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Testimony on the BLM Live Internet Auctions Act – HR 555

The BLM is currently hindered by outdated legislative language. During this presentation we will explore how you can fix this problem. As members of Congress, you have an opportunity to dramatically improve the BLM's revenue-generating oil and gas leasing program.

EnergyNet is a company that has spent nearly fourteen years conducting oil and gas auctions on a fully Internet-based, continuous oil and gas marketplace, and we appreciate the opportunity to share our professional experience with you.

Let's start with the biggest question: Why does the BLM need the **freedom** to utilize the **Internet** for their lease program?

There are many reasons why an Internet auction is **superior** to a traditional, live, outcry auction. The **BLM Live Internet Auctions Act** that you are considering would **allow** the BLM to harness the power of a vast Internet-based oil and gas auction marketplace, which presents a host of new opportunities to the BLM.

In this presentation, we would like to highlight three of the benefits of passing the **BLM Live Internet Auctions Act**:

- The opportunity to **modernize** the BLM leasing program
- The **increased participation and competition** an Internet platform fosters, and
- The **increased revenue** the BLM can realize as a result of that competition, and as a result of the cost savings an Internet platform can provide

To modernize the BLM's Leasing Program, we must first realize that the current legislation is simply outdated, and "accidentally specific." The Internet, and certainly an Internet auction platform, was unheard of in 1920, but at the time, lease sales could be conducted by "competitive bidding."

Unfortunately, the **unintentionally-limited** wording of the Leasing Reform Act of 1987 bound the BLM to an oral auction format, which has become outdated in the 26 years since.

The BLM Live Internet Auctions Act fixes this – allowing the Secretary of the Interior the option to "conduct onshore oil and gas lease sales through Internet-based live lease sales," modernizing the Mineral Leasing Act.

Under the current, oral-auction-only system, bidders who wish to participate in lease sales from multiple state offices have to deal with different physical locations to travel to, different hotels to stay in, different auction venues, and even different auctioneers.

With the Internet as an option for the BLM, a bidder could participate from **any web browser**, from any location, using the same tools and bidding interface for every sale. Bidders can even participate in multiple lease sales that are being held simultaneously.

***If you have a web browser, you already have a seat at the auction.***

While participants will appreciate a standardized, uniform auction experience, BLM state offices should also expect a system that lets them **customize their individual sales wherever necessary**, and one that **plugs into their existing workflow**.

Rather than retrofit each state office's sale process to fit an Internet model, a well-designed Internet auction **serves the state office**, and will provide each office with an easy way to:

- **Transmit sale group and parcel information** to the auction website, and to potential bidders,
- **Display each parcel's due diligence** information in a uniform format,
- **Update that parcel information instantly** when new information becomes available or a parcel has to be pulled from the auction, and then immediately contact every participant who viewed the now-outdated information,
- **Perform the actual auction itself**, and then
- **Receive transactional data** and other post-sale reporting after the sale in a format that best suits the state office.

BLM offices with unique bidder qualification requirements, parcel stipulations or timing restrictions can have these terms built directly into the sale, and even automated in many cases.

This ultimately **reduces costs and workload for the BLM**, while letting individual state offices retain the unique characteristics of their sales.

Even one large room full of potential Buyers pales in comparison to an entire nation full of potential buyers. There is no doubt: An Internet-based auction reaches more people than a traditional auction ever could.

For example, EnergyNet has more-than-17,000 active, sophisticated, registered, accredited oil and gas investors, representing every state in the United States. Every EnergyNet Buyer with a bid allowance has had their identification validated through direct communication with that buyer's banker, in order to circumvent fraudulent bidding activity

EnergyNet buyers can evaluate assets and place bids from anywhere, without travel hassles or expenses. It's how we've done business for nearly fourteen years, and we believe the results confirm the process: Our Internet marketplace has sold more than 39,000 properties all across the United States since we began in 1999 – over \$1 billion in total sales, **and we've done it all through a web browser**.

This is the power of an Internet marketplace, and this is **exactly** what the BLM Live Internet Auctions Act opens the door to.

Guhan Subramanian serves both as a professor of Law & Business at Harvard Law School and as a professor of Business Law at Harvard Business School – the only person in Harvard’s history to hold tenured appointments at both universities.

Professor Subramanian's research focuses on negotiations, auctions, and "deal process design." His work has been featured in the Harvard Business Review, the Harvard Law Review, the Wall Street Journal, and the New York Times. He is also the author of *Negotiauctions*, a book that explores the connections between negotiations and auctions.

In 2010, EnergyNet contacted Professor Subramanian and requested that he examine five years of our raw, historical auction data, so that we could truly understand how our Internet marketplace compared to traditional, live oil and gas auctions.

Among his conclusions, Professor Subramanian noted the following about using the Internet as a marketplace:

- The online auction format **attracts bidders** who would be unable or unwilling to attend on-site auctions, and...
- The online-only process **preserves a level playing field** among all bidders

Overall, he said, *“It’s simple: Greater buyer exposure leads to more competition. More competition leads to higher returns for sellers.”*

The oil and gas industry understands this, and has embraced the Internet as a critical part of their divestment activities.

EnergyNet’s Internet platform has successfully divested properties for:

- Chevron, Exxon, Shell and other major oil companies
- Chesapeake, and other large independents
- Universities and bank trust departments
- Government institutions, such as the FDIC and the states of North Dakota and Utah
- ...and even for the BLM, when we were proud to develop and host their Oil and Gas Lease Internet Auction Pilot program in 2009 – their first opportunity to test the viability of an Internet auction

One seller put our Internet auction to the test in a significant way.

In 2008, EnCana split a large divestiture package, into two equal-sized component packages. EnergyNet received one of the packages. The other package was given to one of our competitors who hosts a traditional outcry auction with a “hybrid” Internet component.

Each package was given a reserve price valuation of approximately \$16.5 million dollars. To ensure that oil and gas prices were the same, both auctions were held during the same week.

Our competitor’s traditional auction sold their package for \$18.5 million.

EnergyNet's Internet auction sold its package for \$24.5 million – ***over 32% more than the traditional auction.***

Another of EnergyNet's sellers, Chevron Incorporated, named the 16th largest public company in the world by Forbes Global 2000, has had tremendous success divesting oil and gas assets on an Internet-only platform.

From June of 2003 through April 2011, Chevron utilized our Internet auction platform to divest over 2000 lots from 27 states with a combined anticipated reserve price of \$87.7 million dollars. Their total actual sales were more than \$134 million dollars, a 53% premium over their combined anticipated reserve, and far above their expectations.

**In conclusion:** Through modernization, you allow the BLM to increase the participation and competition for every lease sale, and increase their revenue through higher parcel values and lower internal costs.

This can happen for the BLM through the BLM Live Internet Auctions Act. This piece of legislation opens the door, by giving the Secretary of the Interior the authorization to establish an Internet leasing program.

This common sense piece of legislation can truly change the future of the BLM's leasing program.

That concludes our presentation. On behalf of the entire team at EnergyNet, we thank you for the opportunity to share our professional experience with you.

Thank you very much!

ENERGYNET.COM, INC.

# Committee Report

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## Oil and Gas Lease Internet Auction Pilot (OGLIAP)

**Kevin McDonald**

**10/12/2009**

This document includes internal information and analysis concerning the Oil and Gas Lease Internet Auction Pilot (OGLIAP) system developed by EnergyNet.com, Incorporated for the Bureau of Land Management (BLM). Information included in this report may only be reproduced with specific written permission from EnergyNet.com, Inc.

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## Oil and Gas Lease Internet Auction Pilot overview

The Bureau of Land Management's Oil and Gas Lease Internet Auction Pilot (OGLIAP) service was built and hosted by EnergyNet.com, Inc. in Amarillo, Texas to the detailed specifications authored by the BLM. OGLIAP was designed to provide an Internet-based auction to evaluate the viability of new, online auction methodologies. All parcel evaluation, registration and bidding was performed over the Internet using standard web browser-based technology.

OGLIAP was made available to the public on July 8, 2009, listing 38 parcels for auction. Ten parcels were later withdrawn from the auction by the BLM Colorado State Office. The remaining parcels were divided to open for bidding over a 2-day period. Each parcel, after opening, was available for a 7-day bidding period. Parcels closed for bidding on September 16-17, 2009.

### Viewer statistics and notes

- OGLIAP received thousands of visitors, with parcel views from 92% of the U.S. - 100% of oil and gas producing states
- 100% website uptime; 24/7 availability

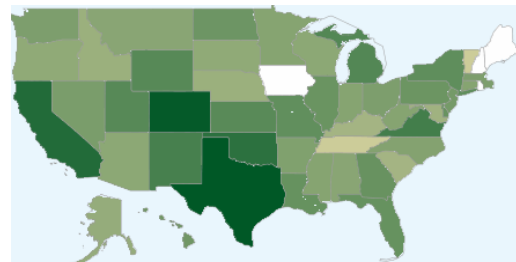


Figure 1: Heat-map of relative OGLIAP viewing volumes

### U.S. citizen bidder statistics and notes

- Fully online registration and bidding process; participate from any Internet-enabled device
- Bidders were provided advanced anonymous bidding options involving flat bids and proxies
- Registered bidders enjoyed an estimated travel savings of 30,000 miles for this auction, including from distant states such as Massachusetts, Florida and Hawaii.

### Benefits of the online auction format to bidders and the BLM

- Fully transparent auction process for both leasing participants and Bureau staff
- Instant, paperless, coast-to-coast exposure of BLM parcels provides the capability to immediately update parcel information and actively notify auction participants via email
- Nationwide user participation without travel restrictions increases bidder competition by expanding the potential bidder pool
- Online presentation removes physical location for possible auction sidewalk protests
- Potential to standardize online parcel presentation across all lease sales
- Modern bidding system provides participants with flexible, configurable bidding options including proxy bidding
- Fully Section 508 compliant for a highly accessible website
- Potential for tight integration with existing BLM systems
- Overall paper and carbon emission reduction (see below)
- The online format gives the BLM flexibility with scheduling and updates: Auctions with any sort of interruption (i.e. technical, weather-related, etc.) can immediately be postponed, reset or rescheduled, and all participants notified.



## Size matters: Why the auction format is best for the BLM

The live auction format has performed well for the BLM for more than 20 years. Add to that the competition and exposure possible with the continuous Internet auction venue possible with today’s technology, and you have the best of both worlds. Through EnergyNet’s experience of conducting both sealed bid and auction sales, and after the sale of 28,000 properties over the past 10 years in the private sector, we have concluded that ***the excitement generated by adding the auction element to the bidding process leads to increased competition and thereby adds value.***

Similarly, the sealed bid format has an important role, but it is critical to understand the differences between **offshore** and **onshore** leasing. Sealed bid lends itself to larger offshore lease blocks as there are fewer interested parties, whereas smaller onshore BLM parcels lend themselves to the auction process because there are infinitely more bidders. The number of bidders qualified for offshore MMS sealed bidding can be counted on one hand.

<b>Worlds Apart</b> <i>Offshore lease blocks vs. onshore tracts: The sale methodologies don't mix.</i>	
Sealed Bid (MMS)	Auction (BLM)
<ul style="list-style-type: none"> <li>• 10 or fewer potential bidders capable of multi-million dollar bids, always the same players</li> <li>• Private sector comparable sale statistics are non-existent</li> <li>• Reserve potential underlying MMS lease blocks (i.e. 10,000's of acres) can vary by billions of dollars of future revenue</li> </ul>	<ul style="list-style-type: none"> <li>• 1000's of possible bidders, with new bidders entering the market all the time</li> <li>• Numerous offsetting lease sale comparables in immediate areas due to private sector activity</li> <li>• Reserve potential underlying a 20-100 acre BLM lease can vary much less, therefore the bonus value is more easily quantified</li> </ul>

When selling onshore BLM leases, there are numerous private land owner comparables available. With offshore MMS lease blocks, the value attributed to those assets by large companies can be very different. Therefore, the sealed bid process is ideal because the spectrum of evaluations is so wide. The same does not hold true for onshore BLM leases, making the auction format the clear choice for the competitive process.

## Industry reaction

The oil and gas industry has been quick to adopt the online leasing format and the host of benefits it brings to the table. One of the most notable benefits imparted by the online format is the increased transparency between the Bureau’s leasing program and the public. By entirely digitizing the auction





process, bidders will have live and up-to-date information 24 hours a day and have access to parcel and bid information at unprecedented levels of detail. Additionally, the BLM itself will experience a streamlined auction process internally, as the OGLIAP application can be automated and integrated with both the pre-auction parcel preparation process and the post-auction payment and collections systems. By constructing an online set of tools and building a fully digital lease process, both the industry and the BLM will benefit from increased efficiency and enjoy a higher quality of service.

Compared to the sealed bid process outlined in H.R. 3534, the open and transparent nature of the online auction shines as a stronger alternative. The online auction is, by its nature, easily verifiable as a legitimate and fair competitive process where every bid received is noted on a parcel's bid history table. Comparatively, the sealed bid process forces lessees to bid without any knowledge of the competition's interest or intent. Because of the competitive unknowns introduced by the sealed bid format, a discount will be ultimately be levied against the sale's prices. By providing constantly updated, highly accurate access to the sale's progress, bidders using the online auction format are enabled to participate in the auction more fully, resulting in more competition and a higher level of participant satisfaction.

The Oil and Gas Lease Internet Auction Pilot was demonstrated to a panel of private oil and gas representatives at the *Industry Review Meeting* in the last phase of the OGLIAP application development. A number of suggestions provided by the panel were incorporated into the application prior to launch, and the overall response was positive. The theme of industry excitement and acceptance was further evident at a series of training sessions held at the Colorado State BLM Office to bring the system into the hands of the very bidders who would be using it. EnergyNet provided a fully mobile training lab providing users with a genuine, hands-on training opportunity with the application.

### Potential for paper and carbon emission reduction

If each of the unique viewers of the OGLIAP website represented a reduction in the number of paper-based auction/parcel listings books that must be printed and mailed, at an average of 50 pieces of paper per book, this would have resulted in the savings of **over 124 reams of paper** and **1.38 metric tons of carbon emissions<sup>i</sup>** during the pilot auction.

Estimating the distance between each registered bidder and the BLM Colorado State Office, registered bidders enjoyed a potential combined **travel savings of 31,885 miles** and **7 metric tons or carbon emissions<sup>ii</sup>** for the pilot auction.

### Looking forward

Based on industry developments found in the private and now the government sectors, the online auction system has enormous potential to further refine and improve the BLM's federal leasing process. The return on investment for the BLM has been exceptional based on the first pilot sale, both in terms of bidder participation and service to the oil and gas exploration and development industry.

Many ideas have been explored over the course of the past year's design and development of the leasing website, and further when conducting the actual lease sale. Augmented by feedback received from industry users, certain improvements to the registration and auction closing process are possible



and recommended, including an improvement to the existing identity validation and online payment integration. Improving these functions will work to provide novel new protections against fraudulent bidding and auction disrupters as seen earlier this year in Utah.

While subdued by the current economic realities, leasing programs in western states continue to earn federal income and provide exploration opportunities for the oil and gas industry. The online auction, with its inherent flexibilities, is a good fit for all of the states involved in the federal leasing program. It is entirely feasible to develop and conduct an online auction for each of the BLM Leasing Offices over the next year, including additional auctions for Colorado as well as for Montana, New Mexico, Utah, Wyoming and the surrounding states that these offices service.



## Public reaction

The OGLIAP project has been mentioned in several media outlets. All of the reports EnergyNet encountered presented the OGLIAP project in a positive manner, noting the historic element of the BLM Leasing Program's first use of an Internet platform for conducting auctions. Below are samplings from some of the articles written about the project:

## Mainstream media

"The federal Bureau of Land Management is going eBay — or at least eBayish. The September auction of Colorado oil and gas leases will be held online — a \$250,000 pilot project that could lead to all federal lease sales being conducted on the Internet..."

**The Denver Post**

*BLM to try online auction for Colorado oil, gas leases*

July 8, 2009

"DENVER (AP) - The Colorado office of the Bureau of Land Management will achieve a first for the agency when it conducts its next quarterly oil and gas lease auction online..."

**Associated Press**

*Colo. BLM picked for pilot online lease auction*

July 10, 2009

"The Bureau of Land Management's Colorado office said Monday it will hold the federal land agency's first-ever online auction of oil and gas leases under a pilot program..."

**Denver Business Journal**

*BLM Colorado to hold first-ever online auction for oil, gas leases*

July 13, 2009



"...Right now, the BLM is conducting an online pilot auction, giving bidders a chance to compete for parcels online rather than in person. San Miguel County Planning Director Mike Rozycki said the BLM was testing the new system but will fall back on its normal method — an in-person auction the Denver suburb of Lakewood — while the federal government reviews the online method..."

**Telluride Daily Planet**

*No acres up for mineral lease in San Miguel County:  
Uranium may again boom, but oil and gas is quiet, for now*  
September 16, 2009

"In the agency's first-ever online sale of oil and gas leases, the U.S. Bureau of Land Management's Colorado office sold 19 parcels of 28 offered, totaling 7,701 acres, and earned \$153,637..."

**Denver Business Journal**

*BLM nets \$154K in first-ever online lease sale in Colorado*  
September 14, 2009

**Comments received via the OGLIAP Help Desk**

"We've never had deep enough pockets to travel to a live sale. This is great we'll be able to go on the Internet."

**Edward Stephens**  
September 5, 2009

"I have eight thousand acres in BLM Leases in east Texas, and it's exciting to be able to participate in other states this way."

**James Baccus**  
September 5, 2009

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<sup>i</sup> Calculations based on information from U.S. EPA, 2006. Solid Waste Management and Greenhouse Gases: A Life-Cycle Assessment of Emissions and Sinks, EPA530-R-06-004.

<sup>ii</sup> Calculations based on information from U.S. Department of Transportation, Bureau of Transportation Statistics; TranStats, Air Carrier Summary: Schedule T-1; "Airline Fuel Cost and Consumption"; "Airline Fuel Cost and Consumption."



On September 13, 2011, the following testimony was submitted to the House Natural Resources Subcommittee on Energy and Mineral Resources on behalf of the Bureau of Land Management in support of H.R. 2752.

The current bill, H.R. 555, continues the effort that H.R. 2752 began.

**Notable quotes:**

*“The Bureau of Land Management (BLM) supports the goal of diversifying and expanding the Nation’s onshore leasing program to ensure the best return to the Federal taxpayer and supports H.R. 2752. The BLM would like to work with the committee on technical and clarifying modifications to the bill and on an amendment pertaining to the location and frequency of lease sales.”*

Regarding the BLM’s Oil and Gas Lease Internet Auction Pilot (OGLIAP) of 2009: *“The website functioned extremely well and the sale was successfully completed. An evaluation of the Internet auction found that leasing online would have immediate cost savings and benefits, such as potentially increased competition. The Internet pilot test had nearly twice as many bidders compared to the average number that attend the BLM Colorado’s oral lease sales.”*

*“The BLM supports H.R. 2752, which allows the BLM to expand upon its success with the oil and gas Internet lease auction pilot project.”*

**Statement for the Record  
Bureau of Land Management  
U.S. Department of the Interior  
Before the  
House Natural Resources Subcommittee on Energy and Mineral Resources**

***H.R. 2752, The BLM Live Internet Auctions Act***

**September 13, 2011**

Thank you for the opportunity to present this Statement for the Record on H.R. 2752, the BLM Live Internet Auctions Act, which authorizes the Secretary of the Interior to conduct onshore oil and gas lease sales through Internet-based live lease auctions. The Bureau of Land Management (BLM) supports the goal of diversifying and expanding the Nation's onshore leasing program to ensure the best return to the Federal taxpayer and supports H.R. 2752. The BLM would like to work with the committee on technical and clarifying modifications to the bill and on an amendment pertaining to the location and frequency of lease sales.

**Background**

The Mineral Leasing Act of 1920 establishes the statutory framework to promote the exploration and development of oil and natural gas from the federal onshore mineral estate. Secretary Salazar has emphasized that as we move toward the new energy frontier, the development of conventional energy resources from BLM-managed public lands will continue to play a critical role in meeting the Nation's energy needs. Facilitating the safe, responsible, and efficient development of these domestic oil and gas resources is part of the Administration's broad energy strategy – outlined in the President's *Blueprint for a Secure Energy Future* – that will protect consumers and help reduce our dependence on foreign oil.

The BLM is working diligently to fulfill its part in securing America's energy future. The BLM currently manages more than 40 million acres of onshore oil and gas leases. In FY 2010, onshore oil production from public lands increased by 5 million barrels from the previous fiscal year as more than 114 million barrels of oil were produced from the BLM-managed mineral estate—the most since FY 1997. Meanwhile, the nearly 3 trillion cubic feet of natural gas produced from public lands made 2010 the second-most productive year of natural gas production on record. In 2010, conventional energy development from public lands produced 14.1 percent of the Nation's natural gas, and 5.7 percent of its domestically-produced oil.

Current and future lease sales are benefitting from much-needed reforms that the BLM put in place in May 2010. The BLM reforms established a more orderly, open, and environmentally sound process for developing oil and gas resources on public lands. They focus on making oil and gas leasing more predictable and increasing certainty for stakeholders. With these reforms, the number of protests of parcels offered in lease auctions has declined dramatically. During 2011, only 12 percent of nearly 900 parcels offered for lease have been protested compared with over 40% of parcels offered being protested during the two years before the reforms were implemented. Twelve lease sales this year have been conducted without any parcels being

protested. In addition, revenues from lease sales have increased from approximately \$165 million dollars in FY 2009 to nearly \$235 million dollars to date in FY 2011.

### **Onshore Competitive Oil & Gas Lease Sale Process**

In accordance with the Mineral Leasing Act, the BLM competitively offers eligible lands which are available for lease by oral auction on a quarterly basis. As part of the competitive leasing process, the BLM accepts informal expressions of interest (EOI) and noncompetitive presale offers from industry or other interested parties. The BLM collects the requested parcels into draft sale lists and adjudicates them for availability, verifying mineral ownership, and ensuring there are no pre-existing oil and gas leases on the requested lands. The parcels are then evaluated through the BLM multiple-use planning process required by the Federal Land Policy and Management Act.

Once parcels are evaluated and found to be in conformance with BLM Resource Management Plans (RMP) and the BLM has documented site-specific National Environmental Policy Act compliance, the parcels are made available and placed on the next Notice of Competitive Oil and Gas Lease Sale by the BLM State Office with jurisdiction over the lands. Competitive lease sales are held at least quarterly by each of the BLM State Offices where there are eligible lands. Parties interested in bidding on parcels must attend the oil and gas competitive lease sale auction to obtain a competitive lease or make formal arrangements for someone to represent them at the auction. No sealed or mailed bids are accepted.

### **BLM's Oil & Gas Internet Lease Auction Pilot**

Congress directed the Secretary of the Interior through the Fiscal Year 2008 Consolidated Appropriations Act (Public Law 110-161) to establish an oil and gas leasing Internet pilot program, under which the Secretary could conduct lease sales through methods other than oral auctions. To carry out the pilot program, the Secretary was permitted to use up to \$250,000 from the BLM's oil and gas Permit Processing Improvement Fund. The BLM developed a pilot oil and gas lease Internet auction as an alternative to the quarterly oil and gas oral auctions required by the Mineral Leasing Act. The intent of the pilot was to test the feasibility of conducting a web-based lease sale auction, and evaluate the potential savings and benefits for the Federal Government and lease sale participants.

On July 8, 2009, the BLM's Colorado State Office offered the first Federal oil and gas lease parcels for sale on the Internet. All parcel evaluation, registration, and bidding were performed online. Bidding opened on September 9, 2009, for 7 days and closed over a 2-day period on September 16 and 17, 2009. The website functioned extremely well and the sale was successfully completed. An evaluation of the Internet auction found that leasing online would have immediate cost savings and benefits, such as potentially increased competition. The Internet pilot test had nearly twice as many bidders compared to the average number that attend the BLM Colorado's oral lease sales.

### **H.R. 2752**

H.R. 2752 amends the Mineral Leasing Act to authorize the Secretary of the Interior to conduct onshore oil and gas lease sales through Internet-based live lease sales, in order to expand the Nation's onshore leasing program and to ensure the best return to the Federal taxpayer. The bill

also requires the Secretary to conduct an analysis of the first 10 Internet based live lease sales and report the findings of the analysis to Congress within 90 days following the 10<sup>th</sup> Internet-based live lease sale.

The BLM supports H.R. 2752, which allows the BLM to expand upon its success with the oil and gas Internet lease auction pilot project. The BLM would like to work with the committee to include related language in the bill to provide the Secretary the discretion to hold lease sales (via the Internet or oral auction) more or less frequently than quarterly (as currently required by the Mineral Leasing Act) or within any state in which lease tracts are available and there is public interest. Finally, the BLM would like to work with the Committee on technical and clarifying modifications to the bill.

**Conclusion**

Thank you again for the opportunity to present this Statement for the Record on H.R. 2752.