

# REGULATORY REFORM IN THE OIL INDUSTRY

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## HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,  
NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT  
REFORM AND OVERSIGHT  
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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MAY 20, 1996

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# REGULATORY REFORM IN THE OIL INDUSTRY

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MONDAY, MAY 20, 1996

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,  
NATURAL RESOURCES, AND REGULATORY AFFAIRS,  
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,  
*Norman, OK.*

The subcommittee met, pursuant to notice, at 9 a.m., in the Sarkeys Energy Center, University of Oklahoma, 100 East Boyd Street, Norman, OK, Hon. David McIntosh (chairman of the subcommittee) presiding.

Present: Representative McIntosh.

Also present: Representative Watts.

Staff present: Karen Barnes, professional staff member; David White, clerk; and Liza Mientus, minority professional staff member.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order. Welcome to today's hearing. I appreciate everybody for coming out today. It is an extraordinarily important issue that many people in Washington are only beginning to waken up to, and that is the tangled web of redtape that raises prices, costs jobs, harms citizens and oftentimes is bad for the environment, worker safety, and the health of our citizens.

With the soaring prices of gasoline at the pump and talk of repealing President Clinton's gas tax hike in Washington, DC, most Americans are more aware than ever of the importance of the oil and gas industry in their everyday lives.

But what they may not be aware of is the Federal redtape and how that has contributed significantly to the higher prices they pay each time they fill up their cars. Federal regulations on the oil and gas industry are particularly stringent, but as our witnesses today will tell us, they are not particularly effective at giving us either a cleaner, safer or healthier America.

It is great to be here in Norman today, and I want to take a moment to thank my colleague, J.C. Watts, for inviting the subcommittee to his district. J.C. was kind enough to come up to my home town of Muncie, IN, and even forgave me when I made a terrible faux pas and introduced him as coming from Oklahoma State.

Immediately, J.C. and several people in the audience knew of my error. In spite of that, he has become a great friend. And I want to also say it is wonderful to be here because I now get to put the picture in my mind's eye to some of the places where I had con-

centrated on in an effort—when I finished up working with Vice-President Quayle, to fight the BTU tax.

And so now, every time I think of some of the places where we put up the signs with the little BTU and the No sign through it in gas stations all across the State of Oklahoma, it is great to actually come and see them in person.

But it is a pleasure also because J.C. has been a real leader in our class in fighting some of the burden of unnecessary redtape, of bringing the perspective of an oil and gas-producing State to Congress and, frankly, he is somebody in the freshman class that we all look up to as one of the leaders in our class.

I wanted to mention to you that we have had some gains in Washington in the 2 years. The number of new regulations has gone down by 10 percent per year because of the efforts of this committee and Congress to cut back on unnecessary regulations.

We finally passed a small part of the regulatory relief legislation that we had talked about in the Contract With America. It was a part that created congressional review of regulations. And Oklahoma Senator Don Nickles was the chief sponsor of that in the Senate.

I think it will revolutionize the way the agencies think about their major rules when they realize they are going to have to come back to Congress and be voted on before they can become effective. One of the other things that we think are very important in these hearings are hearing from real people outside of Washington about the real effects of regulations.

Last week, we heard from a fellow named Tommy Alexander, who owns Texaco stations in North Carolina. He explained how he is having to spend \$100,000 a year to comply with different Federal regulations at each of his stations and that these—it is forcing him to take a look at his payroll and maybe have to lay off some people in order to be able to comply with all of those costs.

I think it is important that we hear from real Americans so that we can take this information back with us. We all want a cleaner environment, a safer workplace, and a healthier life. But when you have got a Federal regulatory system where 60 percent of the Superfund dollars go for lawyers and consultants, 90 percent of the fines in some States for OSHA go for paperwork rather than real safety violations and the FDA takes twice as long as most industrialized countries to approve new drugs, we don't have a cleaner, safer, healthier America.

And so our effort is to do a better job, to bring common sense to the regulatory system, get rid of the redtape, and your testimony today will help us do that as we take back some of the suggestions to Washington and try to incorporate them into the legislative process.

Let me turn now to my colleague J.C., and see if you have any opening comments for this panel.

Mr. WATTS. Thank you, Chairman McIntosh. I want to welcome everyone and thank our participants for coming today to discuss the important topic of regulatory relief for the oil and gas industry. I appreciate Chairman McIntosh as I have started this process of trying to make this work, I guess some 3 months ago, and visiting with him about coming down and hearing from our oil and gas in-

dustry and those who regulate our oil and gas industry here in the State of Oklahoma, and kind of get an idea of, again, who we are and what the burdens are of regulations.

And Chairman McIntosh has been quite familiar with the industry due to his efforts—the BTU fight. And I am just appreciative of the fact that he would think enough of me and the State of Oklahoma and the Fourth District of Oklahoma to come this morning and to conduct this hearing.

I appreciate the fact that he was interested in consulting with my Fourth District constituents and other policy experts in Oklahoma and in the energy industry before making policy on some important Oklahoma industry. My hope is that the testimony of Oklahoma experts in the oil and gas industry and the testimony of citizens who rely heavily on oil and gas to heat their homes and fuel their cars will be remembered when we as Washington lawmakers create policy that affects our daily lives and our pocketbooks.

It should always be—in my opinion, it should always be the objective of lawmakers to improve the regulatory process. The better the regulatory process works, the more it benefits the economy, the consumer and it does create jobs.

I have asked my distinguished colleague, Chairman McIntosh, to hold a hearing in Oklahoma in hopes that it will increase awareness among Washington lawmakers about the need for sound energy policy and allow Washington legislators to better understand the needs and opinions of the citizens and leaders of Oklahoma's oil and gas industry.

I challenge this Congress to come up with a sound energy policy because in the end, all Americans will benefit from an energy policy that promotes the production of a secure supply of energy rather than becoming a nation overly dependent on foreign oil or a nation that cannot compete in a global market because we have regulated our industries to death.

Today, hopefully, we can identify those regulations that unnecessarily burden the industry. The hearings that the 104th Congress are holding are instrumental in educating policymakers on the importance of oil and gas to our national security and to our economy.

I appreciate the people in our community who will be testifying and the citizens who are taking an active interest in the policy that will shape America's future security. With that, I would like to, at this time—I was delighted for Chairman McIntosh to come to the Fourth District of Oklahoma and the University of Oklahoma to see something that we are extremely proud of, and that is the OU Energy Center.

I have had the Energy Center administrators in my office numerous times and needless to say, they are extremely proud of it, and many of these people that will be testifying today have played a major role in making Oklahoma University's Energy Center a reality.

So I would like to introduce at this time our OU—the director of the OU Energy Center, Dr. Gus Gertsch. And where is—oh, there he is. So we will allow you at this time to voice a few remarks, if you would.

Mr. GERTSCH. Good morning, Congressman McIntosh. Welcome to you and to Congressman Watts. Welcome to all of you on behalf

of President David Boren, whose schedule today dictated that he be in Tulsa this morning.

It is a special privilege for me to welcome all of you here this morning to undertake an examination of the burdens of Government regulation on American industry. It is interesting to reflect on the appropriateness of this congressional committee inquiring into the health of our oil and gas industry, meeting at this university where so many geologists, geophysicists, businessmen, and engineers of the oil and gas industry have been trained, and meeting in this building with its 200 teaching and research laboratories, built in large part by donations from that industry, an industry about which all of us have a great deal of concern as we come to understand, for example—in our School of Petroleum Engineering, housed in this facility, the percentage of U.S. nationals who are studying the petroleum industry is only 10 to 20 percent of our graduate student body, and we increasingly find more and more research opportunities in collaboration with foreign companies rather than United States companies—companies in South America, Europe and the Far East.

I invite you to learn more about the Energy Center with our bulletin display on the outside as you leave, but to get into the program now, I would like to turn it over to Mr. Don Smitherman, who will introduce the members of the panel.

Mr. MCINTOSH. I will go ahead and introduce our panel. Let me first introduce some folks who are with us on the subcommittee today helping me out. David White is going to be our timekeeper, and we have asked each of the witnesses to try to keep their remarks to 5 minutes and then we will have a question and answer period, in part, because one of the things that we have started doing early on in these hearings is to have an open microphone period as part of the hearing so that anybody who wants to can come and state information they think is important for the subcommittee to know.

Also with us is Karen Barnes, who has been the coordinator for the field hearings, and Liza Mientus, who is the staff coordinator for the Democrats on the subcommittee. Liza has been kind enough to travel around with us and make this a bipartisan effort for our subcommittee.

Our first panel today—Mike Smith was supposed to join us, the Secretary of Energy. Unfortunately, we got word early this morning that he is now in the hospital, and I hope everything is OK with Mike. He will be in our prayers today.

But with us on the panel are Richard Bilas, who is the chair in energy economics, and policy director for the Institute of Energy Economics and Policy here at the University of Oklahoma's Energy Center; Frank McPherson, chairman of the board of Kerr-McGee; and Christine Hansen, from the Interstate Oil and Gas Compact Commission.

Welcome to all of you. Thank you for coming and testifying. One of the things that Chairman Clinger, who is the chairman of the full committee, has asked me to do is to swear in each of the witnesses before our hearing. And so if you would please stand and raise your right hands.

[Witnesses sworn.]



Mr. McINTOSH. Thank you very much. Let the record show that each of the witnesses answered in the affirmative. And so I would like to now start with our first panel. And if I could have Mr. McPherson, if you could lead off for us and give us your testimony.

And we will ask each of you to give your testimony and then we will have some questions for you.

**STATEMENTS OF FRANK McPHERSON, CHAIRMAN AND CEO, KERR-McGEE CORP.; RICHARD A. BILAS, BROCK CHAIR IN ENERGY ECONOMICS, UNIVERSITY OF OKLAHOMA; AND CHRISTINE HANSEN, INTERSTATE OIL & GAS COMPACT COMMISSION**

Mr. McPHERSON. Good morning, and certainly good morning to Chairman McIntosh and Congressman Watts. We do appreciate you being here to talk to us at a local level. I am Frank McPherson, chairman and chief executive officer of Kerr-McGee.

I appreciate the opportunity to present our testimony this morning. Comments will be offered by others on several current regulations which impose, we believe, unnecessary burdens to our industry. And I say unnecessary because I believe that the environmental needs—it does need protecting and we at Kerr-McGee are taking effective steps and spending valuable resources to preserve the environment during the oil and gas exploration and production.

We make this commitment not only because it is the right thing to do for all of our citizens, but also because it makes good business sense to preserve our ability to produce. The major regulatory changes forecasted for this year did not occur and, as you can appreciate, we are very disappointed. Measures that we supported, like cost-benefit analysis, passed the House but not the Senate. However, we are encouraged that the recently enacted Contract With America Advancement Act of 1996 includes a 60-day congressional review of final regulations.

This should provide for a midcourse correction to ensure that regulations achieve what Congress really intended. Also, the Senate is proposing a risk-based priorities bill, which offers some promise of relief. But maybe before I get theoretical, let me give you a few examples of unnecessary regulations in the oil and gas industry to illustrate the need for change.

And let me start with the chronic toxicity testing under the Clean Water Act. Produced water is brine produced along with oil and gas. In the past—let me talk about maybe the offshore for a moment—it was—in the offshore operation, it was treated to remove oil and grease within EPA limits and then discharged to the marine environment. Since the seventies, the EPA has been lowering those oil and gas limits. The latest twist is requiring offshore operators to test their discharged water by studying the survival of fish and shrimp in diluted brine. This is called chronic toxicity testing and requires immersing non-native shrimp, mysid shrimp, and sheepshead minnows in diluted produced brine for 7 days. During this time, scientists gauge the survival, growth, and reproduction. These species were chosen because of their sensitivity to change, not how well they represent the ecosystems in the Gulf of Mexico.

Results from these tests are unpredictable and when there is a failure, the operator has to diagnose the problem for that species

and correct it. All of this has really nothing to do with improving the actual ecosystem, and only addresses the fertility—or the frailty of these two laboratory species. It is really kind of like putting an old dog in a pond and asking the pond owner to explain why the dog drowned after about a week.

Cost of this is—the test alone is \$1,800. At the end of this exercise, a “pass” result costs between \$4,000 and \$7,000 for sampling, testing, and evaluating. We have to test on a monthly to annual frequency basis, depending on the flow rates. A failed test can cost as much as \$7,000 per platform to determine why these non-native shrimp and minnows are impacted. Gulf-wide costs from \$10 to \$50 million.

The environmental protection that results is dubious at best and we can only—and we can certainly give more environmental protection with less cost and more predictability through conventional analysis and monitoring.

Let me then turn to continuous monitoring as another area under the Clean Air Act. For several years, the EPA has proposed continuous around-the-clock sampling for facilities which have a perfectly clear idea of their emissions through periodic sampling. The cost of the installation and maintenance is very burdensome. It will not reduce emissions but simply keep track of known emissions at 5 to 10 times the current monitoring cost.

Cost of regulation, conservative estimates show that the annual cost of Federal regulation is in excess of \$550 billion per year, expected to go to \$650 billion by the year 2000. This is an aggressive cost of—or an aggregate cost of about \$6,000 per household, if you want to break it down on a per-household basis.

Let me talk just a moment about risk-based priorities, the priorities bill. The Senate, as I mentioned before, is considering a risk-based priorities bill, which requires agencies to use comparative risk to set budget and priorities based on risk analysis.

We believe that this should be something that is done at the local level with the Federal Government basically setting the general standard and the local and State governments basically determining how best to do this. Let me just conclude by saying that in the early years of our industry, we sometimes treated natural resources as they were infinite and indestructible.

We were wrong in those early years. Now the Government seems to be making the same kind of mistake with these economic and political resources. That, too, in our view, is wrong. In our business, we have to learn how to recover the resources without ruining the environment.

Government must learn how to regulate effectively without damaging productivity and driving investment overseas. That concludes my comments. And we have additional written comments which we will submit for the record, Mr. Chairman.

[The prepared statement of Mr. McPherson follows:]

*Hearing on Regulatory Reform in the Oil Industry*

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Good Afternoon, Chairman McIntosh, Congressman Watts and members of the committee. I am Frank McPherson, Chairman and CEO of Kerr-McGee Corporation. I appreciate the opportunity to present our testimony. Comments will be offered by others on several current regulations which impose an unnecessary burden to industry. I say "unnecessary" because I believe that the environment needs protecting and we at Kerr-McGee are willing to take effective steps and spend valuable resources to preserve the environment during oil and gas exploration and production. We make this commitment not only because it is the right thing to do for all our citizens, but also because it makes good business sense to preserve our ability to produce.

*Hearing on Regulatory Reform in the Oil Industry*

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The major regulatory changes forecasted for this year did not occur and we were disappointed. Measures we support, like cost-benefit analysis, passed the House but not the Senate. However, we are encouraged that the recently enacted Contract with America Advancement Act of 1996 includes a 60 day Congressional review of final regulations. This should provide for a "mid-course" correction to ensure that regulations achieve what Congress intended.

Also, the Senate is proposing a Risk-Based Priorities Bill which offers some promise of relief...but before I get too theoretical, let me give you a few examples of unnecessary regulation in the oil and gas industry to illustrate the need for change:

**Chronic Toxicity Testing - Clean Water Act**

Produced water is brine produced along with oil and gas. In the past, it was treated to remove oil and grease within EPA limits and then discharged to the marine environment. Since the 70's, the EPA has been lowering those oil & grease limits. The latest twist is requiring offshore operators to test their discharged water by studying the survival of fish and shrimp in diluted brine.

This test is called Chronic Toxicity Testing and requires immersing non-native mysid (MY sid) shrimp and sheepshead minnows in diluted produced brine for 7 days. During this time, scientists gauge survival, growth and reproduction. These species were chosen because of their sensitivity to change,

not how well they represent the ecosystem in the Gulf of Mexico.

Results from these tests are unpredictable, and when there is a failure, the operator has to diagnose the problem for that species (which takes great time and expense) and correct it. All of this has nothing to do with improving the actual ecosystem, and only addresses the fragility of these two laboratory species. All of this is a little like putting a dog in a pond and asking the pond owner to explain why it drowned after 7 days.

Cost for this is \$1,800 for the test alone. At the end of this exercise, a "pass" result costs about \$4,000 to \$7,000 for sampling, testing, and evaluation. We have to test on a monthly to annual frequency

depending on flow rates and can increase the test interval to a year if we pass enough tests. A “fail” can cost much more than \$7,000 per platform to determine why these non-native shrimp and minnows are impacted. Gulf-wide, this cost could be about \$10 to \$50 million annually (1,500 facilities\*once per year\*\$7,000 = \$10,500,000). The environmental protection that results from this is dubious at best. We could give more environmental protection with less cost and more predictability through conventional analysis and monitoring.

### **Continuous Monitoring - Title V Clean Air Act Amendments (proposed)**

For several years, the EPA has proposed continuous, around-the-clock monitoring (instead of sampling periodically to determine emissions) for facilities

which have a perfectly clear idea of their emissions through periodic sampling. The cost for installation, maintenance and upkeep of continuous monitoring equipment will be very burdensome. It will not reduce emissions, but simply keep track of known emissions at 5 to 10 times the current monitoring cost.

### **Costs of Regulation**

Conservative estimates show the annual cost of federal regulations is in excess of \$550 billion dollars per year. It is expected to rise to over \$650 billion by the year 2000. This is an aggregate cost of \$6,200 per household per year! Ask yourself to do a quick risk-benefit analysis right now. Is such a cost affording protection parallel to the expenditure? I think not.



Federal paperwork burdens to collect, report, and maintain information alone have been estimated to consume over 6.5 billion person-hours per year in the private sector, at a cost in excess of \$130 billion. Most of this effort is a “paper chase” which does not benefit the environment, our people or our national wealth. Perhaps the saddest example of government misuse of environmental efforts is Superfund, where it is estimated that most of the Superfund dollars have gone to legal costs and engineering studies rather than to actual clean-up.

Aimless requirements divert operator resources from more proactive and progressive efforts. For example, Chronic Toxicity Testing diverts them to the minor biological proclivities of two laboratory species.

Continuous monitoring serves only EPA's monitoring and regulation dominion. The problem with this is that regulators are the principal beneficiaries of this activity. Industry, the company, public health, and the environment all lose when we squander resources on questionable efforts like those catalogued here.

### **Risk-Based Priorities Bill**

The Senate, as I mentioned before, is considering a "Risk-Based Priorities Bill" which will require agencies to use comparative risk to set budget and program priorities based on risk analysis. In the Cold War this was referred to as getting the best "bang for your buck". Whatever the idiom, this concept should be used at all levels of government, including national, state and local levels. You know, it is the

*Hearing on Regulatory Reform in the Oil Industry*

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state and local people who are affected and who often implement federal programs.

Our goal is this: rational, science-based regulatory programs, effectively reducing real risk. These programs should realize that we cannot produce a perfect world, but with effective actions, we can greatly improve what we have now.

**Conclusion**

In the early years of our industry we sometimes treated natural resources as if they were infinite and indestructible. We were wrong. Now, the government seems to be making the same kind of mistake with its economic and political resources. That too, is wrong. In our business we have had to learn how to recover the resource without ruining the environment. Government must learn how to regulate effectively without damaging productivity and driving investment overseas.

I have some additional written comments which I will submit for the record.

**Mr. McINTOSH.** Thank you very much, Mr. McPherson. I will ask unanimous consent that the additional written material be included in the record along with Mr. Smith's testimony, as well.

[The prepared statement of Mr. Smith follows:]

**TESTIMONY BEFORE THE  
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,  
NATIONAL RESOURCES AND REGULATORY AFFAIRS  
OF THE U.S. HOUSE OF REPRESENTATIVES'  
COMMITTEE ON GOVERNMENT REFORM AND  
OVERSIGHT HEARING IN NORMAN, OKLAHOMA  
MAY 20, 1996**

**Carl Michael Smith,  
Secretary of Energy  
State of Oklahoma**

Thank you, Mr. Chairman. I am Mike Smith, Secretary of Energy, State of Oklahoma. On behalf of Governor Frank Keating and over three million Americans who call Oklahoma "home," I want to welcome you and your committee to Norman, Oklahoma.

I want to specifically recognize and thank our own Congressman, J.C. Watts. Congressman Watts' distinguished private business career in the oil and gas industry, his past leadership as a member of our Oklahoma Corporation Commission and his current leadership as a member of the Congressional Oil and Gas Forum is greatly appreciated by all Oklahomans.

This morning you will hear from oil and gas industry leaders from both major and independent oil and gas companies. You will also hear from public officials. All will address the necessity for federal regulatory reform.

As a bit of background, Oklahoma's largest industry, the oil and gas industry, employs over 60,000 people, with an annual product value in excess of \$5 billion. It is large, but its fragility has all Oklahomans rightfully concerned. Nationally, the oil and gas industry has lost approximately 500,000 jobs in the last 15 years, and here in Oklahoma 15 years ago the industry accounted for approximately 30% of our state budget through gross production tax collections alone, and now that figure is under 10%. This 7% wellhead tax grants every man, woman and child in Oklahoma a 7% interest in our oil and gas production which is utilized for a myriad of government services. Oklahoma's ongoing concern for the health of this vital industry is most understandable.

The good news is, Oklahoma still has approximately 90,000 producing oil wells and 28,000 producing gas wells. The bad news is, our oil wells average less than three barrels per day. The number of new wells completed last year was a 53-year low. Without stealing the thunder of other witnesses, I just want to underscore the sensitivity of each of these small producing wells to increasing costs. Additional cost, be it from operating expenses, taxes or regulatory compliance, places an unprofitable overburden on a resource America can ill-afford to lose. With imported oil levels at well over 50%, each well that is plugged continues to put America's national security at risk.

Oil price increases have been at the top of the news during the past few weeks. Price increases are market driven and need to be placed in

perspective. In 1970, a new Buick cost \$4,500.00, and you could fill its gas tank for about 35 cents a gallon. Today, that same new Buick costs about \$30,000.00 (a 666% increase), but you can fill its tank for \$1.25 per gallon (only a 350% increase). That does not seem to stop the pandering, demagogic irresponsible such as your esteemed colleague, Representative Markey, from calling for a windfall profits tax on oil. According to my last check, a 1970 lobster dinner cost \$6.00 or \$7.00. That same lobster dinner now runs in excess of \$30.00, but I suppose I have missed Congressman Markey's call for a windfall profits tax on New England seafood. Just as in the area of regulatory reform and environmental protection, the free market offers the best long-term and short-term solutions for energy costs.

But, the more America loses its domestic petroleum-producing base, the less supply available to cushion price and production disruptions.

I urge the Congress to carefully consider and act on meaningful regulatory reform, as it will serve the best interests of both industry and consumers.

I want to thank the Committee for this opportunity to testify, and, Mr. Chairman, I would be happy to answer any questions.



Mr. McINTOSH. Mr. Bilas. Would you share with us a summary of your testimony?

Mr. BILAS. Thank you, Chairman McIntosh and Congressman Watts. It is a pleasure to be here today. I want to draw your attention to a very simple idea. We in this Nation have been moving for a long, long time with much more speed recently, I believe, down a road that is destined to destroy one of the major industries in this country.

We are clearly at the threshold of petroleum industry destruction. In a past life, I was the California Energy Commissioner, so let me give you two examples from my experience when I was in California. At the start of the Persian Gulf war, I was called before the California Senate's Energy Committee to brief the members about the war and its effect on California's energy sector.

The room was crowded, and television lights glared. Now, remember, this was to be a briefing. The chairman of the committee in his opening remarks declared, Dr. Bilas is here today to tell us why the petroleum industry is gouging us.

Now, to say the least, I was shocked, and for the next hour I defended the industry, for there was no gouging. But the example clearly demonstrates the dislike by many for the petroleum industry. Our living standards would clearly be nowhere near where they are today without this industry.

Our growth and development and our leadership in the world has been and continues to be a function of energy and, hence, petroleum. But listen to this. The California State Legislature passed a bill requiring the Energy Commission to conduct a study to find the maximum amount of petroleum back-out in the transportation sector, and I was in charge of that study.

The first iteration of the study was completed before I left Oklahoma, but I still don't know what the legislation means. The maximum back-out is 100 percent. It can't be any more, can it? What I do know is that this is just another indication that there are those who want to harm one of our major industries.

At least they behave that way. Now, to be sure, California may be somewhat different from the rest of the country, but not as different as one might think. Didn't the Northeast voluntarily agree to submit to EPA's new reformulated gasoline standards until the guy in the street found out what it would cost?

Politicians got the message but this leads to another problem. Refiners are rightfully afraid. They do not want to buildup inventories for fear that they could be legislated away. Does anybody in this room believe there will be major additions to refining capacity in this country?

The fact of the matter is that we are running out of capacity very rapidly. We will soon become an importer of refined product. If we are concerned today about importing over 50 percent of our crude oil needs, think what the future will be when we need to import finished product in a world of jealous nations.

Now, I don't deny that there are air quality problems that exist in this country. Pollution is real and it does impose real costs on society, but enough is enough. When air quality regulations are based not on economic analysis but on politically determined stand-

ards, efficiency goes out the window, jobs go out the window, firms go overseas and America becomes vulnerable.

Today there are some 30 fewer refineries in this country than there were just 7 years ago. Fortunately, due to advanced technology and of no small cost to the industry, rated capacity has not decreased. However, it has been 20 years since a refinery has been built. Capacity utilization of refineries is over 93 percent today, and this is simply unsafe.

Recently when the Justice Department decided to investigate the petroleum industry over gasoline prices, I made two comments. I asked first whether executives of large oil companies knew each other and of course, they do. But each wishes to increase his market share and certainly cannot be bothered by playing a kid's game like follow the leader. Second, I suggested that the Justice Department's time would be better spent investigating the laws of supply and demand.

Yesterday, on Meet the Press, Senator Daschle made the following comment. Senator Lott asked him—or made the statement that we should cut—we should get rid of the 4.3 cent gasoline tax imposed by the Clinton administration.

Mr. Daschle said, no, we shouldn't do that because the money would get into the pockets of the oil companies. Now, any student of introductory microeconomics knows full well, given the price elasticity of demand for gasoline, that almost all of that 4.3 cents would windup in the hands, not of any oil company executive, but in the hands of consumers.

The industry is hurting. Production is down in the lower 48. Production is down in Alaska. Production is down in the Gulf of Mexico. Production today in Oklahoma is half what it was in 1984. In 1995 production was the lowest in this State in 76 years.

We are doing nothing to help the oil industry. The fact of the matter is that in the future, we are going to see about a 15-percent fall in production over the next two decades and at the same time, we are going to see something on the order of a 15-percent increase in the consumption of our petroleum needs.

This is not healthy. This is bad for this country. This leaves us extremely vulnerable. The fact is that we need to back off. Government needs to let the industry function. We can have sensible environmental protection if environmental protection is based on economic principles.

The cost of reformulated gasoline in California is at least 10 cents per gallon. It probably is more. And in fact, about one-third of the cost of the price—the cost of a gallon of gasoline today is made up of taxes and regulatory costs.

It is in the best interests of our Nation to do the right thing. This means Government needs to back off. We need to truly have smaller Government. Everyone has been talking the talk. It is now time to walk the walk. Thank you very much.

[The prepared statement of Mr. Bilas follows:]

TESTIMONY BEFORE THE CONGRESSIONAL SUBCOMMITTEE ON NATIONAL  
ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS  
MAY 20, 1986

Richard A. Bilas, Ph.D.  
John A. and Donnie Brock Chair in Energy Economics and Policy  
Director, Institute for Energy Economics and Policy  
Sarkeys Energy Center and the College of Engineering  
The University of Oklahoma

Mr. Chairman, committee members, guests I appreciate the opportunity to be here today and to offer you my comments on a most important subject.

A number of years ago I was taken by the comments of Russian comedian Yakov Smimov. While he had many comments about his native country and oxymoronic events there I most impressed by a line he often used, "America, what a country." Yes, America, what a country.

We are truly blessed to be Americans. Though flawed, our capitalistic system is the best that man has been able to create. Because man has created this system and since he is indeed fallible, there are times when serious errors are made, which can be long lasting. In my view, we have been making serious policy errors with regard to our petroleum industry, and these errors could well have significant and costly effects on this nation and its citizens.

I will not overly burden you with numbers for I am sure others here today will likely give you numbers that ought to impress you. Rather I want to draw your attention to a simple idea. We have been moving for a long time (with much more speed recently) down a road destined to destroy one of our major industries. We are, I believe, at the

threshold of petroleum industry destruction.

Growth and improving living standards ought to be one of the principal objectives of any Administration and any Congress. We have the highest living standard the world has known, conditions can always be better. Government ought to adopt policies that improve the lot of the man on the street. Growth and an improved living standard depend in no small way on energy. Growth and an improved living standard depend to a considerable extent, therefore, on petroleum and petroleum products. Yet, knowingly or unknowingly (if I am naive), we are squeezing this industry to the point where we will no longer be the world leader.

Let me give you two examples from my experience when I was an Energy Commissioner in California. At the start of the Persian Gulf War, I was called before the California Senate's Energy Committee to brief the members about the war and its effect on California's energy sector. The room was crowded and television lights glared. Remember, this was to be a briefing! The Chairman of the committee in his opening remarks declared, "Dr. Bilas is here today to tell us why the petroleum industry is gouging us." To say the least, I was shocked and for the next hour I proudly defended the industry, for there was no gouging.

This example clearly demonstrates the dislike by many for the petroleum industry. Our standard of living would clearly be nowhere near where it is without this industry. Our growth and development and our leadership in the world has been and continues to be a function of energy and hence petroleum.

But listen to this. The California State Legislature passed a bill requiring the Energy Commission to conduct a study to find the maximum amount of petroleum back out in

the transportation sector. I was in charge of that study. The first iteration of the study was completed before I left for Oklahoma, but I still don't know what the legislation means. The maximum back out is one hundred per cent. (It can't be anymore, can it?) What I do know is that this is just another indication that there are those who want to harm one of our major industries. At least they behave that way. To be sure, California may be somewhat different from the rest of the country but not as different as one might think. Didn't the Northeast voluntarily agree to submit to the EPA's new reformulated gasoline standards until the guy on the street found out what it would cost? Politicians got the message. However, this leads to another problem. Refiners are rightfully afraid. They do not want to build up inventories for fear that they could be legislated away.

Does anyone in this room believe there will be major additions to the refining capacity of this country in the near term? The fact of the matter is that we are running out of refining capacity very rapidly. Soon we will become an importer of refined product. If we are concerned now about importing over 50 percent of our crude oil needs, think what the future will be when we need to import finished product. I do not deny that air quality problems exist in this country. Pollution is real, and it does impose costs on society, but enough is enough. When air quality regulations are based not on economic analysis but politically determined standards, economic efficiency goes out the window. Jobs go out the window. Firms go overseas and America becomes vulnerable. Regulatory costs of running a refinery are twenty-five per cent lower in Western Europe and Canada than in America. Furthermore, in the developing countries, the legislated costs are virtually zero. I now ask you, "Were you a CEO of a petroleum company, what would you do?"

There are today some thirty fewer refineries in this country than there were seven years ago. (Actually I believe the number is thirty three.) In the last fifteen years, some one hundred thirty refineries have closed down. Fortunately due to advanced technology and at no small cost to the industry, rated capacity has not decreased. However, it has been twenty years since a refinery has been built in this country, and we need more refining capacity. Capacity utilization of refineries over the past ten years or so has risen from around seventy per cent to over ninety-three per cent today. This is unsafe. There have been and will continue to be refinery fires. It is simply not safe to "over utilize" refineries, but that's what we're doing with these high utilization rates. It is not safe to cut necessary down time for maintenance.

Recently, when the Justice Department decided to investigate the petroleum industry over gasoline price increases, I made two comments. First, I asked if the executives of the large oil companies knew each other. Of course they do. Each wishes to increase market share and certainly cannot be bothered with playing a kid's game like follow the leader. Second, I suggested that the Justice Department's time would be better spent investigating the laws of supply and demand. A good dose of economic principles might be in order. Too many around have no understanding of the market. Moreover, some of those who do, too often ignore what they know to be true for fuzzy political reasons. A clear case here, though not energy related, is Labor Secretary Reich's pronouncements on the minimum wage. He has a Ph.D. in Economics but fails Econ 101. So it is true also with petroleum. Political decision makers, for the most, know how markets work, and that they do work in the petroleum industry, but for other reasons they choose to ignore reality.

Think of the cost. Our petroleum industry is hurting. It is being destroyed. The majors

are leaving the country. They've left Oklahoma. Crude oil output is falling in this state. Our major industry is being destroyed. The rig count is down this year compared to last. Average daily production is down. In fact, 1995 production was the lowest in seventy-six years. Moreover, in 1984 production was 168.6 million barrels. Today it's half that -- 87.6 million barrels. But it's not just this state that's being hurt. This is true for the lower forty-eight states and Alaska. It's even true in the Gulf of Mexico. I don't like this. All this could easily be reversed. I've been to Prudhoe Bay. It's a marvel of modern day engineering. As you all know right next door to Prudhoe Bay is the Alaska National Wildlife Refuge (ANWR). There's oil there. There's security there. It's time we took a look at opening up that area. I know the environmentalists don't like the idea of destroying pristine wilderness. It doesn't have to be destroyed. Indeed, if the Prudhoe Bay experiment is repeated, it will not be destroyed, and the nation will benefit from the oil reserves there. I can think of no better way of reviving our domestic petroleum industry than beginning the task of exploring in the ANWR.

It also occurs to me that there is abundant oil off the coast of California. Again, I've been there. I've visited one of the platforms. Now, I'm not suggesting a wholesale opening up of the offshore reserves. What I do suggest to you, however, is a tract-by-tract review. We are all sensitive to the environment since the Valdez incident. (By the way, this accident could have been prevented had a pipeline been built rather than having a mixed transportation system, thereby requiring some unnecessary handling of the crude oil. This is where accidents occur.) There can be strong environmental safeguards, and an effective disaster plan could be put in place prior to the opening of any new areas.

There's another way the industry is being destroyed. Look at what is being done in the

transportation sector. I stated earlier that I was in charge of a California study on the back out of petroleum. What would take its place? There are several alternative transportation fuels that are being pushed by special interest groups. None of these fuels, however, can measure up to gasoline in terms of price and performance. Nevertheless, the alternative fuels program seems to be alive and well. Why? Again, it's politics and not economics. Why would one even consider backing out petroleum from the transportation sector? Think of the huge infrastructure costs associated with a new system. Who is going to pay these costs? It's the dislike of the petroleum industry on the basis of history, I suppose. This probably goes back to journalist Ida Tarbell in 1902 when she exposed John D. Rockefeller and the Standard Oil Trust. There clearly has been mistrust since then, but isn't time to stop?

Let me now do what economist should never do -- make some predictions. I've already told you about refining. But what about domestic production? Things do not look good. In recent years, production has fallen marginally. However, in the future, we can expect to see about a fifteen percent fall in production over the next two decades. At the same time, we can expect to see something on the order of a fifteen percent increase in the consumption of petroleum products. This means much more reliance on foreign markets, and I don't think this is good. I don't believe anyone in this room should be happy about this kind of forecast.

To be sure, some of the problem has to do with the fact that many of our domestic fields are old. But think for a moment. We have the technology to continue to work these old fields just as we have the technology to work fields dominated by heavy crude. All too often it is an institutional barrier that prevents progress. In Kern County, California, until the early 1980's, heavy crude could only be extracted by steam



flooding the fields by burning oil to create the necessary steam. For environmental reasons, it was better to burn natural gas to develop the steam than to burn oil. It was also better economically to burn natural gas. However, there was not a reliable supply of natural gas given certain regulations imposed by the California Public Utilities Commission. Fortunately, that has changed dramatically. One of my first accomplishments as an Energy Commissioner was to lead the battle to bring more natural gas to the Central Valley of California. A reliable and abundant supply of natural gas is now available to the oil industry in California. I tell you this because it is not too late to save our petroleum industry. It is not too late to save jobs. It is not too late to undo the mistakes of the past. Furthermore, not all our fields are old. Let me mention again ANWR and off-shore resources.

Although my invitation to this hearing mentioned only the oil industry, I would be remiss were I not to offer a few comments about natural gas. Though the issues differ somewhat, natural gas is hardly problem free. A California example referred to earlier should serve to explain one problem. In the late 1980s, there was not a reliable supply of natural gas flowing to the oil fields in Kern County. This was due in the main to a California peculiarity. California had no true interstate natural gas pipelines. All gas that entered the state was moved from an interstate to a state-regulated pipeline. The California Public Utilities Commission then controlled the price of the gas as well as the priorities for usage. The oil fields of Kern County were not a high priority as to usage. Thus, there were times when oil would have to be burned to generate the necessary steam to flood the fields. That was both economically and environmentally silly. Fortunately that all changed with the building of the Mojave and the Kern River pipelines. Coupled with several FERC rulings, there were new markets opened to gas producers. Then what did the state do? It decided that conservation was good. That

is to say, the state decided to cut back on the amount of natural gas to be burned to generate electricity. The thinking behind this is simple. If you don't burn gas you don't pollute, and not polluting is good. Unfortunately, the cost of this policy on rate payers was high. The economics made little or no sense. Today there is significant excess capacity on California pipelines.

I cite this example because it mentions conservation. There is nothing wrong with conservation provided it makes good economic sense. In my view there is too much non-economic conservation going on throughout the nation. To be sure, we must use all resources as efficiently as possible, but that must include conservation.

Conservation for conservation's sake is a foolish policy. May I suggest that you look at the work of Dr. Seymour Goldstone, Chief Economist of the California Energy Commission, and Ms. Patricia Herman of Barakat and Chamberlain of Oakland, California. They have questioned the current tests used in determining the cost effectiveness of conservation measures and have found that in many instances costs have been under estimated and benefits over estimated leading one to believe that there are clearly conservation measures in place that are not economic.

Let me now briefly refer to natural gas use and the generation of electricity. Here is where there is a real possibility for the natural gas industry to become revitalized. This revitalization can only occur, however, with appropriate policy -- beginning at the federal government. With deregulation of the electric utility industry and with significant technological changes in gas turbines, there would appear to be a real opportunity for natural gas to become the most sought after resource from which to generate electricity. This is even more the case as nuclear power plants continue to close down. It is my belief that few, if any, nuclear plants will apply for relicensing.

However, this is only an opportunity.

At a recent conference, a DOE representative offered the following suggestion. Now that gas turbine technology has made new turbines so efficient thereby, cutting the cost of generating electricity, we have a wonderful opportunity to push for more renewable resources in the electric generation mix. We all know that renewable resources are high cost resources. The idea here, of course, is that we promote a policy that will keep electricity prices where they are and force renewables into the system. Such a policy would rub against the grain of the emerging competition in the electric utility industry. Moreover, it makes no sense. Natural gas is clean burning, and it is available in abundant supply. Let's give natural gas producers an opportunity to succeed. We are pushing them offshore just as we have pushed the oil people offshore. Let's not continue this policy. Let's bring them back.

In Oklahoma our production is down and so is the rig count, although recently there have been some good signs. If we keep our hands off the market place and adopt rational policies with regard to conservation and renewables, demand for natural gas will grow. Indeed, under the right scenario, there can be as much as thirty-three per cent increase in demand by the year 2015, and prices will also rise by as much as the same thirty-three per cent. With proper cost savings methods and continual advances in technology,

10 margins will improve and the industry will survive. Let's examine our conflicting policies so that natural gas plays on a level playing field.

In conclusion and in summary, what we need is for government to take many backward steps. We need to let markets work with a minimum of government interference. We need to have environmental protection but protection based on solid economic principles. This is all the oil and gas industry needs. The industry does not need constant criticism. It does not need continuous roadblocks. It does not need a government working for its demise. It does not need to waste its time and scarce resources lobbying to enable it to continue to provide society with the products that it does. It's in our best national interest to do the right thing and to do it now. Government, please get out of the way. Let's truly have smaller government. Everyone's been talking the talk. Now let's walk the walk. Let's do it right this time. This can and must be done. Then Mr. Smimov and I can truly say, "America, what a country."

Thank you for your time.

Mr. MCINTOSH. Thank you very much, Mr. Bilas. I appreciate that testimony. Our third witness in today's hearing is Ms. Christine Hansen, with the Interstate Compact. Please proceed, and thank you for joining us.

Ms. HANSEN. Thank you, Chairman McIntosh. And thank you for addressing the mid-year meeting of the IOGCC, which was held in Indianapolis 2 weeks ago. You were a real hit and we really appreciate you taking the time to do that.

And thank you, Congressman Watts, for asking for this hearing in Oklahoma. The Interstate Oil and Gas Compact Commission is really honored to have the opportunity to be here today. We are an organization of 29 oil and gas producing States.

The members are the Governors of those States, and we have long been concerned about Federal regulation from a States rights point of view, particularly. The States, since forming the Compact in 1935, have worked very hard to maintain regulation at the State level.

And that is not an easy task. We have submitted written testimony and some attachments that will give you an idea of the kinds of things that the IOGCC, the Governors of the States, are concerned about at the Federal level.

In the area of environmental protection, I just want to remind this panel, remind Congress, that the States have been leading in environmental protection since before the turn of the century in oil and gas environmental protection.

The States wrote the book on oil and gas environmental protection. The first laws passed were passed in New York in the 1880's. The—a significant States rights case still cited by legal scholars is an Indiana case that established that States have the right to limit flaring of natural gas wells—happened there was a huge natural gas field in Indiana, as the Congressman well knows, and a lot of flaring going on.

The States have seen an increasing trend by regulatory agencies and by Congress at times to spend a lot of money regulating things that are already well regulated by the States. One of the things that agencies are doing that I want to just call the panel's attention to is that they have begun to create guidance documents, something apart from regulations, something apart from a directive by Congress to do something.

One of these guidance documents drew the ire of a group of Governors last year and I have submitted in my testimony a letter to Carol Browner written by Governor Ed Shafer of North Dakota, who was our chairman last year and Governor Ben Nelson of Nebraska, who was the chairman-elect.

This guidance document was created by a consulting firm in Washington, DC, at a cost of, I have been told, \$350,000. And it was not only incorrect information but it was information that the States didn't ask for and guidance the States didn't want.

It had to do with categorizing waste, which the States have been handling for many years. The other specific laws and regulations are handled in resolutions. I have attached a packet of those to my testimony, items that the IOGCC over the last several years has seen as creeping federalism into areas that the States are handling quite well.

In 1995, we approved a resolution to catalog as many Federal laws and regulations as we could that either ought to be eliminated or could be better handled at the State level. The Regulatory Practices Committees, under the direction of IOGCC Chairman and Texas Railroad Commissioner Charles Matthews, prepared a book of those and that is attached to my testimony.

The other thing that I want to mention by way of example, which is—which will, I am sure, be discussed by others in the industry, is the expansion of the Toxic Release Inventory to cover the oil and gas exploration in the production industry.

The IOGCC has been opposed to this and has a committee working specifically to change the minds of the Environmental Protection Agency to do this unnecessary expansion. Not only would it unnecessarily expand the toxic release inventory to an industry that is not appropriate but it would dilute the whole good part of what the toxic release inventory is doing for the States.

State environmental protection agencies are opposed to this as well as the State oil and gas agencies. The other thing that we are working on is to try and simplify regulation on public lands. It is a huge part of income for many of my State members and we started with a public lands project—I have a brochure that I am submitting to you to explain this project—which made several really kind of minor suggestions to the Department of the Interior last year and we are waiting for result on those.

And this year, we have submitted a comprehensive report to the Department of the Interior suggesting that they turn over all inspection and enforcement on Federal land to the States, which are well-equipped to handle it. And we are trying to work with them to get that accomplished.

The IOGCC stands ready to work with Congress in any way we can. We really appreciate your caring about this issue. Thanks a lot.

[The prepared statement of Ms. Hansen follows:]

**TESTIMONY**  
**Subcommittee on National Economic Growth, National Resources**  
**and Regulatory Affairs of the**  
**U.S. House of Representatives Committee on Government Reform and Oversight**  
**Hearing in Oklahoma City, Oklahoma**  
**May 20, 1996**

The Interstate Oil and Gas Compact Commission (IOGCC) is honored to have the opportunity to submit testimony to this Committee in its investigation of regulatory reform for the oil and gas industry. We will offer some specific suggestions for reform, both on some very small issues and on some very large issues. All of the suggestions have the approval of the twenty-nine oil and gas producing member states of the IOGCC.

The IOGCC was formed in 1935 by a group of oil and gas producing state governors concerned about maintaining regulation of this vital industry at the state level. At the time, United States petroleum supplies were at a surplus level and production was out of control. There was a move in Washington, D.C., for the Department of the Interior to take complete control of the petroleum industry. States and industry had earlier urged no government involvement, but producing state governors concluded that voluntary agreements among producers were not working. The governors believed then, and our current twenty-nine member state governors believe now, that states had and continue to have an obligation to prevent avoidable waste of oil and gas. They believe this to be a fundamental right of the states to preserve self government.

Since being given Congressional approval in 1935, the IOGCC has assisted states in balancing a multitude of interests -- maximizing domestic oil and natural gas production, minimizing the waste of precious natural resources, and protecting human and environmental health through sound regulatory practices. The IOGCC has also served as the states' voice on oil and natural gas issues at the federal level, working directly with a number of different federal agencies to prevent unnecessary federal regulation.

The nation's oil and gas producing states have labored long and diligently to craft excellent petroleum regulatory programs. The states continue to react to change and modify these regulatory programs to reflect the latest technology and the newest available thinking. For instance, states have led the way in creating a variety of innovative incentive programs aimed at prolonging the life and productivity of the nation's stripper oil wells -- those wells producing less than ten (10) barrels of oil per day.

In the area of environmental protection, the states have been leading since before the turn of the century. The first statute setting out a well plugging technique to protect the ground water was enacted in New York in 1895. Indiana, as the chairman of this subcommittee well knows, was the first state to limit the flaring of natural gas -- also before the turn of the century -- which became the issue in a U.S. Supreme Court case establishing the state interest in laws preserving and protecting natural resources.

We set out this history to remind Congress that the states have long been leaders in regulating the nation's oil and gas industry. States were the first to recognize a need for regulation, and have a long history invested in perfecting such regulation. We do not oppose regulation of the industry, but favor sensible regulation at the governmental level most logically able to handle needed regulation in a way that serves all of the goals of its citizens.

The states of the IOGCC have thus worked to retain regulatory jurisdiction over oil and gas, but find it to be a constant battle with Washington, D.C. as agency, often due to Congressional mandates, encroach into oil and gas regulation. Rather than working with state regulators, even acknowledging that state regulation of oil and gas exists, federal laws get passed and extensive regulations get written to unnecessarily dictate to the states.

In addition to laws and regulations, the states are seeing an increased trend by federal departments and agencies to spend hundreds of thousands of dollars of taxpayer money on consultants who create "guidance documents." An example is set forth in the correspondence attached in **Attachment A**. This particular "guidance document" from EPA referenced in attachment is still being worked, to this day, by EPA which still intends to issue it. The states didn't ask for it, don't want it, and may find it to create restrictions to their regulations of these waste. However, the bottom line is that the "guidance document" simply was an unnecessary expenditure of taxpayer money. That money would have been so much better spent on the IOGCC/EPA State Review program which provides a peer review of state oil and gas regulatory programs for exploration and production waste. This program has been praised by Administrator Carol Browner and by a White House Task Force, but EPA continues to slash spending for it.

As to laws and regulations, however, the resolutions of the IOGCC in recent years are often calls to Washington, D.C., to repeal, modify or withhold regulating in some area of oil and gas operation which is already well and adequately regulated by the states. Attached to this testimony are selected resolutions from the last five years to give this subcommittee a flavor of those pleas (**Attachment B**).

In 1995, the IOGCC approved a resolution to catalogue federal oil and gas regulatory functions more appropriately handled at the state level. The IOGCC Regulatory Practices Committee, chaired by Texas Railroad Commissioner Charles Matthews, undertook to identify regulations at the federal level which could either be eliminated or could be more appropriately managed by the state regulatory agencies. The initial work product of that committee is attached to this testimony as **Attachment C**.

The IOGCC has focused on environmental and public lands regulations during 1996. We are currently most active in the environmental area on the issue of expanding the Toxic Release Inventory to the exploration and production industry. Governors have met with Administrator Browner to express the state concern about the wisdom of extending this program to the oil and gas E&P industry, and Assistant Administrator Lynn Goldman has



met with the governors official representatives at the IOGCC March Quarterly Meeting in Washington, D.C., where Dr. Goldman pledged to work with the oil and gas producing states to gain increased background information on this important issue.

The IOGCC is coordinating the effort on limiting the TRI expansion with representatives of state environmental protection departments. The IOGCC contact with various state environmental departments has led us to the conclusion that these state environmental protection specialists also disagree with extending the program to the oil and natural gas E&P industry. The information secured for the public through such reporting would be misleading, at best, and would overload the current TRI effort with reams of unnecessary reports. Rather than in any way furthering the public information available on toxic releases to the environment, it would actually dilute the existing program and would easily create public confusion (see Attachment D letter from Oklahoma).

Of course, the EPA is working from the law as approved by Congress. If the EPA finds it has insufficient flexibility to exclude unnecessarily burdensome reporting (unnecessary and burdensome from the state, as well as the industry point of view) from the TRI, the IOGCC would call upon Congress to re-examine the language of this law and more closely align the language of the law with what would create a sensible result for the public.

The IOGCC efforts concerning the U.S. Department of the Interior regulation of oil and gas E&P on public lands have been a focused part of our program for the past two years. Beginning with a modest Department of Energy grant, the IOGCC assembled a group of interested parties into what we called the Public Lands Core Working Group. This group was jointly headed by the state oil and gas directors from California, Colorado, New Mexico and Wyoming. The group included representatives of the federal government (Interior, Agriculture, EPA and DOE), industry and environmental organizations. The aim of this group has been to identify available regulatory efficiencies which might be accomplished without any change to regulation or statute -- the "little" things that might make government more sensible (a brochure explaining the project is Attachment E). A number of items were identified and communicated to the Secretary of the Interior in September 1995 (Attachment F) and was replied to in January and received in February of this year by Assistant Secretary Bob Armstrong (Attachment G) without firm commitment to pursue the IOGCC recommendations despite the fact that Department of the Interior personnel participated in every step of drafting those proposals.

The states of the IOGCC began to explore the feasibility of states assuming the royalty collection and enforcement functions as to on shore oil and gas leases, when the Secretary of the Interior announced in March 1995 that it was his intent to "devolve" these functions to the states. While the states had not been consulted with prior to this announcement (in connection with Vice President Al Gore's Reinventing Government initiative), the states began to attempt to get information from the DOI's Minerals Management Service (MMS) which would enable them to make a sensible assessment of the offer. During the time that the states were attempting to gather this needed

information, and before states had reacted in one way or another to the proposal (other than to ask questions and seek data), the Secretary withdrew the offer. Several of the states believe, based on their preliminary analysis, that it could be cost effective for the states to assume these duties. Whether DOI performed an analysis prior to making the initial recommendation to turn these functions over to the states, is unknown.

Also in 1995, the Bureau of Land Management (BLM) of the Department of the Interior, told the states that they were interested in efficiencies which could be achieved through state regulatory programs taking over certain of the BLM inspection functions on federal oil and gas leases. The states worked with the BLM to develop recommendations which were recently released in a DOI report --"Inspection and Enforcement Transfer Report on Reinventing Government II (REGO II)" issued in April 1996. In addition to participating with that DOE effort, the states formed a separate subcommittee of the IOGCC Public Lands Committee which developed a counter proposal (**Attachment H**) to the anticipated REGO II proposal. The IOGCC has met with DOI Assistant Secretary Bob Armstrong and has also formally presented this proposal to DOI Secretary Bruce Babbitt. The IOGCC has asked for meetings with DOI to pursue this more comprehensive proposal.

The comprehensive proposal developed by the IOGCC contains a tremendous opportunity for the federal government to chose the efficient route over the inefficient route in oil and gas regulation. States are suggesting that the federal government be treated just like any other landowner in terms of state oil and gas inspection and enforcement. Extensive duplications of effort by the BLM and state oil and gas regulatory authorities exist today. Creating a single, coordinated and comprehensive regulatory program would result in significant cost savings, while achieving the objectives of both the state and federal regulatory programs. The efficiencies would be not only for government, but also for the private industry regulated.

The IOGCC is hopeful that the states will be listened to by federal agencies. States have been effectively regulating oil and gas well spacing, exploration and drilling activities, production, transportation and surface environmental compliance on private, state and federal land for decades. The history and reputation of the states' regulatory programs is unmatched. We are hopeful that reputation will cause federal agencies to take some of these suggestions seriously and work with us to achieve obvious efficiencies, and to avoid other -- equally obvious -- inefficiencies.

Mr. MCINTOSH. Thanks very much, Ms. Hansen. I appreciate it, and I appreciated your group meeting in Indianapolis and some of the constructive suggestions that were being developed at that conference. I have got several questions for different members of the panel today.

The first one I would like to explore with each of you is an idea that has been talked about in Washington but has not yet been proposed as legislation. And the phrase there is alternative compliance. I like to think of it as green plus or some way in which we can actually achieve better environmental results at lower cost.

And the notion is that if industry or the States, if they are operating production facilities, can find a more economical way of achieving our environmental goals, either in a different technology or focusing on different problems, that they have the freedom under our regulatory program to actually go ahead and implement those alternative ways of achieving the bottom line result.

And Mr. McPherson, you had mentioned to me earlier, before we got started that some experience in the North Sea indicated that Britain had applied that principle in the way they tried to protect the environment in that ecosystem.

And so let me start with you and just ask each of you if you think that would be a wise way for us to proceed in Washington.

Mr. MCPHERSON. We find it—we find the comparison of the—let's say the United Kingdom and the way it administers regulations in the North Sea compared to the United States quite the opposite. American—the American law is very prescriptive and adversarial whereas the United Kingdom basically gives—they set a standard and then it is up to the individual company to come up with a safety case to deal with all—to identify and to deal with all the risk associated with that particular project, in this case, drilling and producing the North Sea.

And then it is—then the Government agency may accept or reject or ask you to go back and modify a part of it. But the way we approach it is up to the individual company. We confer continuously with the Government as we work through the process.

Mr. MCINTOSH. Do you think in the United States that sometimes we don't use the latest technology because the regulations haven't kept up with it?

Mr. MCPHERSON. Basically, in many cases, it is prescribed so we don't have the freedom or the flexibility to use new techniques, new technology because it is basically we are told how to do, in detail, certain things to protect the environment. So—

Mr. MCINTOSH. Mr. Bilas.

Mr. BILAS. We seem to be operating under a system in which there is a strong belief that one size fits all. And that clearly is not the case. Different jurisdictions have different problems. There are different technologies that are frustrated by Government.

The energy sector is certainly not the only one. I mean, this is—you do an analysis of the Food and Drug Administration and it becomes very clear that new technologies are frustrated. There is—you mentioned in your comments, Chairman McIntosh, the freedom to do certain things.

And that word, freedom, I think is a scary one to some members of regulatory bodies and members of the legislature. But I would

think that if the freedom were granted to individual jurisdictions to minimize the cost of environmental regulation, I think we have much more effective regulation.

And benefit-cost analysis, though it has weaknesses, is a real necessity in evaluating environmental controls.

Mr. MCINTOSH. Ms. Hansen, do you know if any of your member States have applied that type of approach where they identify and set the standard, but then work with the producers to try to develop the best plan for achieving the social goal of minimizing environmental hazards but maximizing the efficiency?

Ms. HANSEN. As a general rule, the States have been less prescriptive than the Federal Government has been. One of the reasons that we think State regulation makes more sense for the oil and gas industry is exactly the difference in geology and geography that makes it impossible to regulate in Louisiana in the same way that you regulate on the North Slope of Alaska.

The rules have to be more flexible. So the States have—the States aren't perfect, either. I shouldn't imply that they are, but I think we are a lot more perfect than the Federal Government.

Mr. MCINTOSH. OK. Great. I have got some more questions for this panel, but let me turn now to my colleague, Mr. Watts, and see if you have got any questions for this witness.

Mr. WATTS. Thank you, Mr. Chairman. I want to ask Ms. Hansen, what has been the reaction from the Department of Interior to the IOGCC proposal to explore the producing States, assuming some of the BLM, Bureau of Land Management, inspection and enforcement functions on Federal oil and gas properties?

Ms. HANSEN. Unfortunately, the Department of Interior has not been very quick to respond to our proposal. We are still waiting for a response. The Governors sent it to the Secretary a couple of months ago and we have asked the Assistant Secretary, Bob Armstrong, who is Secretary Babbitt's official representative to the IOGCC.

We have asked him just to commit to meetings with us, not meetings over a set timeframe or anything but just will he commit to meet? And he is still thinking about that. We are surprised that they haven't moved a little faster to sit down with the States.

We spent a lot of time on this proposal and we think it is really a solid, sensible way for the Department of the Interior to save money and to get better regulation of Federal oil and gas leases.

Mr. WATTS. If—let me ask a followup. If the States took over this program from the BLM, would the States—could the States do quality inspection and enforcement for less money and if so, why?

Ms. HANSEN. We are still trying to analyze the Department of Interior's numbers. We have some numbers that show us we could definitely do it for less. We are not sure exactly what all of their numbers include right now but for instance, we have a number from Wyoming where they—BLM spends \$15 million a year on enforcement and inspection of oil and gas properties—\$15 million.

And in Wyoming, they have jurisdiction over 60 percent of the leases. The State has jurisdiction over 40 percent of the leases and spends \$1.5 million to do what is a superior job. We have had a peer review team in Wyoming and their report is that the Wyoming program is excellent at protecting the environment.

So there is \$15 million for 60 percent of the leases, \$1.5 million for 40 percent of the leases. And the inspectors are criss-crossing one another. State-inspected land will be right next to federally inspected land.

State inspectors in almost every State have a requirement that they witness a well-plugging, for instance, whether it be on Federal land or State land. So there are two inspectors, a Federal one and a State one at a well-plugging in most States.

It seems like really unnecessary duplication. In Oklahoma, there are really only a handful of Federal leases, as you know, having served on the Corporation Commission. BLM says that in Oklahoma, they spend \$1.6 million a year on oil and gas lease administration.

The Oklahoma Corporation Commission spends something in the range of \$1.3 million for the salaries of its inspectors and lawyers who handle the inspection and enforcement piece for—probably over 90 percent of the lease is handled by the Corporation Commission at what looks to me like a lesser price than BLM is spending on a very small portion of the leases in Oklahoma.

Mr. WATTS. Now, you had mentioned earlier in your testimony that IOGCC was made up of how many Governors, how many States?

Ms. HANSEN. It is Governors of 29 States. Actually, we have several—we have 7 associate State members, so we have got 36 States. The associate States are those States that wish they had oil and gas.

Mr. WATTS. I see. Now, are those States—or is the IOGCC—is it supportive of repealing the gas tax?

Ms. HANSEN. We—

Mr. WATTS. Did you all take a position on that?

Ms. HANSEN. We have not taken a position on that one. We don't have a resolution on that one, Congressman.

Mr. WATTS. OK. Mr. McPherson, from looking at your testimony and hearing your testimony, is it your assessment that many EPA regulations and proposed regulations actually do more to harm the environment than to help it?

Mr. MCPHERSON. Yes. I—well, the case I gave using the shrimp and the minnow, which is really an artificial—totally artificial—it does not in any way represent, in this case, the Gulf of Mexico ecosystem. And, I mean, we could be—we could do a much more effective job with some specific analysis.

And we could do a better job and cost less, in my—I am convinced of that.

Mr. WATTS. Mr. Bilas, we over in the decade of eighties, I guess, and late seventies—and the oil and gas industry was—in the seventies was a very good industry to Oklahoma and many other States, the economy, jobs. In the decade of the eighties, you know, we lost about—to the tune of about a half a million good-paying jobs.

And today, because of regulation and taxes and all the other things that have burdened the oil and gas industry, considering that we lost that employee base or lost those good jobs and to the point that most of your majors today are taking their exploration dollars overseas, in your estimation—now, that is my opinion that

your major companies are taking exploration dollars overseas because they don't have to fight the burdens overseas in many respects that they fight on U.S. soil.

And so the reserves are as good or better over there so in your estimation, are regulations forcing the petroleum industry to take jobs and wealth overseas to foreign markets? Is that just—am I wrong in that assessment?

Mr. BILAS. I think you are absolutely correct. That is precisely what is happening. If I were the CEO of a large oil company and were faced with the need to build a refinery, I certainly wouldn't build it in the United States.

Refinery costs are 25 percent lower in Canada and in Western Europe than they are in the United States because of regulatory matters. Regulatory costs are virtually nil in under-developed countries. We have lost in this country, in my estimation, a generation of scientists and analysts. They are just gone.

They are not coming out of the colleges and universities simply because large industry majors have moved offshore and rightfully so. We—as I said in my introductory comments, we have destroyed—we are on the verge of destroying an industry.

It is not too late, however, to reverse the trend. The fact of the matter is that over the next 20 years, there is going to be a significant increase in worldwide demand for petroleum products as the less-developed countries begin to develop.

That is going to have a significant effect on the price of crude oil and it is going to make it possible for marginal fields to become operative but we have got to have the scientists and the analysts to be able to do this.

And if we don't, we have destroyed one of the major industries in this country, the industry that has been responsible for the highest standard of living the world has ever known. So I agree with you 100 percent, Congressman.

Mr. WATTS. Thank you, Mr. Chairman. That concludes my questions.

Mr. MCINTOSH. Thank you very much. Let me pursue that a little bit further. So, Mr. Bilas, you were saying that in your estimation, even in industrialized nations such as Canada and Europe, there is a 25-percent less expensive cost of government, if you were, in refining that oil.

And that—do you anticipate—and I think your written testimony may have referred to this—that we will have to begin importing that finished product into the States?

Mr. BILAS. Well, we have—our refinery utilization is 93 percent today. You can't get higher than 100 percent and you don't want to be at 93 percent. That is just simply too high. That is going to cause maintenance problems.

It is going to cause failures. You just recently had a refinery fire in the Chevron refinery in California, one of the reasons why the price of gasoline soared so much in California. They had to shut a refinery down. We have to go offshore for refined product.

There is just no way that we are going to be able to maintain the kind of living standards, the kind of activities that we maintain and certainly our national security without bringing in refined product. That is a foregone conclusion unless someone magically

decides to build a refinery in the United States, and I don't know why anybody in his right mind would do that. It doesn't make any economic sense.

Mr. MCINTOSH. So it doesn't make any sense to build a new one and the old ones are reaching capacity and, as you indicated, in some ways are unsafe even at current levels if operated that way over a long period of time.

Mr. BILAS. That is correct. And in addition, Congressman McIntosh, we are playing a game where the rules change continuously. If I am in the refinery business and I am refining product and I put that product into inventory, I have no idea whether tomorrow that product is going to be sellable under new laws.

I may have to export that refined product which I had produced for a market in the United States. The result is that I am not going to have—I am not going to build up inventories. You can—you will be able to see more and more price fights, I believe, simply because of tenuous inventories, and push comes to shove, go offshore, close down refineries, sell it to somebody for 10 cents on the dollar and get out of it.

Mr. MCINTOSH. Let me ask you this. What type of leverage does that give these other countries, even people who are currently our friends such as Canada or European nations?

Mr. BILAS. I think they have a welcome sign out, Please Come. And they don't even have to ask very strongly. I mean, the—

Mr. MCINTOSH. No. But in the future, if they end up supplying us with our refined product, what type of leverage do they have over the American economy?

Mr. BILAS. I think it puts us in a very, very bad position. I think you have answered your own question. If we have to—if we are a net importer of a necessity and we live in a world of jealous nations and all one has to do is pick up the morning newspaper and see what country is battling what country or what group is in a country battling another group.

This is not a secure world. The cold war may be over. It may be a thing of the past, but that doesn't make the world any more secure today than it was yesterday.

Mr. MCINTOSH. Thank you. Mr. McPherson, one thing—one other question to followup on a question from my colleague, Mr. Watts, about the efficacy of environmental regulations. Are you familiar with the Amoco study that was engaged in with the EPA and some of the results there?

Mr. MCPHERSON. The one on the East Coast where the—actually, it was a benzene emission reduction effort. Is that the one you are referring to?

Mr. MCINTOSH. That is right. Yes.

Mr. MCPHERSON. I am somewhat familiar with it in that—actually, Amoco went to the EPA and asked that they work together to analyze and determine what would really be the best way to meet certain emission standards. On the benzene situation—I don't have the numbers in mind.

Blaine, do you have those numbers in mind? Anyway, the bottom line on this particular part of that study, the EPA agreed that they would jointly go in, do the analysis on the emissions that were ac-

tually occurring and then what would be the best way to mitigate those?

And as a result, they found that they—by current regulations, benzine—controlling benzine was going to cost—Barbara, do you have those numbers? I thought you maybe—pardon?

VOICE. I think it was cost per—

Mr. MCPHERSON. No. The cost under the current regulations on benzine was *X* and it was, I believe, about five times of what could actually be done by basically—instead of—in lieu of gathering the produced water, which was what was prescribed by the regulation, to control benzine emission from the water that was actually in the system—by covering certain tanks, they could reduce the emission, as I recall, in half over what the standard was set at about a fourth of the cost.

So, I mean, there—the sad part of that situation was that the—either the EPA could not, according to law or internal politics, whatever—in fact, the EPA did not permit them to do that. They required them to go ahead and meet the standard at the higher cost with actually mitigating less emission.

Mr. MCINTOSH. Yes. That is what I recall from that study and in a very real sense, the industry stepped up to the plate to try to meet President Clinton's challenge in his State of the Union, that if you can do a better job of protecting the environment and save money, do it.

And I do think there are some Federal laws that make it difficult for EPA to have the flexibility. I don't want to say it is entirely in their discretion. But to be honest with you, we have not heard from them on legislative changes that would have allowed that to go forward.

Mr. MCPHERSON. Could I make another comparison—

Mr. MCINTOSH. Sure.

Mr. MCPHERSON [continuing]. Along this line as a case in point? In this country, basically everything is prescribed in the environmental area, as well as others, but specifically environmental, it is prescribed, the way we do it specifically.

In the case of the United Kingdom, we go in and propose the way that we would mitigate certain risk, first to identify the risks and then how to mitigate them. And you can rest assured that you will get a hearing. You will be heard sitting down with technical people in the agency and have a debate.

They may agree or they may disagree. Many times, they will agree with you or they will agree partially and they will let you do certain things. We see none of that in this country. I mean, it is—there is no opportunity to go in and make a case on using better technology or newer techniques at a reduced cost to actually achieve better control and lessen the impact on the environment.

Mr. MCINTOSH. And I see that in particular at the Federal level. We had an example in my home State of Indiana, where a company was going to set up a new business to recycle copper waste in a fluid product from a computer bore etching process. And they were going to extract the copper and turn it into a food supplement for all the pork producers in Indiana. And then their raw product went back to the computer manufacturer as the input they needed to etch the copper sheets to build the computer board.



It basically eliminated a huge waste stream from this manufacturing process and the way it worked economically was they got out of the RCRA requirements with all of the additional requirements for that type of waste product—saved a lot of money that way.

Locally, the environmental standards—and this confirms what Ms. Hansen was saying—they wanted to see this go forward. They realized it was a plus for the environment and would work very well, but nationally, they said, well, our rule is if you have a recycling program, you have to meet all the RCRA requirements so you have to do them anyway.

And as a result, they—locally, they said, well, maybe if we took 10 percent of the waste stream and dumped it down the drain, then we won't be called recycling and you can go ahead and do this—which, of course, is nuts. It is bad for the environment and bad for the whole process.

But it is a problem, I think, of what you are indicating, that there are prescriptive ways of approaching it rather than sitting down and saying, how do we reach our bottom line together in this process? One last comment for this panel and that is to give you some good news, Ms. Hansen, in the way this new Congressional Review Act will work, that these guidance documents that used to be issued by the agencies without any notice and comment or discussion with the States are now going to be part of the review process because of the way they have defined rules and regulations in this new statute.

By the way, most people in Washington don't really quite realize all of these changes and they are starting to trickle through and I have noticed that some of the regulators are saying this was a big mistake to allow Congress to have a say in this.

But we are going to start enforcing that and that will give you an opportunity to maybe look at some of the guidance documents that are most troubling and bring those forward to Members of Congress or in the Senate as rules that might be reviewed in Congress.

Ms. HANSEN. I think one of the things that is bothersome to the States is that they get done at all because in the case of the one I was describing to you, one State person said to me that they felt like a perfectly capable grandmother being helped across the street by an overeager Boy Scout when the street light said "don't walk" and she didn't need any help.

We were regulating this just fine, and to spend tax money doing that guidance document at all was pretty frustrating to the States.

Mr. MCINTOSH. Well, thank you all. I appreciate you coming forward today and your testimony, along with the additional documents that you have will be made part of the record. We will distribute it to various committees in Congress that are working in these areas and continue to look into many of those questions ourselves.

Let me call forward now the second panel of witnesses for this hearing. The first witness is Mr. Terry Ross, who is the executive vice president of Love's Country Store; the second witness is Ms. Susie King, senior staff engineer with Conoco; and the third wit-

ness is Ms. Barbara Price, who is vice-president of health, environment and safety at Phillips Petroleum. Thank you very much.

Welcome to our subcommittee hearing today. If you would all please rise and repeat after me.

[Witnesses sworn.]

Mr. McINTOSH. Thank you very much. Please let the record show that each of the witnesses answered in the affirmative. Our first witness for this panel is Mr. Terry Ross, who is the executive vice president of Love's Country Stores. Mr. Ross, thank you for coming, and welcome. Please share with us your testimony.

David will hold up the 5-minute warning. If you can summarize it at that point or reach your conclusion, that will make sure we have more time for questions and answers.

**STATEMENTS OF TERRY ROSS, EXECUTIVE VICE PRESIDENT, LOVE'S COUNTRY STORES, ON BEHALF OF THE OKLAHOMA PETROLEUM MARKETERS ASSOCIATION AND OKLAHOMA CONVENIENCE STORE ASSOCIATION; SUSIE KING, SENIOR STAFF ENGINEER, CONOCO, INC.; AND BARBARA PRICE, VICE PRESIDENT OF HEALTH, ENVIRONMENT AND SAFETY, PHILLIPS PETROLEUM CO.**

Mr. ROSS. Thank you, Chairman McIntosh, and thank you, Congressman Watts. Again, my name is Terry Ross and I am a vice president in motor fuels of an independent family owned convenience store and travel stop business based in Oklahoma City.

Love's Country Stores has been in business since 1964, and we have 1,900 employees. We market through 127 locations in 6 States. I am also testifying today on behalf of the Oklahoma Petroleum Marketers Association and the Oklahoma Association of Convenience Stores.

Government regulations are an onerous obstacle to conducting everyday business. The alphabet of regulatory agencies our industry deals with are the EPA, OSHA, DOE, FTC, IRS, ATF, and the DOT. These agencies promulgate rules and regulations with other alphabetic designations such as ADA, LUST, SARA Title II, EEOC, and many others. These Federal agencies and their regulations are a big obstacle to everyday productivity and growth in our business.

Underground tank regulations, as mandated by the EPA, are now a large budget item for the petroleum marketers. Compliance costs are approximately \$65,000 per location for upgrading. This cost is just for the equipment and installation. Ongoing testing, recordkeeping, reporting, paperwork, copying, filing, account for an annual cost of approximately \$3,500 per location.

Locations in EPA-mandated nonattainment areas must also have additional Stage II vapor recovery equipment. This equipment captures vapors from motorists tanks and prevents them from escaping into the air when a tank is filled. The cost of the equipment and its installation range from \$50,000 to \$100,000, depending on the number of fuel dispensers and the type of equipment.

These, "improvements," decrease the dispensing rate of the pumps, thus lowering the efficiency and productivity of the location. This equipment also has a higher maintenance cost. There is also requirements that employees recognize when the system is not

functioning properly as well as an education of its purpose. Again, productivity suffers as more time goes to this training.

EPA regulations also require underground storage tank operators to provide \$2 million in aggregate environmental financial responsibility. Annual insurance premiums or indemnity funds for this requirement cost the marketer approximately \$10,000 annually for each average location.

These amounts are staggering for most family businesses. It is no wonder that the number of fueling facilities are declining even as the demand for gasoline and diesel fuel increases.

The petroleum marketing industry is highly visible. We market a product that everybody needs. Our prices are visible on large signs for all to see. This public visibility coupled with overzealous regulations paints our industry as the bad guys whenever the price of fuel goes up. The public, unfortunately, does not realize that taxes and Government regulation directly make up approximately 42 percent of our cost of gasoline.

The volatility in petroleum markets today is largely due to Government intervention in the market. Prices rise and fall based on supply and demand. Government mandates in the past 3 years require the use of three new motor fuels: Reformulated gasoline, oxygenated fuels, and low-sulfur diesel fuel. At the same time, Government regulations have disincentives in place for the construction of new storage facilities and incentives to enclosing existing storage tankage. Further supply problems occur when reid vapor pressure requirements change in the spring and fall as refiners and marketers deplete inventories for the change. When inventories are low and demand high, prices rise.

Our Nation depends upon foreign gasoline imports. There is no longer enough refining capacity in the United States to satisfy demand, yet the EPA limits the supply of foreign gasoline imports by issuing regulations favoring domestic refiners. These regulations have reduced imports of gasoline significantly. Reduced supply means higher prices. The supply situation also reduces the ability of independent unbranded marketers to supply our retail outlets. Major domestic refiners become one of our only sources of product. When the sources of gasoline decline, the price goes up.

Tax regulations for inventory are another reason prices are volatile. Congress is now considering the temporary repeal of the 4.3-cent-per-gallon fuel excise tax imposed in October 1993.

What most politicians do not realize is that the prices may actually go up. Any fuel marketers have in inventory when the tax reduction goes into effect will have the tax already paid and there is no provision for a refund. Most prudent marketers will have little or no inventory on hand. Prices will probably rise because supply is low and demand at the height of the summer vacation season is high.

Motor fuel marketers in Oklahoma have their investments in jeopardy right now. Congress many years ago gave native American tribes sovereign status in Oklahoma. This status is not confined to reservations. There are none in Oklahoma. The tribes are building mega travel centers across the street from our locations. We cannot compete when the tribes have a 17-cent-per-gallon cost advantage from not collecting and remitting the State's motor fuel

tax. Congress must act on this issue before our family business and the jobs we provide are gone.

In summary, Government involvement only disrupts motor fuel markets. Lawmakers need to learn from their past mistakes. Please correct these mistakes and let market forces resolve the issues. The markets, left to their own devices, are amazingly efficient.

Thank you, Chairman McIntosh. I will be happy to answer any questions that you or Representative Watts may have.

Mr. MCINTOSH. Thank you very much. I will have several questions for you on a couple of things that are fascinating to me. Our next witness on this panel is Ms. Susie King, who is the senior staff engineer for Conoco. Ms. King, thank you for coming.

Ms. KING. Thank you, Chairman McIntosh and Congressman Watts. Thank you for this opportunity for us to speak to you today on this subject of regulatory reform, which is very important for us. My 18 years with Conoco has been spent with helping both our upstream and downstream operations understand and comply with environmental regulations on the Federal and State level.

Conoco's support for regulatory reform centers on the pursuit of regulations based on sound science that are flexible and cost effective and that are focused on attaining very clear, achievable goals. Whenever possible, our regulatory program should be goal oriented and standards should be performance based.

Too often, command and control requirements are used because of the argument that they are easier to enforce. Regulations on reformulated gasoline, for example, are relatively new and EPA decided to prescribe exact formulations instead of allowing performance to drive compliance.

However, the biggest burden in this program is the testing and extensive recordkeeping that is required on each and every batch of reformulated gasoline from the refinery to prove compliance on top of an additional testing program with an independent lab that we pay for, plus annual audits.

The point here is there should be provisions for alternative compliance approaches, including monitoring, recordkeeping and reporting aspects. In another example, title III of the Clean Air Act establishes requirements for controlling the releases of hazardous air pollutants or HAP's from certain sources.

These controls are called maximum achievable control technology, or MACT's. After implementing a MACT standard for a particular source category such as the refinery, a residual risk determination will be done to examine whether more stringent controls are necessary.

Conoco and other refiners endorse a facility-wide HAP control approach rather than one focused on controlling emissions on an equipment-by-equipment basis. Conoco supports examining whether a mix of control methods and technologies would more effectively control HAP emissions on a sitewide basis.

I think we touched on this earlier with the Amoco example. Once again, the goal is the key and a means to attain our goal must be flexible. I have one example of recent agency—EPA flexibility that we are very enthusiastic about.

And it is in the area of listing of a waste. The refinery has the chore of looking at—or excuse me—EPA had the chore of looking at 29 refinery residuals and what they did was they used some modeling and they found out that only a few of those residuals should be listed as a hazardous waste when they are managed in particular ways.

And in other ways they are managed, they can be handled as a nonhazardous waste. This is called a conditional listing approach and we are very supportive of it because basically, if they used the traditional approach, we would have been overregulated.

I have—I wanted to mention quite briefly that we also do not support the extension of section 313 of SARA title III, which is the TRI inventory to include the exploration and production industry. The idea that you would now include produced waters in a toxic inventory release program has no sense, has no basis.

In the oil and gas industry, we extract produced water with our crude oil. We separate it at the well site and we inject it into a Class 2 well. Class 2 wells are regulated under the Safe Drinking Water Act and by definition, a Class 2 well is a well that is—goes into a hydrocarbon-bearing formation, which basically means the produced water is taken out of the ground, immediately separated and put back into the ground where it came from.

And to say to the public that that is a chemical release is incredibly misleading. It doesn't do anyone any good. Another issue that is very important for us is risk assessments. This is tied with remediation projects and we have a project now with the Air Force and several other majors where we are looking at enhancing the risk assessment methodologies.

The Air Force has put in \$2 million in a total \$8 million effort. It is very significant. It is telling us new things we didn't know before about what happens to soils that have been impacted by hydrocarbons. And the sad part about this is that we collectively in this effort on bioavailability, which is what we have termed this—we have not found a lead in EPA who will be able to work through the findings we have and, if our findings are worthy, be able to say yes, those can be used in risk assessments.

We need EPA to help take the lead once our research is concluded so that we can use that in every State. The States need the Federal guidance in some of these areas and it is critical and it is lacking.

And that concludes my statement. I appreciate the opportunity to be here.

[The prepared statement of Ms. King follows:]

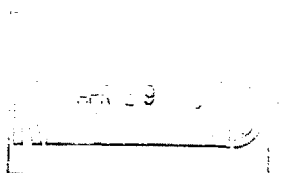


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April 26, 1996

The Honorable J. C. Watts, Jr.  
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Dear Congressman Watts:

**Congressional Committee  
Field Hearing in Oklahoma  
May 20, 1996**

In response to your April 10, 1996 letter to Conoco regarding the upcoming field hearing on overly burdensome government regulations, some of the most important issues to Conoco's refinery business evolve around environmental issues. To this end, Conoco has become an active participant in EPA's Common Sense Initiative for the refining sector. While it is heartening to have EPA recognize in principle the value of activities such as the Common Sense Initiative or the XL Project, the objective of regulatory reform has not materialized to any significant degree. Conoco continues to view the issues described below as meriting attention and appropriate change.

#### 1. Statutory and Regulatory Language Overly Prescriptive

The regulated community is too frequently confronted with solving its compliance obligations by meeting prescriptive regulatory requirements. These requirements do not allow consideration of the site specific nature of the business or facility because either the regulations or the statutes dictate compliance tasks. All environmental programs should encourage compliance options that can achieve essentially the same level of protection. A vigorous effort by Congress and the agencies to eliminate the command and control mandates in favor of performance based results should be pursued.

#### 2. Remediation and the Use of Risk Assessment

Several environmental statutes (e.g. RCRA, CERCLA) compel remediation of soils and groundwater contaminated with hazardous waste and hazardous substances at both operating and closed refineries. The petroleum industry supports a site-specific, risk-based approach to carry out these remediation activities. At present regulatory agencies require soil clean up based on concentration-based end points determined by rigorous laboratory solvent extractions. Because of the sequestration ability of soils, it is well known scientifically that such extractions grossly over estimate what is biologically available. ~~To establish the true risk in~~

Congressman J. C. Watts, Jr.  
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~~sequestration ability of soils, it is well known scientifically that such extractions grossly over estimate what is biologically available.~~ To establish the true risk in remediation, chemical constituent availability should be established through "biologically relevant" extractions. Conoco along with several other petroleum companies, the Gas Research Institute, Lawrence Berkeley Labs, Oakridge National Labs, the U.S. Air Force, and others are engaged in an 8 million dollar research effort to study and define how to measure "bioavailability" as part of the risk equation. Conoco believes understanding this aspect of soil chemistry and incorporating it appropriately in risk assessments will result in better decision-making on what clean up levels are appropriate at a site, with the potential for significant savings on the cost of remediation, while achieving the same degree of protection. Conoco requests that regulatory agencies use and recognize risk assessment in remediation decision-making.

### **3. Management of Refinery Residuals**

As a result of litigation from the Environmental Defense Fund, EPA is currently studying 29 refinery residuals to determine whether to list them as hazardous wastes under Subtitle C of RCRA. In December of 1995, EPA published a proposed rule that listed 3 out of 16 of the residuals as listed hazardous wastes and proposed not to list others. EPA asked for comments, and Conoco and the refining industry continue to advocate a conditional listing approach, in which residuals would not be deemed hazardous provided they are managed in a protective manner. Refiners concur that standards and/or practices for some of the targeted refinery residuals may be appropriate.

### **4. Recordkeeping and Reporting Burden**

The refining industry is obligated to report to EPA and state agencies on numerous regulatory compliance issues (e.g., under Title III and Title V of the Clean Air Act, NESHAPS, RCRA and EPCRA Title III). Conoco believes there are significant opportunities for consolidating or coordinating these reporting requirements. Conoco and other refiners have identified this aspect of compliance as deserving of attention by EPA, in cooperation with the industry, to identify improvements.

### **5. Definition of Solid Waste**

Conoco believes the RCRA definition of solid waste is written such that it constrains the recycling of materials that are now classified as hazardous wastes. Conoco and the refining industry support tailoring the definition such that it would foster additional recycling or reclamation of hydrocarbon-bearing secondary materials. Legislation should examine additional exemptions to the definition that would encourage additional recycling opportunities for refineries, as well as other regulated entities.

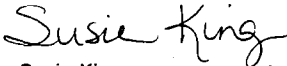
Congressman J. C. Watts, Jr.  
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**6. Clean Air Act Amendments: Alternative Compliance Approach**

Title III of the Clean Air Act establishes requirements for controlling the release of hazardous air pollutants (HAPs) from certain emission sources. After implementation of the maximum achievable control technology (MACT) for a particular source category, a residual risk determination will be done to determine whether more stringent controls are necessary. Conoco and other refiners endorse a facility-wide HAP control approach, rather than one focused on controlling emissions on a source-by-source basis using specific technologies. Conoco supports examining whether a mix of control methods and technologies would more effectively control HAP emissions on a site-wide basis.

Conoco appreciates this opportunity to address members of Congress to discuss ideas and means to improving our regulatory programs and requirements. Conoco continues to support regulatory reform initiatives of the current Administration and encourages the view that improvement is a continuous process that should never be viewed as finished. Should you have questions about Conoco's comments, please call me at (405) 722-2781.

Sincerely,

  
Susie King  
by ACE

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Mr. MCINTOSH. Thank you. I will appreciate that and enjoy exploring some of the questions. One thing you just said, though, struck me as amazing. You mean in all the millions of dollars that EPA spends on staff, they don't have anybody who can work with you on bioremediation?

Ms. KING. It is a little more extensive than bioremediation but yes, that is the crux of it. But it is learning more about it and learning that our current risk assessment methodologies do not include a factor for bioavailability.

And quite quickly, it means that when we do tests nowadays, when we take a lump of soil, our test uses—our tests use solvents and we call those solvent extractions. And you can extract all the—say there is oil in the soil.

You extract all the oil and you say to yourself, that quantity is an amount of oil or oil residuals that will be used by plants and animals. What we know now is that is not the case. The solvents take things out of the soil that normally will not ever be up to—will not be available for uptake by plants or animals.

The soils—the oil gets locked into the tiny pore spaces of the soil called nanopores and it is not available. Even if a plant or an animal or a child ate the soil, it would be unavailable for that child to digest that product.

And so our tests give us a wrong picture of what we use to base our risk assessments on, which is one of the reasons why our risk assessments come up with conclusions that are so ultraconservative that they are so unrealistic, and then we base remediations on that to the tune of millions and millions of dollars, not only in—for the petroleum industry but for places like Department of Defense facilities, Department of Energy facilities and airports and every place else.

Mr. MCINTOSH. Thank you. I appreciate that. Our final witness on this panel is Ms. Barbara Price, who is vice president of health, environment and safety for the Phillips Petroleum Co. Thank you, Ms. Price, and welcome. Please share with us a summary of your testimony.

Ms. PRICE. Thank you. It is very nice to be here. I have submitted a written statement. It is much more extensive. I will try to be brief. I do want to thank you for this opportunity for those of us involved in developing the petroleum resources of our country to address the current regulatory environment which affects our business.

We greatly appreciate the efforts of this Congress to draw attention to areas where our current regulatory system could be improved. Most encouraging to us has been the willingness of so many to consider ways to improve the development and implementation of Federal regulatory programs, especially in light of the progress we have all made and the maturity of the State programs over these many years.

I previously submitted to the committee a written statement with many specifics but I will try to be more general. I would like to focus on several broad themes which I think would best serve the interest of the public should indeed they be implemented.

The petroleum industry by its very nature is involved every day in the environment. As Ms. Hansen said earlier, regulation of the

petroleum industry goes back well over 100 years, long before EPA was even a glimmer. It is impossible to develop our natural resources without impacting and being impacted by the environment.

Consequently, many of our employees have a special tie to and understanding of our shared environmental resources and responsibilities. We certainly have a strong appreciation for the significant effect environmental regulations have on our business.

We continue to support the need for Government to provide a regulatory framework designed to conserve and enhance the quality of our environment. But more importantly, we strongly support the continued enhancement of the overall quality of life for us all.

Unfortunately, the public has come to expect the Government to provide the direction, the specific methods and the oversight in this area of public policy. However, in the new global economy, we cannot remain competitive if we continue to rely on inflexible command and control mandates that actually discourage innovation and impede economic growth.

Just as the petroleum industry has had to develop new tools to find and produce oil and gas in remote and challenging locations, to manufacture products designed to meet ever-changing consumer needs, and to successfully operate in a globally competitive world, we need the environmental regulatory processes to evolve and grow and improve as well.

First, we need a more flexible system. If we define the level of performance that is expected rather than dictate the methods, we allow creative approaches and actually encourage businesses to find a better way because it just might give them a competitive advantage.

The Federal reformulated gasoline program is a perfect example of how not to do it. The Congress and EPA decided exactly how gasoline should be manufactured. Second, regulations must be results oriented. Using reformulated gasoline again, the Congress stipulated that this fuel must not increase the emissions of nitrogen oxides, since nitrogen oxides can contribute to higher ozone levels.

In its final rule, however, EPA indeed mandated that nitrogen oxides must go down as reformulated gasoline is developed. This decision, which applies to all areas subject to RFG requirements disregarded information which demonstrated that reducing these emissions in several cities subject to the RFG program will actually increase the ozone levels.

In this instance, a so-called pollution control strategy can actually diminish air quality. Not a clear contribution to the environment and certainly not to our quality of life when we pay for something and then we don't get it.

Third, regulatory programs must be balanced. No one wants poor environmental quality but we all do want an ever-improving quality of life. Protection of the environment is not an option. It is an operating necessity.

For decades, the industry has been subject to environmental requirements at both the Federal and State level. The industry, working closely with the Interstate Oil and Gas Compact Commission and individual States, has implemented many programs specifically designed to address ongoing environmental issues.

For the most part, these requirements, particularly those driven by the States, have noticeably improved the quality of the environment at a reasonable cost. However, we are rapidly approaching a point where the regulatory burdens, additional environmental gains, will be dwarfed by the costs associated with these programs.

That does not mean we oppose environmental improvements or that we think everything is as good as we want. But it does mean that we need to be careful that environmental improvement does not cost so much that our quality of life suffers.

It does not—it does mean that we want every dollar we spend to buy real improvements. A Federal bureaucracy which imposes costly burdens without any evidence of real improvement in human health or the environment must be redirected.

The quality of life depends upon a clean and healthy environment but it also depends on a healthy and growing economy. To the extent we needlessly lose opportunities to expand our economy because of the wrong regulation, our quality of life and that of future generations is negatively affected.

Finally, environmental stewardship, whether by government or industry, increasingly needs to be focused at the local level. In our efforts to improve operating efficiency, businesses like Phillips have begun to transfer the responsibility and resources of implementing our safety and environmental policies to individual employees at operating facilities.

Safety and environmental plans are an integral part of the total business plan. This transition from a centralized management system has evolved over several years and has been accompanied by a strong program to educate all our employees about the expected level of performance and an equally strong program to measure results.

As employees take ownership of these programs, they have not only met our operational goals but in many instances, have identified additional areas where further improvements were possible. Environmental protection in the 21st century will require this type of approach.

Programs which have clear value implemented in a flexible and balanced manner by individuals directly affected by both the costs and the benefits of such programs must be our goal.

Unfortunately, this is not the direction that most of our current environmental laws and regulations allow us to go and we have heard many examples today. We want to encourage your efforts to continue to move our statutory and regulatory programs in that direction.

I thank you very much for your attention and for coming to Oklahoma and look forward to answering questions.

[The prepared statement of Ms. Price follows:]

**ORAL TESTIMONY OF BARBARA PRICE  
OF PHILLIPS PETROLEUM COMPANY  
BEFORE THE  
HOUSE SUBCOMMITTEE ON NATIONAL ECONOMIC  
GROWTH, NATURAL  
RESOURCES AND REGULATORY AFFAIRS  
REGARDING THE IMPACT OF REGULATION ON THE  
OIL INDUSTRY  
NORMAN, OKLAHOMA  
MAY 20, 1996**

Good morning, I am Barbara Price, Vice President of Health, Environment and Safety for Phillips Petroleum Company. I want to thank you for providing this opportunity for those of us involved in developing our petroleum resources to address the current regulatory environment affecting our business. We greatly appreciate efforts throughout this Congress to draw attention to areas where our current regulatory system could be improved. Most encouraging to us

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has been the willingness of so many to consider ways to improve the development and implementation of federal regulatory programs, especially in light of our progress and the maturity of state programs over these many years.

I previously submitted to the Subcommittee a written statement identifying many specific regulatory programs that influence our efforts to explore for, produce, process and distribute oil and natural gas and the products derived from those resources. In the time remaining, I would like to focus on several broad themes which I believe would best serve the interests of the public regarding how the petroleum industry

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should be regulated, particularly with regard to the environment.

The petroleum industry by its very nature is involved every day with the environment. It is impossible to develop our natural resources without impacting and being impacted by the environment. Consequently, many of our employees have a special tie to and understanding of our shared environmental responsibilities. We certainly have a strong appreciation for the significant effect environmental regulations have on our business.

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We continue to support the need for government to provide a regulatory framework designed to conserve and enhance the quality of our environment. But more importantly, we strongly support the continued enhancement of the overall quality of life for us all.

Unfortunately, the public has come to expect government to provide the direction, the specific methods and oversight in this area of public policy. However, in the new global economy, we cannot remain competitive if we continue to rely on inflexible, command and control mandates that actually discourage innovation and impede economic growth.

Just as the petroleum industry has developed new tools to find and produce oil and gas in remote and challenging locations, to manufacture products

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designed to meet ever-changing consumer needs, and to successfully operate in a globally-competitive world, we need the environmental regulatory processes to evolve, grow and improve as well.

First, we need a more flexible system. If we define the level of performance that is expected, rather than dictate the methods, we allow creative approaches and actually encourage business to "find a better way" because it just might give them a competitive advantage. The federal reformulated gasoline program is a perfect example of how not to do it -- the Congress and EPA deciding exactly how gasoline should be manufactured. The Clean Air Act established



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performance standards for hydrocarbon and air emissions in the exhaust from motor vehicles using reformulated gasoline, but then went too far and mandated that specific levels of oxygenates be added to gasoline. Although most refiners would probably have used oxygenates naturally in their plans to reformulate gasoline, the federal mandate denied refiners the ability to optimize the design of this new fuel to achieve the required level of emissions at the lowest cost to the consumer.

Second, rules must be more results-oriented.

Using the reformulated gasoline example again, the Congress stipulated this fuel must not increase

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emissions of nitrogen oxides since these compounds can contribute to higher ozone levels in urban areas. When EPA finalized the RFG program, however, it went beyond the Congressional intent and dictated that nitrogen oxide emissions must actually be reduced beginning in the year 2000. This decision, which applies in all areas subject to the RFG requirements, disregarded information which demonstrated that reducing these emissions in several cities subject to the RFG program will actually increase ozone levels. In this instance, this so-called pollution control strategy will diminish air quality, contravening the clear intent of the program, while at the same time raising costs of production. Not a clear contribution to the

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environment, and certainly not to our quality of life when we pay for something and don't get it!

Third, regulatory programs must be balanced. No one wants poor environmental quality - but we all do want an ever-improving quality of life. Protection of the environment is not an option for the petroleum industry; it is an operational necessity. If we don't contribute to the overall quality of life, we know we will not exist. For decades the industry has been subject to environmental requirements at both the federal and state level. The industry, working closely with the Interstate Oil and Gas Compact Commission and individual states, has implemented many programs

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specifically designed to address on-going environmental issues. For the most part, these requirements, particularly those driven by the states, have noticeably improved the environment. However, we are rapidly approaching a point in the regulatory area where additional environmental gains will be dwarfed by the costs associated with those programs. That does not mean we oppose environmental improvements, or that we think everything is as good as we want. But it does mean that we need to be careful that environmental improvement doesn't cost so much that our quality of life suffers -- it does mean we want every dollar spent to buy improvements for us all.

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A federal bureaucracy which denies the domestic petroleum industry access to critical natural resources, which imposes Herculean toxic release reporting requirements on thousands of small facilities, which subjects remote oil and gas operations to expensive emissions control requirements, and which tightens the ozone ambient air quality standard that could subject hundreds of additional areas to stringent emissions control requirements without any evidence of real improvement in human health or the environment, must rethink its direction. The quality of life depends upon a clean and health environment, but it also depends upon a healthy and growing economy. To the extent we needlessly lose opportunities to expand our economy

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because of the wrong regulation, our quality of life and that of future generations is negatively affected.

Finally, environmental stewardship whether by government or industry increasingly needs to be focused at the local level. In our efforts to improve operating efficiency, businesses , like Phillips, have begun to transfer the responsibility and resources for implementing many safety and environmental policies to individual employees at operating facilities. Safety and environmental plans are an integral part of the total business plan. This transition from a centralized management system has evolved over several years and has been accompanied by a strong program to educate all employees about expected levels of

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performance and an equally strong program to measure results. As the employees take ownership of these programs, they have not only met our operational goals, but, in many instances, have identified additional areas where further improvements could be made.

Environmental protection in the 21st Century will require this type of an approach. Programs which have clear value, implemented in a flexible and balanced manner by individuals directly affected by both the costs and the benefits of such programs must be our goal. Unfortunately, this is not the direction most of our current environmental laws and regulations will allow us to go. We want to encourage you to continue

your efforts to move our statutory and regulatory programs in that direction. Thank you for your attention, and I would be happy to answer any questions.



**PHILLIPS PETROLEUM COMPANY**

BARTLESVILLE, OKLAHOMA 74004  
918 661-0100

BARBARA J. PRICE  
Vice President  
Health, Environment and Safety

May 9, 1996

The Honorable J. C. Watts  
United States House of Representatives  
1713 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Watts:

Phillips Petroleum Company appreciates this opportunity to provide information concerning the impact of regulations affecting the petroleum industry. We commend your efforts to identify those regulations that unnecessarily burden the industry and look forward to working with you to improve the regulatory process.

Information addressing the regulatory programs affecting both the upstream and downstream sectors of our industry is attached to this letter for your review. We have also attached a report in the final stages of development by the American Petroleum Institute which thoroughly reviews regulations currently under consideration that will measurably affect the oil and gas industry. This report entitled, "Achieving Common Sense Environmental Regulation: The Oil and Gas Exploration and Production Industry," should be helpful in your investigation of how new rules may adversely affect the industry.

If you have any questions on this material, please contact Jim Godlove in our Washington D. C. Office at (202) 833-0916.

Sincerely,



Attachments

## PRIORITY REGULATORY RULEMAKINGS

### Environmental Regulations - Air Issues

#### Review of Ozone National Ambient Air Quality Standard (NAAQS)

The Clean Air Act requires the U.S. EPA to periodically review the National Ambient Air Quality Standards (NAAQS) for criteria air pollutants. Ozone<sup>1</sup> is one of the criteria pollutants which the EPA reviews approximately every five years to make certain that human health is protected. There are 75 geographic areas in the country which do not comply with the ozone standard and have been identified as "nonattainment." These 75 areas are classified by EPA according to the severity of the ozone levels and are subject to various regulations for each area according to their classification (marginal, moderate, serious, severe, and extreme). The Clean Air Act sets up deadlines when the areas must meet the ozone standard.

Although there are still 75 designated nonattainment areas, the EPA reports that the number of areas which do not meet the standard has fallen by 20 percent since the Clean Air Act was reauthorized in 1990.

The current ozone standard is 0.12 parts per million (ppm) averaged over a 1-hour period with one exceedence allowed per year. An area is classified as nonattainment when local air pollution monitors record an exceedence of this standard four times in three years. The American Lung Association has filed suit to force the agency to consider whether the current NAAQS for ozone should be changed. EPA's proposed rule will probably include a range of options (0.07-0.09 ppm) to replace the current standard with an 8-hour standard allowing 2-5 exceedences per year.

Section 109 of the Clean Air Act requires the EPA to set a standard which protects human health "allowing an adequate margin of safety." Advocates of a tighter ozone standard have suggested that it needs to be more protective of outdoor workers, people with respiratory problems, and children. However, studies have shown that the health impacts of such a new standard on children, workers, or those with respiratory illnesses would be essentially the same as the current 0.12 ppm 1-hour standard. (Source: CASAC, Nov. 31, 1995 closure letter to the EPA.) Yet such a new standard would increase the number of

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<sup>1</sup> There are two types of ozone. One type is in the upper atmosphere and there is concern about its destruction caused by CFC chemicals. The type of ozone this paper addresses is ground-level ozone that people breathe.

ozone non-attainment areas to as many as 200 - 300, causing significant economic disruption and additional administrative burdens on the states.

A tightened ozone standard will require additional control strategies and technologies for existing nonattainment areas and new programs for the newly-designated nonattainment areas. States will be forced to invest scarce financial resources to substantially revise existing State Implementation Plans (SIPs) or prepare SIPs for the newly-designated areas. This will mean increased control measures for stationary, mobile, and consumer sources, including restrictions on the use of automobiles and other consumer products, as well as substantial lifestyle changes. An additional effect of the revised SIPs will be a substantial change in the quantity, nature, composition, and mix of fuels currently used by industry in transportation, in businesses and possibly in homes. After these changes occur, there will be no improvement to human health or the environment; only higher costs, less economic prosperity, and greater regulatory burdens.

#### Revision of the Particulate Matter (PM) Ambient Air Quality Standards (NAAQS)

EPA is expected to recommend a revised particulate matter standard that will likely result in a large increase in the number of nonattainment areas. As with the ozone standard, this revision will also likely have a dramatic effect on the fuels we use in all aspects of our daily lives. A thorough review of the health data associated with the current standard and the health and economic impacts of changes in that standard is needed before the EPA moves forward with this rulemaking.

#### Compliance Assurance Monitoring/Any Credible Evidence Rule (ACE)

EPA plans to finalize a rule this summer that will dramatically increase evidence that citizens and agencies may use to determine a violation with the Clean Air Act. The "any credible evidence" rulemaking (ACE) will essentially eliminate language in several parts of the existing federal regulations that requires exclusive reliance on reference test methods for demonstrating compliance with CAA emission limits. ACE will replace this requirement with a more general rule allowing state and federal enforcement agencies and citizens to use "any credible evidence" in bringing suits against businesses. This new approach will produce no health protection benefits, but will result in a significant increase in litigation (with lawyers being the primary beneficiary)

Over the years EPA has established mandatory testing schedules as a basis for determining compliance with specific Clean Air Act rules. Based on the testing schedule (whether annually or quarterly; individual tests or continuous monitors, etc.) agreed to following public notice and comment, EPA specified a level of

performance. By increasing the monitoring frequency, the ACE rule will in effect tighten all existing CAA standards significantly without going through the appropriate rulemaking process. Industry believes that the ACE rule violates the Administrative Procedures Act and 307(b) of the Clean Air Act. In addition, the rule fails to articulate what constitutes credible evidence. Therefore, a facility will not know what tools or methods it should use to determine compliance, or what a regulating body will use.

#### Potential to Emit

The applicability of EPA's Maximum Achievable Control Technology (MACT) regulations is based on whether a source is a "major source". This is defined as one which emits, or has the "potential to emit" (PTE), 10 tons per year of a single hazardous air pollutant (HAP) or 25 tons per year of a combination of HAPs. EPA defines PTE as a level associated with the facility's maximum production capacity, reduced by pollution controls that are "federally enforceable" (i.e., state controls that are not federally enforced must be ignored).

EPA's long-standing insistence on the federal enforceability requirement creates administrative obstacles and is quite cumbersome for regulated entities and state and local governments. Furthermore, it would convert many small emitters into "major sources" for purposes of MACT adding significant regulatory burdens but not measurably improving the environment. EPA should abandon the unnecessary federal enforceability requirement in the PTE definition.

#### Refinery II MACT

EPA is currently initiating work on a second refinery MACT rule which will cover three emission sources that were excluded from EPA's 1995 MACT rule. This new rule will cover process vents from fluid catalytic cracker units (FCCUs), catalytic reformer units (CRUs), and sulfur recovery units (SRUs). The current schedule calls for the rule to be issued in 1997. Industry has begun an analysis of the cost effectiveness of this new MACT rule. It appears that requirements will be very expensive for the minimal hazardous air pollutants (HAPs) reductions likely to be achieved. The substances to be controlled have been identified as hazardous they not pose a threat to public health and the environment at their present levels in these units. And they certainly do not warrant the expenditures that would be necessitated if EPA moves forward with the proposal. Also, the EPA is proceeding based upon only limited emissions data whose quality is questionable. EPA should defer promulgation of this rule until earlier MACT requirements have been fully implemented and then move ahead only after adequate data is available which demonstrates a need for the additional controls.

## Environmental Regulations - Waste Issues

### Remediation of RCRA Wastes

Phillips Petroleum Company has been actively participating in regulatory and legislative initiatives to reform the manner in which hazardous wastes that pose a low risk to human health and the environment are managed. The two most promising areas for reform of RCRA were in the land disposal restriction rules and requirements associated with the management of remediation wastes. Recognition of these issues this year resulted in bipartisan legislative actions, endorsed by the White House, EPA and industry, to enact reforms to the RCRA Land Disposal Restrictions. The second RCRA "rifle shot" legislative effort would allow approved site-specific alternatives to strict hazardous waste regulations of wastes generated during remediation/clean-up activities is being negotiated by the same group of stakeholders and has been addressed in Superfund legislation in both houses of Congress and in stand-alone legislation introduced by Senators Lott and Breaux. It is our desire that an alternative program be developed that would allow the management of remediation wastes generated at RCRA sites be tailored to address the risk posed by the waste at the site where the waste is being disposed. This will have a dramatic economic benefit to both the oil and gas processing and refining industry.

### Hazardous Waste Identification Rule

While there are serious efforts to streamline / reform the RCRA program in some areas, EPA is perpetuating over-regulation in the development of new regulations. The recently proposed Hazardous Waste Identification Rule (HWIR) purports to allow low-risk process wastes to avoid stringent hazardous waste regulation. However, EPA has used an untested and flawed risk assessment methodology to generate extremely low "exit levels" that provide little or no relief to the petroleum industry. If this overly-bureaucratic, complex and expensive process is implemented to determine when a waste can exit the current system, few facilities will qualify and the wasteful and expensive management process for these wastes will continue.

### Refinery Residual Listings Rule

Another example of pending over-regulation is the proposed hazardous waste listing for some petroleum refining "residuals" already subject to hazardous waste regulation by virtue of their hazardous waste characteristics. Should these residuals ultimately be listed (even in the face of technical data suggesting that further management is unnecessary), Phillips is strongly in favor of exemptions to the hazardous waste listing for spent catalysts and other residuals that are recycled or

managed in ways that are shown by EPA's own risk assessments not to pose a significant threat to human health or the environment. Again this is not an example of objecting to requirements needed to protect the environment, rather objecting to a requirement which needlessly adds costs without a measurable improvement in health or the environment.

#### Environmental Regulations - Water Issues

##### Stormwater Program Phase II Rulemaking

EPA has convened a committee to develop recommendations on how they should proceed with complying with a Clean Water Act mandate to address "Phase II" storm water discharges. Phase II may include stormwater discharges from commercial activities with industrial components i.e., gas stations, convenience stores, dry cleaners and parking lots, smaller construction sites, and petroleum pipeline and terminal operations. This undertaking will likely include new federal and/or state requirements such as performance standards, guidelines, technical guidance, management practices, and treatment requirements.

#### Environmental Regulations - E&P Regulatory Issues

##### Expansion of TRI Reporting to the E&P Industry

Upcoming EPA regulations could require over 4,700 exploration and production facilities to report annually their releases to air, water, land and underground. Such an expansion of the Toxics Release Inventory reporting program would cost the E&P industry over \$200 million in the first year alone and over \$100 million each subsequent year. This cost would be incurred for virtually no environmental benefit, since the information reported would largely reflect release from extremely remote facilities that pose minimal risk to communities.

##### Production Wastes

Most exploration and production wastes are effectively managed under current state regulatory programs and thus are exempt from the hazardous waste management requirements of the federal Resource Conservation and Recovery Act (RCRA). In May, 1995 EPA released for comment a series of technical resource documents on three E&P associated waste categories. EPA used an inappropriate

model to rank the potential hazard of these three associated wastes and the management practices used to dispose of them. This model assumed a continuous release of contaminants from the waste site which is not the situation with "associated wastes" from oil and gas production operations. Another model is available which more accurately reflects environmental degradation and attenuation which occurs at sites containing these wastes. EPA should use this more realistic model for determining the hazard potential of associated wastes before recommending changes in industry practices and state regulatory methods.

#### MACT Standards for Exploration and Production Operations

MACT emission standards for upstream activities are currently being developed by EPA and industry is concerned that MACT standards will go beyond those mandated by Congress. Several letters from Members of Congress have been sent to EPA expressing deep concern over a preliminary draft proposed rule issued last year. This proposal contravened Congressional language limiting the Agency's ability to aggregate emissions from E&P wells and their associated equipment for the purposes of determining whether a source is a major source of HAP emissions.

#### Transportation Fuels Regulation

##### Reformulated Gasoline NOx Requirement

The 1990 Clean Air Act established requirements for a new gasoline formulation to be available in nine ozone non-attainment areas by 1995 (additional non-attainment areas could opt-in to this program). In addition to specific requirements for volatile organic carbon, toxic, and benzene emission reductions, the statute stipulated that the new reformulated gasoline must not increase the emission of nitrogen oxides from automobile exhaust. This provision was intended to address a belief at the time the amendments were adopted that these emissions might increase as a result of the mandatory use of "oxygenates" in the fuel. In promulgating regulations to implement this new requirement, EPA went well beyond the intent of Congress and decided to mandate a net reduction in NOx emissions beginning in the year 2000. (This is the date that the more stringent Phase II requirements of reformulated gasoline become effective.)

This action by EPA will significantly increase the cost to produce reformulated gasoline. Furthermore, it will be implemented for all areas subject to the reformulated gasoline requirements regardless of the impact such a change may have on air quality in those areas. In several of these areas (in and around the Chicago and Houston areas), the ozone levels in the ambient air may actually

increase as a result of this action. This violates Congress' purpose in enacting the reformulated gasoline program. The refining industry has recently petitioned the EPA to reconsider this ill-advised requirement. A decision on the petition is needed very quickly before refiners must begin making major economic investment in new equipment to make the changes required by this NOx reduction requirement.

#### Regional Gasoline Requirements

The Clean Air Act established an Ozone Transport Commission to address regional ozone air quality concerns in the northeast U.S. In addition to this statutory group, the EPA has encouraged the formation of a Ozone Transport Assessment Group which consists of state air regulators in 31 states east of the Mississippi River. Both of these groups are designed to assist EPA in addressing the ozone transport issue and providing information to the states in order for them to meet the ozone air quality goals of the Act. Among the emissions controls being considered by these group is the effect of motor fuels on their regional air quality. The OTAG process is rushing to meet a December 31, 1996 deadline established by EPA for its recommendation on additional regional controls. This tight deadline could lead to recommendations on fuel composition that have the potential to significantly increase the cost of gasoline sold throughout this region. It could further exacerbate a developing problem of being able to manage all the different grades of motor fuels that are being mandated for sale. Finally, such regional control plans naturally impose controls and costs on areas which are already in compliance with the law and consequently will receive little if any benefit from the program. Congress should exercise oversight of these activities to assure that unintended and unnecessary costs from Clean Air Act do not result from this program.



Mr. MCINTOSH. Thank you very much. Mr. Ross, I have got some questions for you, but I am going to defer those for a few minutes. And I want to say to Ms. Price and Ms. King, the written testimony that you provided us where you listed several examples of regulatory programs that don't make sense the way they are being carried out will be enormously helpful to us and I may ask a woman on our staff, Larisa Dobriansky, who is an expert in this area, to be in further touch with you about specific things that are coming up.

Let me mention one in particular. You mentioned the reformulated gas guidelines on NO<sub>x</sub> standards. Would the way they are being structured now actually decrease air pollution—or increase air pollution, decrease our efforts to fight air pollution in some of the cities—Houston and Chicago—because it would actually increase the ambient ozone?

Are those current standards or is that a pending regulation?

Ms. PRICE. It is pending. The RFG requirements require—Congress said that the reformulation into phase II could not increase NO<sub>x</sub>. What EPA has said is it has to decrease NO<sub>x</sub>. In order to decrease NO<sub>x</sub>—

Mr. MCINTOSH. And they said that in a final rule—

Ms. PRICE. In a regulation—in a rule.

Mr. MCINTOSH. And then you mentioned the industry has petitioned them to reconsider that?

Ms. PRICE. Yes.

Mr. MCINTOSH. Let me mention something to you and you can assist me in making sure that attention is paid in the industry. And actually, you might mention it to both J.C. and Senator Nickles. This new congressional review now applies to petitions and so if EPA doesn't do a satisfactory job of answering your petition, it is—that is a final regulatory action that can be subject to congressional review.

So we can watch that one closely and see if they get it right on the petition process and very possibly bring that back up. By the way, as you can tell, I am looking for some test cases to make this new process work and so if you hear or see of any that would make sense, let me know.

Ms. King, I wanted to ask you also about one that looked interesting along those same lines on the remediation. And you mentioned that right now, the current standards or definition of soils is such—is that the point you had made at the close of your testimony the same one about the oil being—not being measured correctly?

Ms. KING. Yes. Just to say that the methods we currently have available to us that are recognized by EPA in the States that we work with are the wrong type of test. And since we are the ones that—

Mr. MCINTOSH. And is that a final—

Ms. KING [continuing]. It hurts us, the onus, then, obviously is on us to come up with suggested new test methods that would be more appropriate.

Mr. MCINTOSH. But before you can use those, you have to convince the regulation and they have to change—the agency and they

have to change the regulations to acknowledge those testing procedures?

Ms. KING. That is correct. And I must say that in the area of risk assessment, when you are dealing with the States, they tend to look to EPA for the nod as to the test—the risk assessment methodologies that are appropriate.

Mr. MCINTOSH. OK. And then on the definition of solid waste, you mentioned it actually constrained some efforts to recycle materials.

Ms. KING. Absolutely. In—on the definition itself—probably has gone through many renditions under RCRA. However, there are still many constraints that are totally unnecessary and I think this is a perfect example of what Mr. McPherson was saying, that when people have situations and they come and present their waste streams, their byproducts—what is interesting is under the definition, if you are doing something like refining products and you just happen to create a byproduct—and that is a definition in RCRA—something that is not one of your refined products, a phenolic acid or something, and it qualifies under the definition of byproduct, you can take that and go sell it on the marketplace to be used.

However, if it just doesn't happen to qualify for that definition because it is waste like or some other constraints, then you have to call it recycling or reclamation. And once you fall into those little categories, you have all—somebody who wants to utilize that as a material in their process, they have to become a hazardous waste recycler with all the onus and the stigma.

It is not sometimes even the burden of all the paperwork. It is the tremendous stigma that we have in this country for then going into business and utilizing someone's waste stream as part of the product when it should be just the other way around. It should be a plus.

Mr. MCINTOSH. So let me make sure I am following you correctly. The way the regulatory system is set up right now, if you are refining a product and you have got byproducts, if you will—now, these both are terms of art.

You have got things left over. If they come into the category of byproducts, people can develop technologies to use them and have a pretty good incentive to do so because they can put them to economic use.

Ms. KING. They are somebody else's raw material for their products.

Mr. MCINTOSH. They are somebody else's positive input into their process. But if they are labeled as waste, then in order to switch from waste into byproduct, that is not possible.

Ms. KING. It is not possible.

Mr. MCINTOSH. You have to continue once they are labeled waste to have all of the drawbacks of being a waste product. So if somebody says, Well, this is a waste today but I can think of a better way of using it and can actually create a new company that is going to turn it into tomorrow's plastic or some other product that they can make money off of, they are stuck.

They can't do anything under our current regulatory regime?

Ms. KING. They are stuck in a paperwork burden that drives them not to do it because of the recordkeeping and reporting.

Ms. PRICE. You can—Congressman, if I might—

Mr. MCINTOSH. Certainly.

Ms. PRICE. Part of what you have to distinguish—you are exactly right when you said a term of art. That is the reason, if you noticed, Ms. King used the term refinery residuals. We call them residuals because they have not been classified, “waste,” under an EPA category.

So we tend to be very careful in the industry of using the term waste because art does catch you. But the problem you have—really, it comes two different ways at you. One, it can come at you from the standpoint of the way Congress wrote the law.

For example, the example Mr. MCPHERSON was giving you, the benzene emissions, that there was a better way to control the benzene emissions. The problem that EPA has there is even if EPA had wanted to do what made good sense, the law did not allow them to because Congress, for a time there, really wrote regulations in the law.

The second problem that Amoco would have or any company would have in a situation like that is because most of the environmental laws have citizen suit provisions. Even if you come up with an alternative compliance procedure that EPA, the State, and half the world agrees to, because there is a citizen suit provision which—and there is a case in California pending at the moment where the State is happy, everybody is happy, but the law—the Federal law is not specifically complied with.

There is an environmental group that has filed a citizen suit. So a corporation, if indeed it finds a better way to comply, is stuck in that—the citizen suit provision will come back and get you.

Mr. MCINTOSH. So until we have reduced the burden of litigation, along with creating more flexibility in the statutes, you are not going to see a lot of people take that risk.

Ms. PRICE. That is exactly right. Now, there are—the other problem—and it happens in this waste provision—is one that is agency driven. The agency frequently—just as in the NO<sub>x</sub> example and RFG, the agency will frequently go beyond what Congress said—which is hard to do sometimes because Congress is specific.

But they will go beyond and when they go beyond and they get a definition in place, which is the case on waste and byproducts and—once that gets in place, then essentially you have got a congressional or a legal battle in terms of overturning a decision by the agency.

You have the burden of proof to prove that the agency acted with undue discretion or whatever they call it—irresponsibly. You never succeed in that so most companies wipe that out as an option and don't even try it.

So it does actually get in the way. Now, you really get it in the petroleum industry because a lot of our, “wastes,” are nothing more than pieces of fruit. So if we are allowed—and we are in many cases now after years of fighting—to take those pieces that are things we can't sell and put them back in the crude oil so that they come through the refinery again, we don't have to throw them away.

But we used to have to throw them away. You used toluene or some hydrocarbon to clean a reactor. That was now a waste even

though if you dumped it back in the crude oil—and your refinery would never know it—and you could reprocess that material into—you would never be able under any analytical capability to tell the difference. Never.

Mr. MCINTOSH. And so you can find benefit from a lot of the waste.

Ms. PRICE. Oh, you can.

Mr. MCINTOSH. Yes. It is my—

Ms. PRICE. It is particularly true in the refining industry because crude oil varies so much. It is essentially such a wide range of chemical constituents that whether that is coming because we bought crude from here or crude from there or because something else has been put back into it, it doesn't make any difference the way our processing has to take care of that wide range.

Mr. MCINTOSH. So you have already engineered to take care of the recycling part.

Ms. PRICE. Exactly. And we are not going to put anything back in there that is really awful because if we do, it is going to screw our catalysts up on the front end of refineries and you screw the catalysts up and you are talking big-time bucks. So companies won't do that.

Mr. MCINTOSH. So the system could work to—

Ms. PRICE. It could—

Mr. MCINTOSH [continuing]. If it were allowed. Along the lines of increasing lawsuits, I noticed your testimony included any credible evidence rule as an example of one that is coming through the pike where it looks like the agency is actually going to put into rules something that will make it a lot easier for people to start suing each other.

Ms. PRICE. That is exactly what will happen. The way it is now, if we file quarterly reports, as Mr. McPherson is talking about, then it is in those quarterly reports that the citizen has to make their suit off of. If we have continuous emissions monitoring and at any instant, you go out of compliance, at any instant, that is a basis for a citizen suit.

So in essence, you lower the standard by having the continuous emissions—

Mr. MCINTOSH. And the any credible evidence rule would allow them to use each instant rather than the final—

Ms. PRICE. Every instant. That is exactly right, that a citizen suit can be based on any credible evidence at all. So if I were one-tenth over my permit for 1 minute, that would be enough to file a citizens suit. And I might say that the suit might not at all succeed, but the cost to companies, as I am sure Mr. Ross knows—the cost is the filing of that suit on the front end.

It is not whether you win or lose, many times. You spend a small fortune on it just playing.

Mr. MCINTOSH. That is right. And oftentimes people will settle just to avoid the nuisance.

Ms. PRICE. Exactly.

Mr. MCINTOSH. Thank you both. And as I said, your written remarks will be enormously helpful to us and I will have Larisa followup with you on some of those. I think there is fertile ground here for changes to be made in these regulatory systems.

Let me now turn to my colleague, Mr. Watts, and see if he has any questions and then, Mr. Ross, I have got a couple left for you as well.

Mr. WATTS. Well, let me—I am going to focus on Mr. Ross' testimony. Now, in your testimony, you said the prices rise and fall based on supply and demand and I think most folks agree with that or would agree with that. And we heard testimony of Mr. McPherson of Kerr-McGee and Mr. Bilas as they talked about what is happening to the domestic refinery—refining process or the refinery industry.

There is no longer—and they mentioned in their testimony because of, you know, overregulation and the burden of overregulation, that you wouldn't dare expand a refinery and you—it is unthinkable to even—to think about building one and I recall down in Winnewood, I guess, in the last 8 or 9 months, Kerr-McGee just sold off a refinery and we thought that we were going to lose that, the Fourth District, and worked with some people out of Colorado that came in and took it over and we saved those 200 jobs.

But—so they said there is no longer enough refining—or you are saying, your testimony, which vouches again for what they said, that there is no longer enough refining capacity in the United States to satisfy demand.

So when inventories are low and demand is high, prices go up. And that is—I mean, that is pretty much going to be involved in any industry, you know, the energy business, you know, buying washing machines or refrigerators or whatever the case.

When the supply—when the demand is high and the supply is low, prices are going to go up. Now, you stated that regulation and taxes directly make up 42 percent of the price of your gasoline—

Mr. ROSS. Of our cost.

Mr. WATTS [continuing]. Which would be a—when I go to the local 7-Eleven and I buy a gallon of gas, 42 cents of that \$1.07 that I pay for a gallon of gas is directly related to regulation and taxes. Is that correct?

Mr. ROSS. No. The—that calculation was based upon our cost, not what we retail it for.

Mr. WATTS. OK. But—

Mr. ROSS. But it would be close.

Mr. WATTS. OK. Yes. It would be similar. But 42 cents—Mr. Chairman, is that some kind of—I don't—I doubt Mr. Ross brought any documentation today to verify that. Is there some way that we can—if Mr. Ross could get us documentation on that that we could get that in the record?

Mr. MCINTOSH. Yes. If we could have a breakdown of those different regulatory costs and—that would be enormously helpful to us as we debate this issue on gas prices.

Mr. WATTS. Thank you. And that is a huge amount and I am sure the consumer is not aware that 42 percent of the price they pay for gasoline, within that range, 44 percent, 42 cents, is going to be directly related to regulation and taxes.

Are the regulations to blame in part for the recent increase in gasoline prices?

Mr. ROSS. I would say that some of it is. I am not in the refining business per se. I am in the retailing business. We don't have any

oil and gas production or any refineries. We just buy products on the open market. But I would have to say that some of it is definitely.

Mr. WATTS. And I believe—I guess what I am getting at is when you consider the law of supply and demand, then if regulation and taxes are keeping refineries from refining and it is keeping the exploration end of the industry from exploring for fuel, et cetera, then I would think that that would have—I guess as you said, some impact on the price of fuel going up.

If you can't replace the reserve that you are using and you can't—you know, refineries can't do what they are supposed to do, that makes us even more dependent on foreign oil, which, again, is another story in itself. But you would say that this has some effect on the recent increase in fuel prices.

Mr. ROSS. I would definitely think so. It is—whenever there are more choices for us to buy in the open market, more refinery, more product, prices seem to be less than they are today. So I would definitely have to agree with you, Congressman.

Mr. WATTS. Now, it is also interesting—you mentioned that EPA regulations cost staggering amounts for family businesses and I think in your testimony, you said that you all market product through about 126, 127 different outlets in six States.

I would think that that is a pretty decent sized operation and obviously you started out with one and eventually grew to where you are today. But what is the impact on a business that has two of these operations? I mean, someone that has two outlets that they market through, I would think that there is a danger that regulations will eventually drive them out of business and I am probably safe in saying that would eventually drive you all to have to downsize.

That means there is less tax revenue for a respective State. There is less employment benefits for a respective State, et cetera. Now, again, this is pretty elementary but I just want you to share your thoughts with me on that.

Mr. ROSS. Well, I would agree, Congressman. Definitely we are seeing a decline in the number of motor fuel outlets currently and definitely regulations and the costs have to slow that down or slow growth down for us. We will continue to try to be around, but definitely, with the cost of complying with all the rules and regulations, we aren't able to grow as much as we would.

And certainly in a smaller business as you described, the cost of regulation has to be much higher, particularly when smaller businesses don't have staffs to handle all these rules and regulations. We have a difficult time enough with our business and just keeping up with the rules and regulations, much less all the time making sure we are complying with it all.

It is a very onerous task and sometimes you feel that, you know, there is no productivity, there is no growth, associated with that. And it can be very disheartening at times.

Mr. WATTS. Ms. Price.

Ms. PRICE. Yes.

Mr. WATTS. I am interested in your comments about how a change in ozone air quality standard being considered by EPA will increase the number of areas subject to stringent emission controls,

yet you say there won't be any improvement in health protection under the new standard. Could you explain how EPA could justify this change?

Ms. PRICE. Yes, sir. Under the Clean Air Act, there are things called National Ambient Air Quality Standards and they are the basis upon which all the Clean Air Act is built. And it covers six substances, one of which is ozone, one is  $\text{NO}_x$ , one is  $\text{SO}_2$ .

And under that standard, EPA is to review the standard for ozone and the other National Ambient Air Quality Standards every 5 years. And in the process—and they always miss that, by the way. It is an incredibly difficult task.

They are in the process of reviewing the ozone standard now. The question is, do the levels of ozone in the air that people are actually exposed to—does that indeed affect the quality of our lives? Is our health in some way affected?

Obviously, if it is, then we need to do something about it. The way the ozone standard is measured today is not very scientific. An area can go into nonattainment because of 4 hours of exceeding the standard over a 3-year period.

So it can have 1 hour a year and then have a particularly bad year and hit 2 hours in the same year and it has had 4 hours in 3 years and it is now nonattainment. Nonattainment means costs in that area go up.

As Mr. Ross said, when it becomes nonattainment, he has to put different controls on his gas stations than others. Industry has to do different things and the city has to—or county has to impose requirements. EPA is in the process right now of reviewing the ozone standard.

They are considering lowering it. If they lower it, what it will mean is that more places in the country don't meet the new standard. The air didn't get worse. EPA just defined the hurdle as more difficult. If you do a risk assessment based on a number of different options that EPA is considering, including the current option—and EPA's own scientific advisory board has told them the same thing.

If you do that risk assessment, what you find is that you do not decrease the risk of an adverse health effect by lowering the standard. By lowering the standard, you do decrease the likelihood of an effect. You know, if I, for example, am an asthmatic and I go out and run in an environment that has a higher ozone level, I will become out of breath and you will be able, in measuring my physical performance, to see a difference.

As soon as you let me rest a little bit, let me stop running, it goes back. So is that an adverse health effect or is it not? If you consider it adverse, then indeed, there is a risk, but if you don't consider that adverse—all of us when we exercise don't perform maybe as well as we did when we are sitting—then you have no decrease in health effect at all.

So EPA standard, if they indeed lower it, will not change the risk of death and—pretty adverse health effect—at all. Their risk assessments don't calculate a difference.

Mr. WATTS. Thank you. Thank you, Mr. Chairman. That concludes my questions.

Mr. MCINTOSH. Thank you, Mr. Watts. Let me emphasize, Ms. Price, but it does increase the cost enormously in that.

Ms. PRICE. Oh, it will increase the cost. If you take a map, sir, of the United States today that—the areas that would be—that are nonattainment. And then you say, all right, if I change the standard, what happens?

Much larger—somewhere around three times as many areas of the country go nonattainment. And when that—now, the air didn't get worse, mind you. The air didn't change at all. But it—by going nonattainment, the whole set of regulatory costs get imposed on business and on the consumer and for what health effect? Now—

Mr. MCINTOSH. In fact, the air is getting better in a lot of the nonattainment areas. Right?

Ms. PRICE. Almost everywhere it is better. And I might just add that they are—EPA is also looking at the other national ambient air quality standard called particulate matter or the PM standard. Now, if you do the PM standard and the ozone standard at the same time, you can take the whole country to nonattainment, one way or the other. It wouldn't be hard to do at all.

Mr. MCINTOSH. It gives them a great visual for their publicity campaigns. Mr. Ross, real quickly—and Mr. Watts asked most of the things I wanted to ask you. Let me emphasize, if you are able to breakdown that 42 percent that is in a gallon, that would be enormously helpful because, you know, when you look at it from that perspective of somebody who is working for a living and sometimes have to drive a fair distance to get to their job, that is a lot of money that they have to pay and money that is the cost of Government directly out of their pockets.

And so we are going to be looking at that in Congress. We have heard some of the kind of silly statements on the previous panel that—of where that money is going to and coming from but this would be enormously helpful to get the real facts.

In your written testimony earlier, you mentioned that repealing the gas tax might inadvertently cause prices to go up because of the—an effect on inventory and I wanted to check with you. If we did that in a way that repealed it effectively, I guess, January 1, 1997—is what they are thinking about—and passed the law today, would that give people time to adjust their purchases of the inventory and to avoid that type of effect?

Mr. ROSS. Well, I don't think so. If you implemented the tax in January 1997, and there were no provisions for a refund on the fuel that we have in inventory and had already paid the Federal tax, as prudent marketers, we would still lower our inventories as much as possible.

Mr. MCINTOSH. Up until that date of the change, you are going to try to reduce your inventory down to zero if you can.

Mr. ROSS. If we could, yes.

Mr. MCINTOSH. OK, so there has to be essentially some—that is going to be true of any date you make that type of change. Right?

Mr. ROSS. That is true. And we as marketers are—we have to pay the tax when we buy it from the refinery.

Mr. MCINTOSH. OK.

Mr. ROSS. And there is—there are provisions for people that put it in bulk storage that are what we call jobbers. They have provisions for refunds but marketers—we don't have provisions under



the current proposal to get a refund from the Federal Government for those taxes that we had already paid.

Mr. MCINTOSH. So if they did a provision of the refund effective that date, then you wouldn't change any of your purchasing?

Mr. ROSS. That is correct.

Mr. MCINTOSH. All right. I think I understand. That will be useful, actually, as we head back to see what we can do on that. The other questions that I had were mainly covered by my colleagues and so I appreciate very much all of your participation today.

I think your testimony will be enormously helpful to us as we go forward in this area. Thank you very, very much. We will take a couple-minute recess and start back up with the next panel at 11.

[Recess.]

Mr. MCINTOSH. The committee will come to order. Let me call forward now the third panel in this field hearing—Mr. Mike Cantrell, president of the Oklahoma Independent Petroleum Association; Mr. Mike Bernard, president of the Oklahoma Mid-Continent Oil and Gas Association; Mr. Troy Vickers, who is the deputy director of regulatory services with Amoco Corp.; and Commissioner Ed Apple of the Oklahoma Corporation Commission.

Thank you all for joining us today. I appreciate you taking time out to come provide your testimony. If I could ask you all to please stand and raise your right hand.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you very much. Let the record show that each of the witnesses answered in the affirmative. Our first witness on this panel is Mr. Mike Cantrell. Thank you for joining us today. I appreciate the operation that your association has contributed to this effort and your colleagues in Indiana have been—also participated in some of our field hearings and done a great job.

So thank you for joining us, Mike. Please share with us your testimony.

**STATEMENTS OF MIKE CANTRELL, PRESIDENT, OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION; MIKE BERNARD, MID-CONTINENT OIL & GAS ASSOCIATION; TROY VICKERS, AMERICAN PETROLEUM INSTITUTE; AND ED APPLE, COMMISSIONER, OKLAHOMA CORPORATION COMMISSION**

Mr. CANTRELL. Thank you very much. Testifying on regulatory affairs matters, it is—getting sworn in, it is kind of an unusual experience. I hope you don't go to jail for being wrong. I hope not.

Mr. MCINTOSH. Not if it is inadvertent.

Mr. CANTRELL. I hope what we have to say is accurate. The second thing I would like to say is that I think the smartest thing I could probably do is yield the balance of my time to Susie King. That was just an outstanding job of the previous panel.

Thank you, Congressmen, for allowing us this opportunity to talk to you about something that is sincerely deep on the minds and the hearts of the—especially the independent oil and gas production industry in this country.

I represent, as president of the Oklahoma Independent Petroleum Association, 1,300 members in Oklahoma who are basically the equivalent of the family farmers of the oil and gas industry. Our challenge in an age where we have absolutely nothing to say

about our product price, either for petroleum or natural gas, nothing to say about our income—our challenge is to try to control our cost the best way we can.

And we think that preservation of that infrastructure of the oil and gas infrastructure of America is important to Oklahomans and it is important to every American. There will come a day as the developing countries in this world continue to develop at a rapid rate, there is an explosion in demand for crude oil and natural gas in the world today, there will come a day when our resources are much more valuable again.

And it is to that end we need to do the best job we can as stewards of our resources in making sure that we don't have regulations, both environmental, safety, whatever, regulations that impose an artificial cost of production on industry that is not offset by a commensurate environmental benefit.

And that is our task and that is what we would like to talk to you today about. Are those regulations that we see, anyway, that really don't produce any kind of benefit but they do create cost for the industry. One at a time, they may not mean so much but when you put all the regulations together, they are a heavy burden on the balance sheet of an industry that is basically very fragile.

Very significant but very fragile. In Oklahoma, we produce 2.6 barrels of oil a day and for that, we have to lift 40 barrels of salt water a day for the average well. So these wells are significant. All put together, they are a \$5 billion economy for the State.

It is like grains of sand on a beach. They are all significant. When put together, they make a beautiful beach but standing alone, they don't mean much. So we need to preserve that infrastructure for future generations of Oklahomans and Americans to enjoy.

The regulations that we mention in brief here, some have been touched upon that we would like to talk to you about that we don't think produce any benefit, are the—start off with the oil and gas E&P requirements to comply with SARA title III, the public right to know, came from the Bhopal, India, chemical explosion. Folks felt like we needed to be able to know where hazardous materials were stored in case there is a fire or something. Well, that is fine and good and for chemical facilities and manufacturing facilities, that is probably a really good regulation.

But for E&P sites, it is absolutely ridiculous. The best anecdotal instance I can think of regarding all these regulations occurred over the SARA title III. We have to fill out annual forms that give directions and facilities, map out a diagram of our production facilities, and give directions to every one of these thousands of facilities across Oklahoma, send it in to the State Department of Environmental Quality and to local civil defense authority. And they don't know what to do with them. I mean, they are stored in warehouses somewhere, and they don't know what to do with them.

The best example is a producer calls and—gets a call from the fire department in a small county—a small town in Osage County.

And the fire chief says, Well, what do I do with all these papers? You sent me a whole box of diagrams and things on how to get the tank but what do I do with all of that? Why? Why did you do that?

And he said, Well, you know, you need to know where these tank batteries are under SARA title III so that if you have a fire or something, you will know how to get there.

And the guy said, Well, mister, that is the dumbest damn thing I ever heard of. He said, someone always tells us how to get to a fire when we have one, and when we see a tank battery on fire, we know it is crude oil. So why do we have to do this?

That is an example of the burdensome regulation that produces no benefit, but it comes at a cost to the industry to comply with it. Storm water discharge permits are another thing. E&P activities should not be burdened with storm water discharge permits.

SPCC plans is duplicative regulation. We have a Corporation Commission that regulates our production facilities and to have the Federal Government require us to do expensive diagramming and planning and certification by professional engineer every 2 years is just not in line with good management.

By far, the biggest thing hanging over our heads, though, is the exemption that we have from the Resource Conservation Recovery Act, which allows our waste not to be classified as hazardous material. That comes under fire every time you reauthorize RCRA.

And by far, that is the biggest regulatory threat hanging over this industry because we would be absolutely out of business overnight. Ninety-nine percent of Oklahoma's oil and gas industry would fold the tent if we lost our exemption under RCRA.

And under the toxic release program that we just heard about earlier, we faced a similar thing. You know, the EPA is not revoking it but through the toxic release inventory, they are expanding the things that can be considered and thereby taking another shot at us.

So I appreciate the opportunity to come before you with these problems and welcome any dialog that you feel is necessary.

[The prepared statement of Mr. Cantrell follows:]



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**An Overview of**

**Areas of Environmental Regulatory Concern  
 Affecting the Domestic Independent Oil and Gas Industry**

Prepared by the  
 Oklahoma Independent Petroleum Association  
 April, 1996

There are currently a number of federal regulations that fall under the jurisdiction of the United States Environmental Protection Agency (EPA) that are neither result-effective for the environment and the public nor cost-effective for the regulated community. Individually, these regulations are burdensome primarily for small business. However, taken as a group these regulations pose a significant -- and generally unbeneficial -- cost to even the largest independent producing companies.

There is no doubt that the broad general category of environmental regulatory compliance costs is causing oil and natural gas wells to be plugged and abandoned prematurely in Oklahoma. Independent producers, who have only one profit source, the wellhead price they receive for their oil and natural gas as it is produced, have no control over their revenue stream. Therefore, they must continually control costs in order to survive. Wasteful, duplicative and unnecessary government regulations pose one of the biggest costs. Consequently, the impact of these regulations on operations of producing wells, especially economically marginal properties (which encompasses about 75-80% of Oklahoma's oil production) is most significant.

**Summary of Some of More Onerous  
 Federal Regulations on Domestic Oil & Gas Producers**

1. Ultimate resolution of the issue of reclassifying oilfield (E&P) wastes as "hazardous" under the Resource Conservation and Recovery Act (RCRA) Subtitle D, Hazardous Wastes statutes. This is the single most onerous environmental issue facing the domestic oil and natural gas producing sector. The threat of losing this exemption every three years during reauthorization of RCRA poses the greatest threat to domestic oil and gas production. Should such by-products of oil and natural gas production as brine be reclassified as "hazardous" under RCRA, it would destroy all U.S. oil production in which there is associated water produced (about 98% of Oklahoma's oil falls into this category).
2. Re-writing of the Oil Pollution Act of 1990 to eliminate on-shore operations and re-define fiscal responsibility and navigable waters of the United States. Off-shore operations that need to be addressed should be addressed as off-shore operations only.

3. Elimination or revision of a number of regulations that treat the domestic E&P sector in a "one size fits all" manner, including, but not limited to: Requirements under 40 CFR, Part 112 (CWA Section 311), also known as Spill Prevention, Control and Countermeasures (SPCC) Plans.

Requirements under 40 CFR Part 435, also known as National Pollution Discharge Elimination System (NPDES) Permits.

Requirements under 40 CFR Part 405, also known as Storm Water Permits.

Requirements under 40 CFR Part 355, also known as Superfund Amendments & Reauthorization Act (SARA) Title III, Community Right-to-Know, currently administered under state primacy by the Oklahoma Department of Environmental Quality.

The above regulations pose significant liabilities to the oil and gas industry and require a considerable financial and time commitment by prudent and responsible operators throughout the nation. Any reduction of federal regulatory requirements will provide relief from the ever-increasing regulatory maze that is slowly choking all industry in this country, perhaps especially the domestic independent oil and natural gas producer. Any efforts to eliminate unnecessary regulations which increase costs and restrict new exploration/development activity will not only improve the exploration and production climate in so-called "producing states," but it will bolster the nation's economy as a whole by adding to vital energy reserves that will otherwise be provided by unstable foreign sources of supply.

Mr. MCINTOSH. Thank you very much, Mr. Cantrell. Our next witness is Mr. Mike Bernard. Mr. Bernard, please share with us your testimony.

Mr. BERNARD. Good morning, Mr. McIntosh, and Mr. Watts. I appreciate the invitation to speak to you today. It is good to see you again, Representative Watts. The Clean Air Act, the Resource Conservation and Recovery Act, the Clean Water Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Endangered Species Act, the Comprehensive Environmental Response, Compensation and Liability Act—these programs were passed to provide control over harmful environmental agents and practices and they have spun off thousands of rules and regulations.

But they were enacted with little serious consideration of the costs imposed by their regulations. There was little attention paid to risk assessment. The result has been the expenditure of billions of dollars which has accomplished some protection of the environment but we believe the same protection could have been achieved with less regulation and a smaller expenditure of money.

These regulatory programs are once again under consideration by Congress and the Federal regulatory establishment. The proposals offer further expansion and control over oil and gas operations and many new mandates which will go beyond existing law.

An example of the effects of these newly proposed expansions on the industry can be found in what could be termed a typical Oklahoma water flood project. Now, water flooding is used to improve recovery from a very mature oil field.

And for our purposes, this typical project produces from a formation of about 6,000 feet below the surface. Current production from the field would be 1,250 barrels a day of oil and 13,750 barrels a day of water. It has got—this field has solid economics and is expected to remain productive for the next 15 years.

Now, I have got—in your copy of my comments, I have got the particular costs of implementing various proposed regulations. I will skip over those since you have them and simply tell you that the future compliance costs facing this field could exceed \$1 million with increased operating costs of up to \$65,000 per year.

The result of the newly proposed regulations would cause the economic life of the field to be shortened by several years and any additional regulations would place the operation of the project in jeopardy. For the State as a whole, it has been estimated that the impact of future environmental compliance through the year 2010 would cost Oklahoma 198 barrels of lost oil production, 1.15 trillion cubic feet of lost natural gas production, \$1.5 billion in lost State tax revenues and \$6.6 billion in lost Federal tax revenues.

Our industry is one of the most highly regulated industries in the United States. Our operations are blanketed by Federal and State requirements and I have a booklet here which Mid-Continent Oil and Gas Association produced which outlines all of the Federal and State environmental requirements that we could find.

Now, I want to tell you, this is a bare-bones outline and it is 68 pages long. Our industry—it is also evidence that our industry wants to do our part to protect our surroundings but astoundingly, a 1993 estimate found that the petroleum industry spent \$10.6 billion on environmental protection in that year alone, exceeding the

amount the entire industry spent on searching for oil and natural gas.

Common sense tells you, that ratio of expenditures to investment cannot continue and keep the domestic industry healthy. The core of the problem has been expressed by the mayor of Columbus, OH, and I quote: "Each Washington bureaucracy and each Congressional subcommittee views my city through a soda straw. They only look at one thing at a time. No one in Washington ever considers the cumulative effect at the local level."

I think this observation also applies to the petroleum industry. Of course, it does not apply to this particular committee, obviously. I have one more paragraph. We would like you to consider the immense number of laws and regulations which govern the petroleum industry and that you balance the cost against the benefits before enacting environmental regulations.

We ask that the Congress and regulators change the regulatory development process and we recommend that this process incorporate sound science, cost-benefit analysis, risk assessment, priority setting, peer review and compliance flexibility.

We think you will find that the environment can be protected for far less money. Thank you.

[The prepared statement of Mr. Bernard follows:]

## OKLAHOMA MID-CONTINENT OIL & GAS ASSOCIATION

A large number of proposed environmental requirements are under consideration in federal agencies and in Congress. The:

- Clean Air Act
- Resource Conservation and Recovery Act (RCRA)
- Clean Water Act
- Safe Drinking Water Act
- Toxic Substances Control Act (TSCA)
- Endangered Species Act
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

These programs were passed to provide control over harmful environmental agents and practices. They have spun off thousands of rules and regulations. But they were enacted with little serious consideration of the costs imposed by their regulations. There was little attention paid to risk assessment. The result has been the expenditure of billions of dollars which has accomplished some protection of the environment, but we believe the same protection could have been achieved with less regulation and a smaller expenditure of money.

These regulatory programs are once again under consideration by Congress and the federal regulatory establishment. The proposals offer further expansion and control over oil and gas operations and many new mandates which go beyond existing law.

An example of the effects of these newly proposed expansions on the industry can be found in what could be termed a typical Oklahoma waterflood project.

Waterflooding is used to improve recovery from a mature oil field. This typical project produces from a formation 6,000 feet below the surface. Current production from the field total 1,250 barrels/day of oil and 13,750 barrels/day of water. This field has solid economics and an expected remaining productive life of 15 years.

The potential future regulatory requirements this field could face include:

- Development of a Risk Management Program plan; estimated initial cost \$25,000-\$40,000 and annual cost of \$2,500-\$4,000
- Installation of vapor recovery units at five of the tank batteries, where emissions are sufficient to exceed major source thresholds; estimated cost per unit \$50,000 initially, \$3,195 annually or total cost of \$250,000 initially and \$15,975 annually
- Conduct area-of-review investigation on injection wells; estimated cost \$2,800 per area or \$75,600
- Submit reports on chemical releases under Toxic Release Inventory; estimated costs \$22,350 first year and \$14,700 subsequent years
- Prepare and certify SPCC - Phase I plan; estimated cost \$5,000
- Dispose of 20 barrels of extremely low level NORM-contaminated wastes annually via encapsulation in a well being plugged and abandoned; estimated cost \$14,000

These future regulatory requirements could total \$378,000 to \$392,000 initially and increase operating costs by \$47,000 to \$49,000 annually. Potential additional requirements resulting from legislative initiatives could add to this total:



- Retrofit 43 tanks with release prevention barriers (double bottoms or liners); estimated cost \$12,500/tank or \$537,500
- Close emergency pits and install 500-barrel tanks as replacements; estimated cost \$100,000
- Testing and offsite disposal of associated wastes; estimated cost \$16,800 annually

The future compliance costs facing this field could exceed \$1.0 million, with increased operating costs of up to \$65,000 annually.

The cost of drilling additional injectors to enhance recovery in the field could also rise by approximately \$8.58/foot drilled for compliance with potential drilling waste management, testing, and disposal requirements. For a 6,000 foot well in this field, the incremental drilling costs could exceed \$51,000 per well.

The result of the new regulations will cause the economic life of the field to be shortened by several years and place continued operations in jeopardy.

For the state as a whole, it has been estimated that the impact of future environmental compliance requirements through the year 2010, would cost Oklahoma 198 million barrels of lost oil production — 1.15 trillion cubic feet of lost natural gas production — \$1.5 billion in lost state tax revenues and \$6.6 billion in lost federal tax revenues.

The oil and gas industry is one of the most highly regulated industries in the U.S. - our operations are blanketed by federal and state requirements.

I have a booklet here in my hand which outlines all of the federal and state environmental requirements we could find. This bare-bones outline we prepared for oil and gas operators is 68 pages long.

The oil and gas industry wants to do our part to protect our surroundings, but astoundingly, a 1993 estimate found that the petroleum industry spent \$10.6 billion on environmental protection in that year alone - exceeding the amount the entire industry spent searching for oil and natural gas. Common sense tells you that ratio of expenditures to investment cannot continue and keep the domestic industry healthy.

The core of the problem has been expressed by the mayor of Columbus, Ohio: (quote) "each Washington bureaucracy and each congressional sub-committee, views my city through a soda straw. They only look at one thing at a time. No one in Washington ever considers the cumulative effect at the local level."

This observation also applies to the petroleum industry.

We ask you to consider the immense number of laws and regulations which govern the petroleum industry and that you balance the costs against the benefits before enacting environmental regulations. We ask that Congress and regulators change the regulatory development process. We recommend that this process incorporate sound science, cost benefit analysis, risk assessment, priority setting, peer review and compliance flexibility. We think you will find that the environment can be protected for far less money.

Mr. MCINTOSH. Thank you very much. Very helpful in terms of the cost estimate of those various regulations and look forward to talking to you some about that in the question and answer period. Our next witness is Mr. Troy Vickers, who is the deputy director of regulatory services at Amoco.

Thank you, Mr. Vickers. I am pleased to have you here because we were discussing the test that your company worked with EPA earlier and appreciate your coming and sharing with us.

Mr. VICKERS. Thank you, Chairman McIntosh, and Congressman Watts. Thank you for providing the opportunity to address you this morning on behalf of the American Petroleum Institute. The API represents over 300 companies engaged in all aspects of the petroleum industry, including exploration, production, transportation, refining, and marketing.

I am here to discuss a topic that is very important to API, the exploration and production industry in particular, and to my company, and is the subject of a recently released report from API titled "Achieving Common Sense Environmental Regulations: Oil and Gas Exploration and Production."

And a copy of that has been given to you for additional testimony there. This API report details what we believe are some common-sense solutions for new regulations currently being considered for the oil and gas E&P industry, as well as ideas to make some current regulations more efficient.

First, I want to make it clear that our industry does not want to see environmental regulations rolled back as some people opposed to regulatory reform have claimed. Our goal is to achieve a balanced regulatory approach that protects the environment as well or better than it is currently.

Our goal is to implement regulations that are more cost effective, that are smarter and just as clean. The average family in the United States pays a hidden tax of over \$1,500 a year for current environmental regulations. That is the cost that these regulations add to the price of the goods and services that every family buys.

As an industry, we think it is only common sense to look for ways to accomplish the environmental goals that we all share without wasting valuable resources. Now, I am not going to go over all the details in this API report today, but I do want to stress two key points that should be considered in developing commonsense environmental regulations for the E&P industry.

The first point is that it is extremely important to recognize the leadership shown by State regulatory agencies. The State of Oklahoma initiated environmental regulations for the E&P industry in 1916. That is quite a few years before the establishment of the U.S. EPA. And today, most of the environmental regulations that apply to our industry in Oklahoma are administered by the Oklahoma Corporation Commission. Oklahoma and other States have made improvements to their regulatory programs in recent years through the Interstate Oil and Gas Compact Commission's State Review Program, working together with EPA, industry, and environmental organizations.

The second point is that due to the extensive regulatory programs in place, significant environmental gains have already been made making additional marginal environmental progress more

difficult and more expensive to attain. Some new environmental regulations are being considered by the EPA that would duplicate existing State efforts without providing additional benefits. Some potential new regulations, such as the expansion of EPA's Toxic Release Inventory Program to include E&P facilities, would merely increase costly reporting instead of achieving beneficial result. And many Federal programs limit industry's flexibility and the adoption of new and better approaches to solving problems. I think you have heard that quite a bit from the previous panels this morning.

We have worked together with Federal and State agencies on programs that have proven win-win solutions are achievable. I have already mentioned the IOGCC's State Review Program, which has been praised by the administration as a successful approach to reinvent regulation. I have personally participated in that program and have found that it provides opportunities for State regulators to have their programs reviewed in an objective manner by their peers, environmental organizations, and the industry.

Another important successful program is the Safety and Environmental Management Program developed by API and the Minerals Management Services. This is a voluntary program that was designed to produce a safety mentality as opposed to a compliance mentality for workers on offshore E&P facilities. A recent survey has shown that 106 companies accounting for 99.8 percent of the U.S. offshore production are voluntarily complying with this program.

Regulations that pass the commonsense test should be the rule, not the exception. The public deserves no less. The issue is not and never has been retreating from environmental progress. If we all work together to achieve commonsense solutions, society, our industry, and the environment will benefit together.

Thank you for your individual and cooperative efforts in regulatory reform. We as an industry stand ready to help us all move into the 21st century with a strong energy position, improving quality of life and environmental protection. Thank you.

Mr. MCINTOSH. Thank you very much, Mr. Vickers. I appreciate that testimony. Our final witness on this panel is Commissioner Ed Apple. And Commissioner Apple, let me share with you that J.C. does a good job about bragging about your commission back in Congress.

And so it is a pleasure to have you come and testify here before us today.

Mr. APPLE. Thank you, Chairman McIntosh. And we thank you, too, Congressman Watts, and particularly for your reinforcement of our commission that you have served so admirably. My name is Ed Apple. I am one of three Oklahoma Corporation commissioners.

Today you have heard from those representing the industry. I am a representative from State government. In Oklahoma, the Corporation Commission regulates the oil and gas exploration and production industry, enforces its conservation rules, protects the rights of mineral owners and protects the environment through its comprehensive pollution prevention and abatement measures.

Oklahoma was one of the first States to establish a comprehensive State regulatory program beginning in 1915. Oklahoma was the first State to receive primacy from EPA for its underground in-

jection control program. I strongly believe in protecting and preserving our environment for ourselves, for our children, and for the sake of all with whom we share this planet.

But we must be vigilant in the defense of our environment, just as we are in the defense of our Nation. But as a government official, I want to be a vigilant enforcer of reasonable rules. Rules that go beyond what is necessary to protect the environment and which require great expenditure with little or no return in regard to protecting environment are not good for our oil industry or our Nation.

Oil is still Oklahoma's largest industry and the industry takes its responsibility very seriously. Irresponsible operators, those who pollute our environment, are identified and do answer for their actions in the courtrooms of the Corporation Commission.

Sadly, there will always be those willing to desecrate our environment for themselves for the sake of enrichment. But here in Oklahoma, the vast number of our operators are responsible and they should be credited for their positive actions.

The establishment of the Oklahoma Energy Resources Board is an example of responsible operators recognizing a problem and doing the right thing. The OERB is a State agency that is governed by industry representatives. It works cooperatively with the Corporation Commission to identify historically polluted sites caused by careless practitioners and actively restores those sites through the use of a self-imposed production tax.

What you have heard today are the concerns of an industry actively cooperating with State government, not just to protect but to restore and improve the environment. I am familiar with the concerns expressed here today.

They are the fair and reasonable positions of very knowledgeable people representing the most responsible segments of the oil industry. And as a State government official, I strongly support them. It does not serve this State well, nor does it serve the Nation well, to burden our domestic oil industry with onerous rules that go so far beyond protecting our environment that they serve no useful purpose.

The States have the authority to protect their natural resources and their environment and most do an outstanding job. The Nation does need a fairly consistent and comprehensive regulatory program between States but that was recognized in 1931, and began with the establishment of the Interstate Oil and Gas Compact Commission.

The Federal Government should provide assistance to the States through the established regulatory programs and interstate organizations. The Federal Government should not pass regulatory mandates that hinder the economic development and extraction of natural resources with no direct benefit to the environment.

We need your help to advance technology development and transfer, to improve data management capabilities and through better access to available information services. The oil industry is vital to Oklahoma and to the Nation. Let's not destroy it by the imposing senseless regulations that provide little if any actual environmental protection.

To the contrary, let's do our best work cooperatively now to assure the preservation and growth of this great industry. Thank you for your time and attention.

[The prepared statement of Mr. Apple follows:]

THE UNITED STATES HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON NATURAL ECONOMIC GROWTH,  
NATURAL RESOURCES AND REGULATORY AFFAIRS  
FIELD HEARING ON REGULATORY REFORM IN THE OIL INDUSTRY  
MAY 20, 1996

ORAL TESTIMONY OF  
OKLAHOMA CORPORATION COMMISSIONER  
THE HONORABLE ED APPLE

Good afternoon, Chairman McIntosh, Congressman Watts and members of the committee. Thank you for agreeing take my testimony today.

I am Oklahoma Corporation Commissioner Ed Apple and I am pleased to have the opportunity today to appear before the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs and briefly share some thoughts on certain areas of federal regulation of importance to the function of the Oil and Gas Conservation Division of the Oklahoma Corporation Commission.

(A)

Today, you've heard from those representing the industry; I'm a representative from state government. In Oklahoma, the Corporation Commission regulates the oil and gas exploration and production industry, enforces its conservation rules, protects the rights of mineral owners and

protects the environment through its comprehensive pollution prevention and abatement measures. Oklahoma was one of the very first states to establish a comprehensive state regulatory program beginning in 1915. Oklahoma was the first state to receive primacy from EPA for its underground Injection control program. I strongly believe in protecting and preserving our environment, for ourselves, for our children, for its own sake and for the sake of all the creatures with whom we share this planet. We must be as vigilant in the defense of our environment as we are in the defense of our nation.

But as a government official I want to be a vigilant enforcer of reasonable rules. Rules that go beyond what is necessary to protect the environment and which require great expenditure with little or no return in regard to protecting the environment, only harm the oil industry and our nation.

Oil is still Oklahoma's largest industry, providing over five billion dollars annually into our state's economy. Irresponsible operators, those who pollute our environment are identified and do answer for their actions in the courtrooms of the Corporation Commission. And sadly there will always be

those willing to desecrate our world, our environment and themselves for the sake of self-enrichment. But here in Oklahoma the number of responsible operators greatly exceeds those few who are not. The establishment of the Oklahoma Energy Resources Board is an example of responsible operators recognizing a problem and doing the right thing. The OERB is a state agency that is governed by industry representatives. It works cooperatively with the Corporation Commission to identify historically polluted sites caused by careless practitioners and actively restores those sites through the use of a self imposed production tax.

(b)

Judging from the call of the meeting, I am to address primarily those areas of federal regulation pertaining to the oil and gas industry which may be in need of review and reform. I have received input from the professional staff of the Conservation Division in areas where the impact of federal regulation is felt the most, and I have some brief recommendations to make to the committee.

I would like to briefly outline some concerns involving federal regulations which impact the Commission's daily regulation of the oil and gas industry which may be in need of review and reform.



First, I consulted with the Underground Injection Control (UIC) staff of the Conservation Division. This group of Commission personnel regulate the many hundreds of oil and gas fluid disposal wells in Oklahoma. This group is headed by Dr. Bruce Langhus who is present today to add any information you may want.

The Oklahoma UIC program recommends that the EPA headquarter's proposal to allow operators to certify their own facilities and compliance should be considered ill-conceived. Because of constant changing regulations between state and federal agencies, it is not practical for small operators to remain updated on all regulations and to accurately maintain the different records needed for environmental compliance. Our staff believes self-certification will not work in Oklahoma.

In addition, the Oklahoma UIC program asserts that existing federal statutes and regulations for the Class II UIC Program are inflexible and run counter to the Clinton Administration's "Common Sense Initiative". This initiative is directed at empowering the EPA to negotiate environmental compliance levels on a site by site basis when appropriate. Stress is placed

on use of innovative technologies which better protect the environment even though compliance levels differ from national standards. In the case of oil and gas disposal situations under the Class II program, our UIC manager would like the flexibility to negotiate with operators to install innovative injection or disposal well monitoring systems which will alert field personnel if a mechanical problem arises. Such devices are a major improvement over high-pressure test requirements which presently must be conducted at specified intervals. If the "common sense Initiative" is extended to Class II disposal wells, UIC managers could negotiate for installation of monitoring systems in exchange for relaxed compliance with well test regulations. However, because the Class II well test requirements are part of the Code of Federal Regulations, there will have to be action from the EPA and the congress to bring more flexibility to the regulation of underground injection wells in Oklahoma and throughout the oil patch.

The next area of my discussion about federal regulations in need of reform concerns pollution abatement. Our Pollution Abatement manager has drawn my attention to the Superfund Amendments and Reauthorization Act ("SARA"), specifically Title III Emergency Planning and Community Right to

Know Act of 1986 (also known as SARA Title III 1986 Act). This law requires notice to state and local fire and emergency planning departments about the inventories of hazardous materials maintained by any company manufacturing or handling such material. Although the law has some positive aspects, its impact on the oil and gas industry is burdensome. The definitions are too broad so that a typical oil storage tank at a producing well falls within the category of a facility requiring notice. Currently operators are required to file annual reports with state and local emergency response agencies showing the nature of chemicals stored at oil wells -- information that is likely common knowledge to most people involved. We recommend that crude oil storage tanks at producing wells be exempted from the statute.

Our Pollution Abatement manager also has pointed out that the clean Water Act Amendments of 1972, Section 311, requires that "no oil" can be released into the waters of the U.S. The 1990 Oil Pollution Act instituted amendments to Section 311 which created broad enforcement provisions covering this statutory requirement. The crux of the second statute's onerous impact on the Oklahoma oil industry is found in the surety requirement for oil producers. No companies in the state can meet these surety requirements

except a few majors. The spill prevention aspects of the law are beneficial, however, the program is run at present by the EPA, which tends to gear its procedures for offshore spills. Landlocked states like Oklahoma should be able to run their own spill programs so rules can be devised which meet the problems particular to Oklahoma rather than imposing rules meant for states with shorelines and harbors.

Lastly, our Pollution Abatement manager has alerted me to the effect of the Toxic Release Inventory Section of the superfund amendments and Reauthorization Act of 1986. This act requires states to establish emergency response commissions. Companies maintaining inventories of hazardous materials over a certain level must notify the state emergency response commission (in Oklahoma it is the Department of Environmental Quality). The act also requires the annual reporting of releases of certain listed hazardous materials by manufacturers to the same agencies. Presently, most activities of oil and gas producers, even if a regulated chemical is used, are exempt from reporting because the oil and gas producers fall outside the regulated Standard Industrial Code (SIC).

However, the EPA is now seeking public comment about the expansion of the Toxic Release Inventory to include oil and gas exploration activities. This could involve the regulation of produced water, or more specifically, the amount of trace chemicals found in produced water along with chemicals used in the production process. Oil and gas exploration companies would need to run analyses of produced water in order to report trace amounts of chemicals on the EPA list. Many common acidizing or fracturing operation chemicals would also have to be reported.

This proposed amendment is burdensome on the industry. Moreover, it will cause an impossible recordkeeping dilemma for a state such as Oklahoma, which has over 130,000 producing wells. We oppose this EPA concept to expand the scope of the Toxic Release Inventory.

What you have heard today are the concerns of an industry actively cooperating with state government, not just to protect but to restore and improve the environment. I am familiar with each of the concerns expressed here today. They are the fair and reasonable positions of very knowledgeable people representing the most responsible segments of the oil industry. And

as a state government official, I strongly support them. It does not serve this state well nor does it serve the nation well to burden our domestic oil industry with onerous rules that go so far beyond protecting our environment that they serve no useful purpose. The states have the authority to protect their natural resources and their environment and most if not all do an outstanding job. The nation does need a fairly consistent and comprehensive regulatory program between states but that was recognized in 1931 and began with the establishment of the Interstate Oil and Gas Compact Commission. The federal government should provide assistance to the states through the established regulatory programs and interstate organizations. The federal government should not pass regulatory mandates that hinder the economic development and extraction of our natural resources with no direct benefit to the environment. We need your help through advanced technology development and transfer, through improved data management capabilities and through better access to available information and services. The oil industry is vital to Oklahoma and to the nation. Let's not destroy it by imposing senseless regulations that provide little, if any, actual environmental protection.

Mr. MCINTOSH. Great. Thank you very much, Mr. Apple, and your specific recommendations—I appreciate those and those will be very helpful to us as we make them part of the record in this area.

Let me ask you, Mr. Bernard, on the cost that you itemized, some of the environmental regulatory costs—you also, of course, have to have workplace safety as well as personnel regulations taken into effect.

But just roughly doing the math, it looked like it was about \$1 a barrel if you have that \$1 million one-time cost basically over a 1-year period. Is that roughly what you would say is the impact of those different regulations?

Mr. BERNARD. Seems to me that I had a figure of per-barrel expenses here that was actually somewhat more than that.

Mr. MCINTOSH. Really?

Mr. BERNARD. I think—actually—and I apologize. I don't have it with me but once you combine some additional costs that—having to do with requirements for the drilling of injection wells, I think it might even go up to past \$2 per barrel.

Mr. MCINTOSH. Past \$2 per barrel.

Mr. BERNARD. Yes.

Mr. MCINTOSH. If you could locate those for us, we will make that part of the record.

Mr. BERNARD. I will try to find it. Yes. I had so much material to go over, I wasn't able to go over nearly all of it.

Mr. MCINTOSH. And you all here in Oklahoma understand what \$2 a barrel means but just for the—when we take it back to Washington, that is roughly 10 percent or so of the cost of the barrel oil that is produced here. Is that about right?

Mr. BERNARD. That is about correct.

Mr. MCINTOSH. So that we can share that with our colleagues in Congress. If I had asked you all to prioritize—let me ask Mr. Bernard and Mr. Cantrell this and actually all four of you. Which regulation—or set of regulations would you say we should put it as the top two or three to go in and try to make changes to bring them more in line with common sense? I can guess Mr. Cantrell's is with the RCRA.

Mr. CANTRELL. Well, I have already said the hammer of bureaucracy over this industry is our RCRA exemption. If there is some way we could make that permanent, that would be the best thing we could do. But you know, all put together, you know, all these small regulations put together combined have a real bad cumulative effect.

By themselves, you know, the SARA title III or the MPDS or some of the others are just not—don't seem to be that significant. But let me say, if you could continue the trend that you all started down when you started this whole process of moving things, eliminating those that are unnecessary and moving the things that are necessary from the Federal level to the State level, I think that would be the best thing you could do to inject common sense into these programs because you have got different geographic areas that have different practices.

And the States are more equipped because they have to live with both sides. They have to live with the consumer and the producer.

And the States are much better equipped to be effective and efficient at the same time.

Mr. MCINTOSH. So keep on those priorities. Mr. Bernard.

Mr. BERNARD. My members tell me that also the most onerous proposals under consideration today are the toxic release inventory proposals.

Mr. MCINTOSH. Mr. Vickers.

Mr. VICKERS. Congressman, it is when you get from the Toxic Release Inventory, you start getting press like this from the Bakersfield, CA, and back on October 27, 1994, which was the Elk Hills VOE facility there. They started reporting from their producing field out there.

It said, "Elk Hills tops Kerns' list of toxic polluters," and shows a skull and crossbones. The TRI definitely for the E&P industry is the issue that is the top of the list right now. I am not saying tomorrow it might not be something else that pops up but right now, the TRI, because it is the right to mislead the public.

And if the public is misled about what the E&P industry is doing, how it is managing its waste, how it is managing its product, then things such as we said earlier about the RCRA exemption—which is not an exemption. It actually allows the States to regulate the E&P waste—that will be looked on as very, very onerous and probably done away with and us brought in under RCRA, which will cause many wells to be shut in and basically, I think, would eliminate the E&P industry in the United States.

Mr. MCINTOSH. One of the things that I have often thought we should do is have some kind of commonsense measure of different risks. The one that I use is the chance of being struck by lightning since I think people can understand that that is relatively low in their lives.

And most of these risks are several orders of magnitude less than that, 10 to 100 times less than the chance of being struck by lightning. So maybe we can work on that in conjunction with this effort to disclose and focus on the ones that get closer to that level of risk.

Mr. VICKERS. We think the public has a right to know. We just don't think anybody has the right to mislead the public.

Mr. MCINTOSH. Right. OK. Mr. Apple, or Commissioner Apple, if you had some changes to make—you have listed several there. Which would you point to as the chief priorities?

Mr. APPLE. Thank you, Mr. Chairman. I would like to reinforce what Mr. Cantrell said. I think there is a great need for flexibility in administering the policies State by State where the lay of the land is very important in dealing with these problems.

The geography, the geology, is so relative to how problems are solved. And so I think that would be my first recommendation is to give discretionary judgment to the professionals that know the local area.

Mr. MCINTOSH. Thank you. Thank you all. Mr. Watts, do you have any questions for this panel?

Mr. WATTS. Yes, I do. Thank you, Chairman. I would like to—Commissioner Apple, I see, has some of the oil and gas division staff here today, including the director. And I saw that there is a director deputy director there.



Let me ask, if I could, Mike Battles. We have over the last 16 months in the 104th Congress—we have talked about turning some of these responsibilities, not just in regulation but other social programs and other things, giving States more say and giving them more latitude and flexibility and giving them promise, if you will, in handling a lot of these issues.

You being the oil and gas director at the Commission and—I would like to get your thoughts on—do you think that Oklahoma has the resources to take over these programs if the Federal Government would allow you more flexibility and give you that responsibility?

What are your thoughts on Oklahoma being able to handle those responsibilities?

Mr. BATTLES. Thank you, Congressman. I will try to cover that in a couple of ways. There has been some discussion here today about Bureau of Land Management and States taking over some oil and gas operations from the Federal Government.

I think the staff of our agency and the commissioners would be willing to do that but it needs to be understood that there is a price for doing business and to inspecting wells or what other things we must do as the State staff. And if those responsibilities come to the States, some resources need to come with them for that additional work.

As the State's agency, we are strapped right now for resources just to do the job we are responsible for doing. On other programs like the Underground Injection Control Program that was initiated by U.S. EPA many years ago and for which Oklahoma was the first State to receive primacy, we have done an outstanding job in that program.

However, the Federal share of that mandate, if you will—their responsibility for providing resources to the State to keep that program up and running, that chunk of money has been diminishing year after year after year. And so that has made it more difficult for the State of Oklahoma to uphold those State and Federal regulations.

And if we are going to continue to have to do that, we would like to have the appropriate resources to do that.

Mr. WATTS. So that becomes an unfunded mandate.

Mr. BATTLES. Yes, Congressman.

Mr. WATTS. Right. Which we dealt with that in the Contract With America. I am sorry. Are you finished?

Mr. BATTLES. Well, there are a couple of other areas of waste programs that we take care of that have been mentioned up here and the State of Oklahoma does a good job in handling E&P waste, if you will, with our rules and regulations.

And I think if allowed to, the State of Oklahoma and other States will continue to do that job and you will not need as much interference, if you will, from the U.S. Environmental Protection Agency.

Mr. WATTS. I—Mr. Vickers, throughout the different—there have been three different panels that have testified today and each of the panels we have heard different testimony about what the cost of regulation and taxes or specifically regulation costs the consumer.

Mr. Vickers, you mentioned that there is a hidden tax of about \$1,500 per year. I see in Mr.—Mike Smith, his testimony, the secretary of energy for the State of Oklahoma, says,

A 1970 new Buick cost \$4,500 and you could fill its gas tank for about 35 cents a gallon. Today that same new Buick costs about \$30,000, a 666-percent increase, and you can fill its tank for about \$1.25 per gallon, only about a 350-percent increase.

And we also heard in earlier testimony that every family in America pays about \$6,200 per year for the cost of regulation.

You mentioned it in your testimony. One of the questions I see here or that I prepared for Mr. Bernard, the future regulatory requirements will increase operating costs by \$2,000 annually, which means that cost is going to be passed on to the consumer in some way.

And so, you know, we often do things in the name of trying to help the little fellow when in the end, the little fellow is the one—the consumer is the one that gets caught with paying the cost on this regulation and taxes and so forth.

Mr. Vickers, I appreciate it when you said never retreat from environmental quality, just ask to implement commonsense regulation. And I think in working together to implement commonsense regulation based on up-to-date technology, a modern methodology to try and go forward.

But I would guess that—and you tell me if I am wrong. I would guess that a safety mentality would go much further than a compliance mentality in promoting real worker safety on offshore exploration and production facilities, particularly considering the regulations weren't written by the workers who know best how to keep safe.

So, do you have any results yet from your safety and environmental management program?

Mr. VICKERS. None other than that 106 companies are basically voluntarily complying with that management program. That is a new concept and management systems is a new concept for the United States, Norway, and the United Kingdom, have been using this since the Alpha Piper incident.

They have tried to implement because they saw command and control type regulations worked there, and so they have tried to implement management systems which allow companies to manage an environment in safety, as you say, with employee input and manage it the way it needs to be managed, just like you do accounting or financial management systems inside a company to achieve results.

I do not know of anybody in the oil and gas industry that doesn't like to drink clean water or breathe clean air, and I don't know anybody that goes to work in the morning wanting to get hurt. And I think we have got to realize that we all do work in a risk society.

We all do travel in a risk society, and there are risks inherent to everything we do. But we can be a lot more—have a lot more common sense in the way we go about approaching regulations and the way that we handle things. And I think, as it was said earlier, there are some people, operations, corporations, that try to skirt the edges.

And that is part of enforcement and that is where we should go after it. The companies that do a good job, that try to protect the environment, protect workers safety, involved, should be rewarded with having the flexibility to generate new technology.

Being from Oklahoma and the oil field and—you know that the saying has always been in the oil field, Just tell me what you want to do and get out of the way and we will get it done and we will do it cheap and we will do it effectively.

And it will meet the requirements that you set. And I think that is where we need to go. It is just a lot of commonsense here. We need to back away from the command and control position that EPA and Congress in the past has even written into some statutes.

Mr. WATTS. Mr. Cantrell, you mentioned—and again, I open my question with you by saying that we often create or do things in Washington and even in State government sometimes to protect the little fellow when we actually hurt the little fellow when it is all said and done through higher prices.

And you consider that the average family with two kids, 1996 America, they are going to pay about 45 to 52 cents of every dollar they make in some Government tax and Government fee. And then I note that you talked about duplicative regulations.

So again, if we are duplicating regulation, then that means that a consumer is going to have to pay a higher price for whatever that product or service is that they are buying. So you stated that duplicative regulations are one of the biggest costs for the industry and that easing these regulations would bolster the Nation's economy.

How would—just articulate if you would how you see easing these regulations benefiting the consumer in terms of oil and gas prices?

Mr. CANTRELL. Well, first of all, as independent oil and gas producers, as you know, we don't have a way to pass on our costs to consumers. We simply produce a raw product and sell it for whatever price we can get for it. So we don't have any way of increasing our price of our product to compensate for increased cost.

So where it affects on our side of the ledger is that when we lose—our costs get high enough, we lose the productive capability. We lose the actual production so then supply and demand will take over and we will get more dependent, increasingly more dependent on foreign crude sources.

And eventually, there is a day of reckoning for that. Independents now produce, I think, close to 50 percent of the stream in the domestic United States of oil and maybe a little more than that in gas. So you have got people that don't have the capability of raising the price on the downstream level.

So we simply go away. Our products go away eventually, as we become more and more dependent on other entities. You can't impose a windfall profits tax on Saudi Arabia, you know, very easily, I don't think. So you have tremendous control over us and I think it is in our best interest that that control is exercised judiciously, you know, so that we don't impose artificial costs of production in excess of benefit so that we run industry out of this country and to somewhere else where we don't have any control.

It is just in the public's long-term best interest and I know we are not a public that likes to think of long term but it is in our

long-term best interest to have a viable domestic oil and gas industry and duplicative regulations from State and Federal add to the cost burden.

If we could move those things to the State level where they know how to do it better, you would get a better bang for your buck by moving resources with them than you are getting currently.

So the bottom line is whether or not you can pass that cost on to the consumer. It is—the consumer is going to bite the bullet somewhere down the road. In the equation that we are dealing with in America today, the consumer is going to bite the bullet somewhere down the road and is going to have to pay higher oil prices through the supply and demand factor that if you eliminate the independent industry in this country, then that, too, as you said is bad for—

Mr. CANTRELL. And I might say that all the petroleum industry is linked. It is like one big lifeboat. You know, we can't sink the refining end without the E&P end going down, too. You know, I can live with \$17-a-barrel oil but I can't live with \$17-a-barrel oil I don't have a market for.

So we are all inextricably linked together and so we can't any more look at this like us and them. We are all together as an industry in America today and we have lost tremendous domestic refining capability, and that is as worrisome a problem to the independent oil and gas producer whether they know it or not as any other problem we have.

So we must look at the whole umbrella and not just protect one segment but look at preserving the entire infrastructure of this industry.

Mr. WATTS. Commissioner Apple, as one of three commissioners of the Oklahoma Corporation Commission that is responsible for setting policy and directing the agency's oil and gas regulatory efforts, I ask you somewhat the same question I asked Mike Battles.

Considering you have got the proper resources, are you comfortable from where you sit—are you comfortable in feeling like—that Congress is taking the right approach in looking at giving States more direction over their regulatory environmental futures, if you will?

Mr. APPLE. Thank you, Congressman Watts, for stating a question I am really anxious to answer. I think the evidence has been very clearly stated today—and I refer to some of the comments by Christine Hansen about the cost of the Bureau of Land Management looking after less than 10 or 20 percent of our properties in Oklahoma and whereas at the Oklahoma Corporation Commission, we looked after about 90 percent, 80 to 90, and with similar budgets.

And so there is little doubt that when we comparatively look at the cost of performing a function, the States can be more efficient. It is the point of application that is efficient. And regardless of the process, whether it is State government over county government or Federal over State, there is a loss of contact and this is very important.

And so I think because of the essential need to enhance and protect and nourish this industry that can be brutally taken into terminal status very quickly, meaning that foreign imports and the

delicacy of the balance here is within the hands of Congress to help change—there are certain irrefutable laws.

One of nature I learned painfully yesterday. With a hedge clipper in my hand making a lot of noise, I discovered a wasp nest and the wasp did the thing most natural to it. It resisted my intrusion upon their domain and my ear stings this morning as a direct result of it.

And I would say, comparatively, economically there are stings taking place in this industry that we can only take so many. There must be some consideration given that the laws of economics do apply domestically and that this industry needs our very best efforts now from the Federal and the State regulatory bodies to nurture and keep it alive and take into the 21st century with something that is still very, very vital to our State and to our Nation.

Mr. WATTS. Well, that concludes my questions for this panel but I do want to make one comment. I do see many of my former co-workers with me when I was at the Oklahoma Corporation Commission and most of them from the oil and gas division and I see some of Commissioner Apple's staff.

And I have got to say and brag on them a bit. I think they did a wonderful job in overseeing the oil and gas industry and I am just always amazed at how much you can get done when citizens and regulatory agency and the industry that it regulates will sit down and take a commonsense approach; let's argue, fuss, and fight, but when we leave this meeting, we have got a plan that we can go forward with that will be equitable for everyone.

And Mike Battles and his staff and the industry folks and citizens who were involved in an effort were always very good to do that. And I commend you all for those efforts and in my opinion, I think we need to continue fighting to make sure that the States can have as much direction over their environmental policy as possible rather than having a one-size-fits-all out of Washington, DC.

And what is good for the State of Oklahoma in environmental policy could be horrible for the State of Illinois. What is right for California could be horrible for the State of Oklahoma. So there has to be some flexibility and latitude to allow people to tailor, if you will, programs to fit their States' respective needs.

And I am safe in saying that Oklahoma—when you put a one-size-fits-all policy on the State of Oklahoma in environmental policy, most of the time, you are going to put us at a real disadvantage because other States—most States don't have, as you heard Ms. Hansen say that there is seven associate States in IOGCC that wish they did have oil and gas and they don't.

And so I doubt they are going to have to deal with the same energy policy or environmental regulations that Oklahoma would but the way we do it, theirs would be the same so—because it is a one-size-fits-all policy. So with that, that concludes my questions and comments and let me say at this time, Mr. Chairman, I am delighted again—say that I am delighted that you thought enough of us to come down and hear us out.

Mr. MCINTOSH. Well, it has been my pleasure and I thank this panel very much for joining us today. Let me also thank you, Congressman Watts, and your staff for helping to put together this

field hearing. And I appreciated you acknowledging the staffers at the Commission who had done so much good work.

I think behind each of us, there is a good staff that does a lot of the work to make sure things come out well. And so I thank all of them today. Let me, again, say thanks to this panel and now open it up to the open microphone section.

You all may go ahead and take your seats and anybody who would like to testify, we are going to have you come forward. Karen can get you to one of the microphones seated here. This is a less formal part of the hearing but one that often is very informative to us.

And I may have to leave after we get this underway, but if there are more people who want to testify, if you wouldn't mind letting me deputize you to hear the rest of their testimony, that would be great. And that will become part of the official record.

Let me ask you to introduce yourself, state your name for the record, and share with us whatever you would like to.

**STATEMENT OF JACK DAKE, LAND MANAGER, BARON  
EXPLORATION CO.**

Mr. DAKE. My name is Jack Dake. I am land manager for Baron Exploration Co. in Edmond. Not close enough? And appreciate very much your having—

The REPORTER. Excuse me. Before you start, would you repeat your name again? I didn't pick it up.

Mr. DAKE. Jack Dake, D-A-K-E. And I am land manager for Baron Exploration Co. in Edmond. We operate nearly 100 wells here in the State and the State of Texas, have interests in many other wells. And my employer is very much in support of this hearing and of the expressions of concern that we want to convey.

And we would like to begin, though, by stating that, as any person that is ill and goes to the doctor and the doctor probes around and it hurts, there are some cries of pain involved, often. That doesn't mean you don't love the doctor and that you want the doctor to do something.

And so my instructions are to be very direct and—but understand that we are very much in favor of you both and what is being done and look, you know, very affectionately on you. So the cries of pain you are going to hear are not directed at you but it is for—you know, cries for help.

The majors, as we all know, are going overseas and in the 20 years that I have been involved in the oil and gas business, I can say in the last 5 to 6 years, it is rare that we ever come in contact with a major having an oil and gas interest unless it is some ancient property, 20 or 30 years old, or some minerals that they bought from a company taken over in decades past.

Frank McPherson and I had a personal conversation here about 3 years ago in which he assured me that Kerr-McGee would never build another refinery in the domestic United States. And as an American, that is just sick that our Government and that a particular agency in our Government has been a part of that and that—you know, as someone that has grown up in Oklahoma, to watch our companies take their business overseas because they are being literally run off from the American continent is wrong.

And it just didn't get that way by happenstance and in my opinion, the environmental side, something that I have followed for years—I am not just—it is my second largest file, second to education, that I have in my personal files.

I have an immense folder on it, tons of journal opinions. I can talk somewhat fluently on many of the issues surrounding the EPA. But there is no other conclusion that can be reached by any person looking at the evidence overall or in particular.

The EPA wants it this way. It didn't get here because of inadvertence, error, or otherwise. They want it this way and until that truth is dealt with, these other ideas of trying to fix it are not really going to work because there has got to be an underlying change about the EPA's existence, or whether it even should exist, because it is trying to drive these things off.

But there is a second truth and corollary that has to go along with this. Those who fund the EPA have to want it that way, too, or it would stop. And so it is not going to stop until the funds are cutoff because the same people that have done this for the past 15 years at the EPA for the most part are still there.

There are titular heads that move in and out, but the same people that have been doing this for 15 years are still doing it. These continuing decreasing of standards on things like air quality, water quality, and so forth, that are utterly unscientific and designed solely for power and control—the same people are still there.

And just because there is now a newer Congress and there is a more—it is not going to change unless the existence of the agency itself is changed in some way or it ceases to exist. Susan King referred to the TRI and the problems that we face there.

That for our company means that we would have 3 or 4 years to exist. There are a few wells that would keep us alive 3 or 4 years. Most of the wells we operate, if we have to start doing that kind of stuff, we will plug them.

We could not possibly stand the exposure. Our insurance company will not cover us under liability for something like that for a company our size. But you are going to have to sign all kinds of documents under penalty of perjury and all the concurrent things that go there.

And there is no way that is going to happen. That is going to result in the plugging of many of Oklahoma's oil wells, if that occurs. Again, it is impossible to believe that the people who claim to be the scientists having these concerns are unaware of that fact.

They know that. That is what they want. It has nothing to do with the environment or environmental concerns. The truth is everybody here has been skirting about the issue and I respect greatly the people that have spoken.

They have been eloquent. They are much better trained in their areas than I am in those areas and that type of thing. I don't purport to be an equal to anyone in any of those things, but the fact is we are discussing the existence of the EPA, whether it should exist or not.

And there is just a long history of things there. The EPA has no internal—inherent right to exist. It has no inherent right to exist. It must justify that existence, just as a division in my company has no right to exist.

It has to justify it. And what we should do as far as our refining things—we ought to tell Carol Browner she has got a year to come up with a plan that is going to provide for the retrofitting of existing refineries and make attractive and immediately economically viable the building of new refineries.

And her agency has to come up—has 1 year to come up with a plan supported by the industry to present to Congress or we are going to shut it down and turn it over to the States where someone competent can come up with a plan.

So I mean, we are going to have to take these kind of attitudes or they are not going to change. They are simply just going to roll along and so forth. Maybe another option is this. In the State of Texas, the local government is supreme.

The State of Texas can pass laws but if the city already has laws, the city's laws rules. Let's do it that way. Simply put out that if the State of Oklahoma has laws governing oil and gas States, it has environmental quality laws, air laws, water laws, those laws rule supreme and the State can notify the EPA that it no longer has the authority inside the State borders to do that.

Let the States take it over and like that and let the State make the decision whether or not they want Federal control. And the only other thing I would say is that—here, besides all the other points, is that the reference that Terry Ross made to the 42 percent on regulatory and tax cost has to be grossly wrong.

That is way too low for what it costs and if one understands the tax stream and regulation stream—and I would love to walk through that but I see I have used up my time here. But that is grotesquely low.

Mr. MCINTOSH. Well, Mr. Dake, let me actually ask you. If you could put together some information to—on your opinion of what that would be, that would be very helpful to us. And we will hold the record open on the hearing.

If you could submit that to us and just back it up with what the different costs are and the estimates, that would be very helpful. Let me also just say—and I am going to have to go after this because we have got another field hearing in the Tulsa area.

The—you would be surprised—you talk about EPA. And we just had a hearing in Washington last week at which documents were produced about how they have been using tax payer dollars to engage in a massive political and lobbying effort.

And this Congress—J.C. and I are both freshmen, and we started out wanting to make these changes in the commonsense regulation reform. And several of our colleagues have become frightened because they are being labeled as antienvironment.

And what we discovered in this hearing was that this was a systematic political effort at taxpayer expense in order to defeat those efforts in Congress and to support the Agency. So this is an Agency that in many ways has gone out of control.

I don't think that that is the mission the American people wanted them to do; to engage in a huge lobbying and political effort. You would be very surprised at these documents. There were long lists of Members of the Senate and Members of the House of Representatives with their reelection percentages next to it and the date they are going to be up again if they are Senators.



Something that you would see in a boiler room or a lobbying effort engaged in by a special interest or groups in Washington. All of them sitting in files at EPA. And so we are furthering the look into that because there are criminal statutes that make it illegal to use taxpayer dollars to engage in political activity and to see if any of those were violated.

But there has to be a massive mindset, I think, changed in the way things are done in EPA and in Washington in order to make some of these commonsense changes that the American people only see the end result and there is a lot more to shovel back there, if you will excuse the reference, before we can get to them.

So I appreciate you coming forward today. I do apologize that I won't be able to hear your testimony but if I can deputize my colleague, Mr. Watts, to continue the hearing for us, everyone else's comments will also become part of the record.

And I want to say thank you to everyone who participated today. Thank you for the staff and the leaders at the Energy Center. This was a great place for us to have a hearing. And this has been one of the best that we have had so far, so I appreciate it very much. Thank you.

Mr. WATTS [presiding]. Thank you, Congressman, for coming again. Have a safe trip to Tulsa, and we will continue with our public comment. And we are going to limit our public comment to 2 minutes per comment. And I want to introduce someone that is here with me today that I didn't earlier—Nicole Scott, who is my energy person, and of course, Don Smitherman had a hand in setting this up and Don works in the Norman area with me so I appreciate their efforts today also.

So if you would, just state your name for the record, and you are recognized for public comment.

**STATEMENT OF OWEN ANDERSON, PROFESSOR OF OIL, GAS AND NATURAL RESOURCES, UNIVERSITY OF OKLAHOMA**

Mr. ANDERSON. My name is Owen Anderson, and I am the Eugene Kuntz professor of oil, gas, and natural resources at the Oklahoma—University of Oklahoma College of Law. I have also been in teaching since 1979, and have been privileged to teach at the University of North Dakota and the University of Calgary in Alberta, and Texas Tech University.

And I hate to admit this in front of Congressman Watts, but also the University of Texas. But I have been at OU since 1992.

Mr. WATTS. You are forgiven.

Mr. ANDERSON. And I have also been a member of the legal committee of the IOGCC since 1978. I have listened intently to the panelists here this morning and would generally endorse virtually everything that has been said. I would like to single out just four quick things that struck me in particular.

First of all, to follow up on Christine Hansen's testimony, I really do believe that the States could do a very good job of administering oil and gas regulations, both environmental and conservation on both private and State and Federal lands, particularly with regard to Federal lands.

It would eliminate a lot of duplication. In a State like North Dakota, that has a tremendous amount of Forest Service lands, it ac-

tually would eliminate what amounts to triple regulation because the U.S. Forest Service manages a lot of the surface acreages and the BLM manages the minerals for and then you have, of course, the State conservation agencies that I was privileged to be general counsel of the North Dakota Industrial Commission, which is the counterpart of the Corporation Commission here in Oklahoma.

And I am familiar with what smaller oil and gas or less important oil and gas States do with their programs. And they do a good job. In—with respect to U.S. Forest Service lands, in North Dakota, like is typical throughout much of the oil patch area, you have checkerboard acreage of Federal, State, and private lands.

The sad part of it is a lot of people don't want to drill on Federal lands any more because the requirements are so onerous that actually Federal acreage ends up being drained by private and State acreage of oil and gas reserves that really are Federal reserves and should go to the benefit of the people of the United States, and you know, not just the private land owners that are next to these Federal lands that are able to drain them.

So that is a down side to not allowing and not encouraging more drilling under Federal lands. And I know Governor Ed Shafer, who was the chair of the IOGCC in North Dakota, is very concerned about that. The—Mr. McPherson commented about the regulatory approach in other countries and that is another serious problem for the United States.

I have been privileged to study the conservation and environmental laws in Canada and Norway and China, which are three quite different approaches to regulation, but they all have one thing in common and that is that they do tend to work cooperatively with companies to solve problems.

You will find that most of the legislation sets forth policy statements. Then the underlying regulations set forth objectives and then what the regulatory officials do is they work in close cooperation with the industry to try to meet the objectives.

And that is a very different approach, I think, from how regulation has typically been done in the United States. And so I guess to borrow a phrase from the administration, you have to literally reinvent government in terms of reinventing the philosophy of regulation to copy what I think is a more successful approach taken in other countries.

And then finally, I wanted to comment about the independents. You know, all major companies in this country used to be independents and they wouldn't have become major oil companies if they had to put up with the kind of regulation that the independents are suffering here today.

You know, Phillips, for example, with the competent help of people like Susie King, can fight the good fight on environmental matters with the Federal Government. And you know, they may lose some and take the dollars overseas.

Most independents will just go out of business. Neither is very desirable for this country and especially when you plug in the fact that—and my figures may be actually low, but I think that 25 to 30 percent of the Nation's domestic production comes from stripper wells.

If those stripper wells are regulated to death, we will lose a tremendous amount of our domestic production and we will become even more dependent upon foreign oil supplies than what we are currently. So in general, I would just endorse what has been said here today and leave it at that.

But thank you for the opportunity to be here and thank you for inviting me.

Mr. WATTS. Thank you, sir. Yes, sir. If you would just state your name for the record, and you will be recognized to proceed.

#### STATEMENT OF EDMOND KESSLER, FARMER

Mr. KESSLER. My name is Edmond Kessler. I live here in Norman and also in Purcell, OK. And I am speaking today as a farmer and a owner of land in the oil patch. I—

The REPORTER. Mr. Kessler, before you start, would you spell your last name, please?

Mr. KESSLER. K-E-S-S-L-E-R.

I want to thank you for the opportunity to make a few remarks. I also agree with much of what was said here today. I don't doubt for a minute that there are some inappropriate regulations that ought to be studied and revised.

But a great deal wasn't said here today that I think is important and that we need to have in mind. The increasing—we have a rather clean country and in spite of the inappropriate regulations, there are a lot of good regulations and we can thank our country and our gods for having provided us with regulations that have made the air clean and water.

Nevertheless, cancer rates are increasing substantially as a perusal of the statistical abstracts of the United States quickly reveals and this may be behind the continuing effort to tighten the regulations. I think it is also important to realize that when we are talking about taxes, that taxes in the United States are 9 percent less than the average of the other industrialized countries and only two industrialized countries in the world—namely, Turkey and Australia, if you count Turkey as industrialized—tax lower than the United States overall, national, local, State.

Gas in the United States is among the cheapest in the world. There are only one or two countries in the world where gas is cheaper than it is in the United States and the cheapness of gas in the United States is a serious threat to our national security.

We are 5 percent of the people. We consume 50 percent of the world's gasoline and 25 percent of its petroleum. I can't imagine that this situation can continue indefinitely and I am certainly not going to try to speak today to the policy changes that will be necessary if we are going to survive into the 21st century.

But I think this needs to be borne in mind when we are talking about reducing a 4-cent gasoline tax. Oklahoma had State laws dating from 1915 or 1916, but show me an oil patch and I will show you plenty of destroyed land. Plenty.

Every time they put in an oil well in many places, there is 5 more acres gone for 10,000 years. I have an injection well on my property. I have had a continuous running battle with the oil company for 20 years. I have been lied to frequently.

The Corporation Commission has very good people. They have inadequate funds to enforce what laws they have. Some of the laws, incredibly, have no penalty for the lack of enforcement. It is OK to give more power to the States but as was also pointed out here, and I do agree with it, money has to come, too.

And it is all right to have discretion. I think you need discretion. But if you have discretion, you have to have wisdom in deciding what the issues are and how to be discrete in the enforcement of the laws. And those people are expensive.

They are well-trained. They are educated. They are wise and they command high salaries. You are not going to pay them 20 thou a year. In Oklahoma, we have historically—I have historically tended to look to the Federal Government for protection not afforded by the State because of deficiencies here which are somewhat out of control of our local people and our local government.

And it is OK to give more power to the States in some cases, but you can't just dump it on the States in the expectation that you will have less enforcement, which is, I think, the motive in some cases. You have a very serious situation with increasing population and increasing pressure on the environment.

OK. I have probably said enough. I have made my points. I think these things need to be borne in mind. I am not suggesting policy overall. Well, maybe I am suggesting many implications of policy overall, implications for policy.

But there is not time to go into detail. I think these things need to be borne in mind. I thank you very much for the opportunity to express myself.

Mr. WATTS. Thank you, sir. And thank you for coming today and I appreciate all those that shared public comments and I appreciate all three of our panels today for taking time to come and be with us this morning. And we will leave the record open.

I think Mr. Ross and Mr. Dake both will provide additional comments for the record. So with that, we will not close the record. We will just adjourn. Thank you very much.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]

