big difference between regulatory defined "access" and practical access. Again, this is why an accurate inventory is needed to determine whether lands are truly accessible or not.

What is even more frustrating with public lands management, is that in many cases, the BLM ignores the views of the state and the people who live in the area. This holds true for the Otero County example. Based on recent public hearings, it appears local authorities are very much in support of drilling in this area and state officials were not consulted in the planning process. One quick fix in the area of land access is to turn to the states and the people who live in those states. They need to be part of the process.

In Southwestern Lea County, New Mexico, a local BLM geologist has determined that operators must now set 700 to 800 additional feet of surface casing at an estimated incremental cost of \$30,000 to \$40,000 per well. This changes a practice that has been followed in the drilling of hundreds, if not thousands, of wells in this area. The BLM geologist is apparently concerned that drilling of wells may contaminate water zones in this area. Such zones have not been proven to exist nor has the Oil Conservation Division, the New Mexico regulatory agency constitutionally mandated to protect ground water, stated a similar concern or even proposed modifying its long-standing surface casing requirements. Here a single individual can, without scientific proof or factual basis, literally cost the industry thousands, if not ultimately millions, of dollars.

It is clear that Federal land managers have not been given clear instructions that they must consider the impact of their actions on energy development. Therefore, each manager is left to assign his or her value to the importance of energy development on a case-by-case basis. The focus of land management practices has been on process not on what ultimately is in the best interest of our Nation.

2. Dugan Production Corporation (DPC)

DPC had various experiences with delays. The first example involves permitting the drilling of wells and associated rights-of-way involving split estates.

This example is about drilling development wells on federal oil and gas leases with the surface being controlled by some agency other than the BLM. DPC has submitted APD's to drill numerous development wells on federal oil and gas leases held by DPC. Subsequent to DPC acquiring these leases, the U.S. Government retained the mineral rights but conveyed the surface to the Navajo Indian Tribe for use in the Navajo Indian Irrigation Project (NIIP) and/or to individual Navajo Allottees. This has increased the time to secure drilling approvals from ± 30 days for wells with federal minerals and surface to an average of ± 180 days with some taking in excess of three years. On at least one well that was requiring an extended approval time, DPC received a "Notice of Potential Drainage" from the BLM subsequent to their APD being submitted and prior to the BLM issuing an approved APD (DPC's Mitzi Com No. 90).

Approvals are required from the BLM and the Navajo Tribe, however the agencies requiring consultation and/or concurrence include Navajo Agricultural Products Inc. (NAPI, the farm operator for the NIIP), the Bureau of Indian Affairs (BIA), the Farmington Indian Minerals Office (FIMO - if Allotted lands are involved). DPC does not fully understand why approval times have been extended, other than it does appear that there is not adequate communication between NAPI and the Navajo Tribe. The Navajo Tribe has a cumbersome and inefficient 13-step review process (which requires the Navajo Nation President to sign for final approval), and FIMO has little to no recognition that the oil and gas lease holder has senior rights to the individual allotted surface owner. This is all complicated by the fact that neither the BIA nor the BLM will take a position contrary to the wants and desires of the Navajo Tribe and/or FIMO.

To improve the APD and ROW process involving split estates, the BLM should accept the primary responsibility for approvals and securing BIA/FIMO/NAPI/Navajo Tribe concurrence within a reasonable time frame (since at one time the surface was controlled by the BLM and that should have been part of the deal at the time the surface was separated from the minerals) and should be more aggressive in establishing a response time for the surface management agencies (FIMO and/or NAPI) in providing surface issues and reasonable stipulations that address the surface issues.

The second example involves general permitting of wells and rights-of-way on federal and/or Indian lands.

All operators in NW New Mexico are affected. Applications for Permit to Drill (APD) plus road and pipeline rights-of-way within the area of responsibility of the BLM's Farmington Field Office. Under normal conditions, approvals to drill wells on federal and/or Indian acreage should require ± 30 days, however within the last several years, approvals have been taking longer and required surveys that BLM previously prepared are now being contracted to commercial companies at the expense of the operators.

There are at least two primary issues causing longer approval times. First, the BLM continues to experience personnel shortages. In letters dated 3/26/98, 10/23/98, 10/19/99 and 12/13/00 the BLM advised lessees/operators that due to personnel shortages (caused by retirements, transfers and increasing work loads), APD's, sundry notices and ROW applications will take longer than 30 days and could take up to 2-3 months and that operators should consider using third-party contractors to prepare the required environmental assessments, cultural reports, plus threatened and endangered species reports. Thus, not only are approval times longer, but operators are paying costs for surveys required by the BLM that used to be done by the BLM.

The second issue we believe to be responsible for permitting delays is the BLM's (Farmington Field Office) arbitrary decision to not approve permits requiring surface disturbance that are more than 300' from an existing road and/or disturbance during the period the Farmington District Resource Management Plan was being revised to include anticipated additional well drilling. There was little to no basis for this restriction and considering that the RMP revision will likely take ± 2 years, this has caused a tremendous disruption in field operations for most operators. A good example is Dugan's ROW application for a 4½ mile pipeline to connect our Little b well was placed in suspense since most of the pipeline would not be within 300' of existing surface disturbances. This action by the BLM placed our well in jeopardy since an impending state lease expiration would result in loss of the lease in the absence of production, even though we had completed a gas well on the acreage. This problem is believed to have been resolved upon the Washington BLM office issuing IM 2001-146 which reiterates the agency's policy for processing APD's during RMP development, i.e. in a timely manner.

We believe the BLM should better use the personnel they have to meet the workloads that exist. Transfers should not be made if a personnel shortage will be created and persons retiring should be timely replaced with new hires. It is our understanding that the restriction of only approving applications with surface disturbance that are within 300 feet of existing disturbance has been resolved, however such an arbitrary action should have never been implemented.

The third example is conflict between coal lessee and lessees of oil and gas minerals under federal and state leases. DPC is one of the oil and gas lessees. BHP Billiton/San Juan Coal is the coal lessee. The issue is simultaneous development of coalbed methane (CBM) reserves and underground mine the associated coal.

DPC has senior oil and gas leases on federal and state leases. BHP Billiton/San Juan Coal has recently implemented underground mining of the coal from which DPC has plans to develop the associated CBM. DPC desires to accelerate CBM production to maximize gas recoveries prior to mining the coal.

APD approvals have been delayed for multiple reasons including the BLM's concern for surface disturbance further than 300' from existing disturbance, health-safety-welfare issues raised by BHP/San Juan Coal, plus general objections by BHP Billiton/San Juan Coal.

The BLM should be more aggressive in honoring the senior oil and gas lease rights and should possibly even restrict coal development until CBM development has been given an opportunity to occur. This problem was created because active coal mining operations on Ute Indian lands were suspended by the Indians and BHP/San Juan Coal was forced to initiate the underground mining to maintain contracted coal supplies to a nearby coal fired electric power generation plant. We believe the BLM should have been more aggressive in resolving the issues resulting in the Ute Indians terminating coal mining operations.

3. J-W Operating Company.

Several years ago, J-W Operating Company (JWOC), through its wholly owned subsidiary Cohort Energy Company, decided to lease and test a coalbed methane (CBM) play in Carbon County. Their idea was to put together a large leasehold block that would warrant the sizable up front capital that would be required to test it. The plan included drilling numerous wells on a tight spacing pattern to de-water the coals, thus lowering the reservoir pressure to a point where gas is released.

Beginning in 1999, JWOC purchased 6,500 acres of fee leases spread over two townships in the prospect area, with expirations beginning in 2004. In addition it was their intention to lease 3,000-4,000 acres of surrounding federal leases to fill in the holes in their prospect. They began nominating in 1999 with no success. They have contacted personnel in the State BLM Office in Salt Lake City and the field office located in Price to try to work through any difficulties, but all requests were denied.

The problem appears to be that a portion of their CBM play requires an oil and gas assessment before land can be leased due to the proposed creation of the Nine-Mile Canyon Recreation Area. This assessment has been pending for numerous years. The proposed prospect is nine miles from the recreation area and three miles from the nearest rock art. However, access is via the gravel Nine-Mile Canyon Road that cuts directly through the prospect area. It is JWOC's contention that the project would have no significant impact on the road or art sites.

They have modified the nomination for a third time and are currently waiting to hear back from the BLM on tracts nominated in March 2001. They have specifically excluded any lands located within Nine-Mile Canyon Recreation Area and involving the road.

4. AEC Oil & Gas (USA) Inc. (AEC)

April 20, 2001 – Contract signed between AEC and P/GSI to acquire a 3D VSP at the Stud Horse Butte 14-34 well. Anticipated survey start date was between July 15 and September 15, 2001, based on historical geophysical operations in the area. The best guess for well completion at this time was around August 7, 2001.

May 17, 2001 – Meeting at Pinedale BLM Field Office to introduce the BLM staff to the 3D VSP acquisition method and to discuss plans for the 3D VSP at Jonah. Further discussion evolved around possible impact of the 3D VSP on cultural resource sites in the survey area, and novel new ways to

further the cultural understanding of the area that did not involve Class III surveys in areas already surveyed and recorded. In attendance were Paul Heuermann (P/GSI), Kevin Thompson (SWCA), Bill Lanning (BLM Natural Resource Specialist), and Dave Vlcek (BLM Archeologist). Strategy was to apply for a Designation of Non Affect (DNA) under the Modified Jonah Field II Natural Gas Project Environmental Assessment.

June 4-22, 2001 – Discussion and negotiations between P/GSI, SWCA, and BLM to arrive at a cultural resource investigation plan for the Jonah 3D VSP survey area.

June 26, 2001 – Notice of Intent to Conduct Geophysical Operations filed with Pinedale BLM Field Office.

June 28, 2001 – Letter sent to Dave Vlcek for forwarding to Richard Currit of the Wyoming State Historic Preservation Office detailing P/GSI's and AEC's cultural resource investigation plan for the Jonah 3D VSP survey area.

July 5, 2001 – Letter received from Priscilla Meecham, Field Manager of the Pinedale BLM Field Office, stating that a DNA was unacceptable, and an Environmental Assessment (EA) would need to be prepared before operations could begin. The BLM expected to complete the EA by August 24, 2001.

July 9, 2001 – Meeting with representatives of SWCA to discuss the third party preparation of an EA to cover the Jonah 3D VSP survey area.

July 15, 2001 – Sent letter to Bill Lanning at the BLM office requesting permission to contract a third party, SWCA, to complete the EA for the Jonah 3D VSP survey area.

July 27, 2001 – Sent letter to Bill Lanning at the BLM office requesting release of certain materials required for the completion of the AEC 3D VSP Geophysical Project EA.

August 10, 2001 – First draft of the AEC 3D VSP Geophysical Project EA sent to Bill Lanning for review and comment.

August 15, 2001 – Second draft of AEC 3D VSP Geophysical Project EA sent to Bill Lanning for review and comment.

August 16, 2001 – Final draft of AEC 3D VSP Geophysical Project EA with Bill Lanning's comments and updates included sent to Bill Lanning for signature.

August 16, 2001 – Verbal notification from the BLM through SWCA that black-footed ferret surveys were required for the four mapped prairie dog towns in the Jonah 3D VSP survey area. Request for casual use access denied until ferret surveys were completed.

August 20-26, 2001 – Black-footed ferret surveys were conducted by SWCA biologists for the four mapped prairie dog towns in the Jonah 3D VSP survey area.

August 29, 2001 – Letter sent to Pat Diebert of the U.S. Fish and Wildlife Commission requesting section 9 black-footed ferret clearances for the Jonah 3D VSP survey area.

September 5, 2001 – Verbal notification from Pricilla Meecham that casual use access was granted for the Jonah 3D VSP survey area. A letter is expected any day.

September 7, 2001 – As of today, section 9 clearance has not been granted, and the EA has not been signed.

A second example of delays experienced by AEC:

An Expression of Interest (EOI) is an informal nomination to request that certain lands be included in an oil and gas competitive lease sale. This request must be made in writing or can be E-mailed. No filing fee or rental is required for an EOI. The BLM must hold as confidential the names of all parties that file an informal EOI until 2 days following the last day of the competitive sale.

Upon receipt of an EOI, the BLM State Office determines if the lands are eligible for leasing. If so, the State Office sends the EOI to the appropriate BLM Field Office. The Field Office then conducts an administrative review of the lands. The Field Office determines either (1) the nominated lands are eligible for leasing and what stipulations or restrictions should apply; or, (2) the nominated lands are ineligible for leasing and are withdrawn from the sale.

2/27/01 AEC Oil & Gas (USA) Inc. filed by facsimile an EOI covering certain federal lands in southwest Wyoming. AEC requested the lands be posted on the next available Notice of Competitive Oil & Gas Lease Sale ("Notice of Sale").

5/29/01 The nominated lands appear on the BLM's October 2001 preliminary Notice of Sale.

8/22/01 Nearly 6 months from its original nomination, AEC receives from the BLM notification that the nominated lands have been deleted from the October 2001 preliminary Notice Sale. The BLM states: "We have not completed our administrative review of these lands. Until this documentation is completed, the land is available but not eligible for leasing. You will not need to resubmit your nomination, we will post the requested lands at the time the lands are eligible for leasing."

8/22/01 AEC contacts the BLM for further details. The BLM explains the delay is because the Pinedale Field Office did not have enough time to conduct the administrative review prior to the October, 2001 sale. The nominated lands have been posted on the February 12, 2002 preliminary Notice of Sale. (Please note, the lands were not posted on the December, 2001 preliminary Notice of Sale). If the Pinedale Field Office does not timely complete their administrative review for the February 12, 2002 sale, the lands will be posted on a subsequent sale. AEC will not be notified if this happens. However, the BLM will notify AEC if any of these lands are determined to be ineligible for leasing.

In February 2001, AEC nominated certain federal lands on which to pursue exploration activities. AEC properly followed the nomination procedure. However, the nominated lands shall not be available for leasing for a minimum period of one year after AEC filed its EOI.

If the nominated lands actually appear on the final February 2002 Notice Sale, and if AEC is successful in purchasing the leases, it shall take another 2-3 months after the sale for the leases to be issued.

In summary, it shall take a minimum of 15 months to acquire oil and gas leases on nominated lands.

Ruby 1-32 Drillsite -- AEC has experienced delays on a Red Desert lease purchased at the June 2001 BLM sale.

The delay in issuing the June 2001 leases by the BLM is because most of the sale parcels were contested by the Wyoming Outdoor Council and Powder River Basin Council ("Councils"). Of the 159 parcels up for competitive sale, the Councils filed a formal protest on 141 parcels. Leases have been issued on the parcels the Councils did not contest.

Vicki Mastaka (307-775-6199) at the BLM in Cheyenne, is the person responsible for reviewing the protests and recommending whether leases should be issued on contested parcels. She reviews Resource Management Plans and other records for each contested parcel to determine whether the protests are valid. Sometimes she meets with district and field personnel and consultants when an "on the ground" perspective is required. When her review is complete, she prepares one report covering all the parcels. Wyoming BLM management approves the report before a response is sent to the protesting parties. Leases are normally released for issue on the same day the response is issued. She told AEC she expects to have the June 2001 report approved and the leases issued by the end of next week (by Aug 24).

According to Vicki, prior protest letters have been pretty "boilerplate" but for recent sales, they have been "throwing her some curve balls". Because she is not an attorney, she says, the "curve balls" have caused her reviews to take longer than they used to.

Specific issues raised by the Councils in the June protest letters are:

- Potential for CBM development on new Fremont County leases -- "an action not contemplated or analyzed by the RMPs" for the lands in question.
- Endangered Species Act violation -- they claim all Sublette County parcels are in the heart of potential Canada Lynx habitat.
- Incorporation of previous protests about the potential for severe environmental impacts associated with CBM development. This is based on the Councils' claim that the potential for CBM development is a "statewide crisis given the distribution of the state's coal fields and ongoing and projected development."

5. EnerVest Operating

Below is a summary of permitting delay examples incurred by EnerVest Operating on its Sweetwater County, Wyoming operations. EnerVest has found that it takes 30-60 days for permits to work through the BLM technical and surface review system in the Rock Springs Resource Area office. Further delays come from the very slow archaeological clearance, even on projects that have no significant impact and are recommended for clearance by the independent archaeologists that conduct the field work. They were told that the BLM archaeologist is working on an unauthorized "pet" project, and that he suffers from mental stress caused by not getting permit work out. He therefore has been told not to worry about getting permits out on the schedule set the BLM's own guidelines.

This is not without cost to operators. For example, EnerVest incurred over a \$30,000 standby charge for a rig waiting on the permit, when the BLM archaeologist decided to leave for the weekend early.

Project: Application for Permit to Drill
 Well or Pipeline: Deer Butte 1-34
 Date Submitted: 01/03/01
 Date Approved: 05/14/01
 Reason for Delay: Waiting on archeological approval (despite findings of no significant impact, and recommendation for clearance)
 Location was moved three times at BLM request prior to APD submittal

Project: Application for Permit to Drill
 Well or Pipeline: Salt Wells 23-11
 Date Submitted: 06/25/01
 Date Approved: Waiting on approval
 Reason for Delay: Waiting on archaeological approval (despite findings of no significant impact, and recommendation for clearance)
 Well to be drilled from existing location

Project: Right of Way
 Well or Pipeline: Deer Canyon compressor facility
 Date Submitted: 06/01/01
 Date Approved: 09/21/01
 Reason for Delay: Waiting on archaeological approval (despite findings of no significant impact and recommendation for clearance)
 Re-route of pipeline on existing location

Project: Right of Way
 Well or Pipeline: East Pine Canyon
 Gathering System
 Date Submitted: 08/08/01
 Date Approved: Waiting on approval
 Reason for Delay: Waiting on archaeological approval (despite findings of no significant impact, and recommendation for clearance)
 ROW only involves 70 feet of ROW on system

6. IPAA Member requesting confidentiality

Name of the Project: Confidential
 Entity proposing the Project: Confidential
 Type of Project: Notice of Staking
 Brief description of the project: Electronically filed Notice of Staking Permit to Craig, Colorado (Little Snake BLM Field Office).
 Agency(s) that must be consulted and agency(s) from which approval is required: BLM - Little Snake Field Office.

The company suspects that limited BLM staff in the Craig, Colorado office caused the delay in processing our notice of staking permit. They were told that the Craig office needed to fill a Petroleum Engineer vacancy. The BLM should have contacted us to schedule an onsite inspection within 15 days of receipt of the permit. After 20 days, we contacted the Craig BLM office. The BLM had not started processing the initial Notice of Staking Permit. An onsite inspection was conducted 30 days after the Notice of Staking Permit was received.

7. Apache Corporation

Permit for Hawk B-3 # 26. The BLM requested a survey on 1-ft contours as the well is in the yard of one of the old "Carbon Black Plants". This is being done so the Historical Group of the BLM will have it on file as they say the plant is a very important part of history in the Southeast area of New Mexico. It took two weeks to find a company that would do the survey and then an additional two weeks for that company to start the project. However, the lady at the BLM has promised to expedite the permit process when she receives the survey.

8. Chesapeake Energy Corporation

BLM is not the only agency causing delays. EPA's Region 6 general permit, to the extent it applies to oil and gas construction activities, was apparently adopted without input from the oil and gas industry. Consequently, it is inappropriate and unduly burdensome in many respects to oil and gas drill site construction. To the extent it becomes effective under Phase II in April 2003 to the construction of one acre oil and gas drill sites, the requirement would create substantial and costly burdens on virtually all oil and gas operators in Region 6.

If EPA is to take the position that the oil and gas exemption to NPDES does not apply to construction activities, we need a general permit specifically designed for oil and gas operations with input from our industry commencing in April 2003.

9. American Association of Professional Landmen

EPA's continuing effort to override or eliminate the exemption of oil and gas operations from the National Pollution Discharge Elimination System (NPDES) Permit Application Regulations for Storm Water Discharges (11/16/90 - 55FR 47990) is going to impact every exploratory effort. The EPA wants to view construction (roads and well sites) as a separate activity apart from the industry activity to which it is associated. In a case decided June 4, 1992, the 5-acre test for construction activity was determined to be arbitrary and resulted in a Phase II declaration that disturbances of one-acre or more would now be subject to NPDES permitting requirements. These requirements may well involve wetland determinations and other equally demanding studies that are certain to further delay drilling activities.

10. Walter Oil & Gas Corporation (Walter).

Walter is currently experiencing delays in permitting by the Minerals Management Service (MMS) in order to put wells on production in the Gulf of Mexico. The biggest delays have constantly been in the pipeline permitting section in the New Orleans Regional Office of the MMS. In the past, the approval for a pipeline application took anywhere from thirty to ninety days, depending on whom the pipeline application has been assigned to. Within the past year, it is now taking up to six months for pipeline approval when certain personnel have been assigned for review of the application. In speaking with the pipeline permitting section of the MMS in New Orleans, they have relayed to Walter that they are experiencing an increase in applications and a reduction in experienced personnel. There are only four people at MMS to review pipeline applications for the entire Gulf of Mexico. For Walter Oil & Gas, this seems to be the biggest problem. All other applications within the MMS have been approved in a timelier manner.

11. Producers in General.

A number of producers are reporting that BLM has a 30 day holding period on all APD applications before they will even look at a package. Another problem is the separate permit that is required for flowlines, etc. We recommend that on an existing lease that has active wells, we should not have to do archeological surveys, etc. for flowline permits.