Committee on Resources

Witness Testimony

Testimony of
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and Independent Petroleum of Mountain States (IPAMS)
Before the Subcommittee on Energy and Mineral Resources
20 June 1996

Mr. Chairman and Members of the Committee:

I am Gene Kozlowski, an independent oil and gas producer. My company, Makoil, is the largest producer from federal lands in the state of Nevada. I am here today on behalf of the Independent Petroleum Association of America (IPAA), a national trade association representing more than 5,500 independent oil and natural gas producers. I also appear on behalf of the Independent Petroleum Association of Mountain States (IPAMS) which represents independent producers in the Rocky Mountain region. My comments reflect the views of independents producing from federal leases throughout the west.

Independents are the major force in developing America's oil and natural gas resource base. We drill 85 percent of the nation's wells, produce 65 percent of the natural gas and 40 percent of the domestic oil. Despite this record nationwide, independents generally have not looked to federal lands as a promising place to do business. We believe that federal lands hold enormous potential oil and natural gas resources. However, we know that operating on federal lands can be expensive and subject to frequent and costly delays in acquiring needed permits. As a result, independents are not expanding their exploration and production on federal lands. With your help, we hope to change that.

Public Lands Hold Key To U.S. Energy Security

Of the almost 2.3 billion acres of land in our nation, nearly 650 million acres, or 29 percent, is owned by the federal government. More than one-fifth of the total oil production and one-third of the natural gas production in the United States comes from public lands. Recent U.S. Geological Survey's report concludes that the greatest potential for oil and gas development in America is on lands under "federal stewardship."

The orderly development of domestic oil and natural gas resources makes more than just economic sense. Less than 18 months ago, President Clinton reported to Congress that his investigation under the Trade Expansion Act found that America's increasing dependence on imported oil threatened to impair U.S. national security. Obviously, maintaining access to public lands for oil and gas development is essential to America's energy security. However, the people who decide where to invest in oil and gas development are shying away from public lands.

A recent IPAA survey of more than 5,000 independents revealed that their production and investment on public lands over the past few years remains unchanged. Behind those survey results is very disturbing news, indeed. While independents' overall investment in public lands remains relatively flat, independents have greatly expanded their participation in the federal offshore region, drilling more than 59 percent of offshore wells in the Gulf of Mexico last year. That tells me that investments in onshore federal lands probably are falling. Given these circumstances, it should be clear why the IPAA and IPAMS have stepped up their efforts to make oil and gas development on public lands, especially onshore federal lands, more attractive to cost-conscientious independents.

The first step should be a cooperative effort to identify and eliminate any and all unnecessary costs associated with onshore development. In part, that task will require bringing clarity and predictability to rules and regulations that now add uncertainty to the already risky business of oil and gas development. There are unnecessary costs and complexities at every step of the process of obtaining a federal lease, getting permits to drill and produce a well, to payment of royalties and even being audited. The cost and uncertainty associated with each of these steps drives independent oil and gas producers away from federal onshore lands. One result is that America is more dependent on foreign oil than it needs to be. We must step up the efforts to get the federal government, state government, the industry, and the public to work together on federal lands for the good of all involved.

In the federal royalty arena, your bill Mr. Chairman, the Royalty Fairness bill, demonstrates the type of reform that can occur when all parties work together. Your bill reforms costly royalty practices and increases the involvement of states in royalty collections. Your bill serves as a model for future public lands legislation bringing together various states while receiving bipartisan support on Capitol Hill, unanimous support from a diverse oil industry, and support from the Clinton administration. We hope we can get this important bill signed into law in the very near future.

I am pleased to see that Washington policymakers are re-thinking the relationship between the federal government and the states, and, where justified, are giving the states greater responsibility for managing a single program for both state and federal leases. Clearly, where oil and gas development are concerned, the states have the most basic motivation for managing some of the oil and gas programs traditionally handled by the federal government -- the success of those programs hits home. It is their neighbors who find employment in the industry. It is their communities that reap the direct economic benefits that multiply on Main Street when new wealth is created. The states also receive a fifty-percent share of royalties from oil and gas production on federal lands, which is often invested in education programs that benefit all their citizens.

I agree with those who believe that the states can responsibly administer oil and gas production on federal lands within their borders. The states have their own oil and gas programs and have as much, if not more, experience in managing them than does the federal government. The states, too, are undergoing a re-evaluation of their energy development programs. It is time to combine state and federal efforts to streamline these programs.

Through the Interstate Oil and Gas Compact Commission (IOGCC), IPAA is participating in a framework that will attempt to reduce administrative burdens facing producers on federal and state lands. If done correctly, the end result will be saving taxpayers dollars, eliminating duplication in state and federal oil and gas administration, reducing the size of government and transferring decision-making to the communities and states most directly affected. This type of reform will shift revenue for independents from regulatory administration to exploration and production of public resources, thereby strengthening our domestic energy supply.

Making cost reductions and eliminating duplication can be achieved without compromising essential government programs. To this end, the IOGCC proposal before you deserves a chance. We understand that this proposal was prepared in response to a BLM proposition to transfer partial responsibility for the oil and gas inspection and enforcement programs to the states. The IOGCC believes, as we do, that there is extensive duplication by the BLM and state oil and gas regulatory authorities, and that a consolidation of BLM and state regulatory activities will result in significant cost savings through a single, coordinated regulatory regime.

There is ample precedent for the IOGCC's recommendations. Examples of states as the primary implementors of federal regulatory programs are numerous. The Environmental Protection Agency's NPDES and underground injection control program, the Occupational Safety and Health Administration's industrial health and safety program, and the Office of Surface Mining's coal regulatory program are just a few examples of successful state implementation of federal programs. The states have been regulating oil and gas activities for decades. Their performance standards and review processes are remarkably similar to the BLM's. The states can assume the federal oil and gas regulatory responsibilities without disruption to ongoing or future development projects and without the need to create new administrative programs.

We would like to make the Committee aware of factors that must be considered to make such a transfer successful for federal and state governments and industry. We must, under any downsizing proposal, prevent a reduction of federal costs being brought about by shifting additional costs and burdens to an already troubled and heavily regulated industry. To secure cost savings for all those involved, we must strive to, when possible, eliminate duplication and multiple sets of laws and regulations.

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Little is gained if resources currently allocated to oil and gas activities are simply "reshuffled" to "oversight and enforcement" activities. A comprehensive and cost-effective transfer of responsibility must also include adequate funding and authority for the states to enforce the activities they are performing. These lessons have already been learned under the Office of Surface Mining's coal regulatory program. Uncertainty and litigation costs increase if an action taken by the state is second guessed by the federal government.

The "inherently federal" concept seems to be serving as justification for BLM to maintain an extensive oversight role subsequent to activities being transferred to the states. Given the limitations of the IOGCC's proposal to post-lease activities, it is doubtful if these activities will be deemed "inherently federal." Post-lease activities are mostly mandatory workloads to ensure compliance with the governing lease terms and regulations and do not infringe upon the

Secretary's discretionary responsibilities related to leasing and environmental documentation. If there is a legislative barrier preventing the transfer of so called "inherently federal" activities to states, then we should seek a legislative fix that provides for an expedient transfer of responsibility.

Another area of concern for driving up costs is the delegation of responsibility to the states with the requirement that the states enforce both federal regulations for federal leases and state regulations for all types of leases within the state. If federal regulations and standards are not folded into a clear state legal authority, then the state employee is required to enforce two different sets of regulations, causing inconsistency and resulting in no cost savings to the government or producers. The only benefit then becomes the elimination of personnel at the federal level. If the state has laws and rules consistent with the requirements of the federal government, then the state should be able to complete the action and provide a right of appeal to the producer.

Conclusion

The IOGCC proposal allows for the transfer of BLM oil and gas post-lease activities to the states. It is the consensus of IPAA and IPAMS members that the states are well equipped to carry out this responsibility. The states have been performing these duties for some time, and they have a vested interest in seeing that it is done expeditiously and accurately. Significant additional work will be necessary to identify an oil and gas program acceptable to states, harmonize state and BLM requirements to avoid duplication in enforcement and compliance, and provide adequate funding for states. As this work progresses, we suggest that producers be consulted each step of the way to prevent unintended consequences and to ensure that cost savings will be realized for both the government and producers on federal land.

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