

**H.R. 33: IMPOSING CERTAIN RESTRICTIONS AND
REQUIREMENTS ON THE LEASING UNDER THE
OUTER CONTINENTAL SHELF LANDS ACT OF
LANDS OFFSHORE FLORIDA, AND FOR OTHER
PURPOSES**

HEARING
BEFORE THE
SUBCOMMITTEE ON ENERGY
AND MINERAL RESOURCES
OF THE
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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HEARING ON H.R. 33: IMPOSING CERTAIN RESTRICTIONS AND REQUIREMENTS ON THE LEASING UNDER THE OUTER CONTINENTAL SHELF LANDS ACT OF LANDS OFFSHORE FLORIDA, AND FOR OTHER PURPOSES

THURSDAY, august 5, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY
& MINERAL RESOURCES,
COMMITTEE ON RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:03 p.m., in Room 1324, Longworth House Office Building, Hon. Barbara Cubin [chairman of the Subcommittee] presiding.

**STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF WYOMING**

Mrs. CUBIN. The Subcommittee on Energy and Minerals—Mineral Resources will please come to order. The Subcommittee on Energy and Mineral Resources meets today to take testimony on a bill introduced by Congressman Porter Goss of the 14th congressional district of Florida. H.R. 33 is a bill imposing certain restrictions and requirements on the leasing under the outer continental shelf lands off the shore of Florida, obviously. Mr. Goss has introduced this measure for several Congresses now. Twice, previously, he has appeared before the Subcommittee, when we have held oversight hearings on the issue of moratoria on OCS oil and gas leasing. But, today is the first time that we have sought testimony on his bill *per se*, so I know that he feels like he's making huge progress.

We will hear the administration's views, as well as those of the State of Florida and the petroleum industry. Basically, H.R. 33 directs the establishment of a joint Federal-state task force and mandates the preparation of assessments, studies, and research, all to be received by the task force before the Secretary of Interior may carry out his responsibilities under the OCS LA, regarding oil and gas leasing offshore of the State of Florida. Although the bill encompasses the entire Federal OCS from the Florida line and the Atlantic around the Florida Keys and Florida Bay into the Gulf of Mexico to the Alabama border, much of which is already under a moratoria in one fashion or another, but the eastern Gulf of Mexico planning area, especially the portion adjacent to the very productive central planning area, is not. However, the current five-year program plan of the MMS, the document which prescribes the pace

and progression of the leases sales, shows but one sale for the eastern Gulf and that is not until late in the year 2001.

Yes, there are already issued leases and even a few with commercial discoveries of hydrocarbons within the eastern Gulf planning area, but the Coastal Zone Management Act provides opportunity for the State of Florida Government to comment upon Interior Department approvals or denials of proposed drilling or development plans. Of course, the issue boils down to just how much deference, if any, the Feds should give the governor of a state on OCS leasing decisions off that state shoreline.

My colleagues and I from the western states here over and over again, in the course of debates with many members representing non-public land states, that these are all Federal lands, you know; my constituents own them just as much as you do. Well, Federal oil and gas development of one's coastline is not unlike my situation and I'd like to support even partial devolution of authority to coastal state governors participating in Federal OCS decision-making. But, I see very little reciprocity of this thinking, when it comes to empowering my governor to be an equal partner with the Feds, when it comes to shaping grazing, timber, mining, and oil and gas, and other public land policies. Furthermore, although Wyoming has a bountiful endowment of mineral resources on our public lands, it is still far behind the Gulf of Mexico OCS in the dollar value of those assets flowing to the Treasury.

My constituents need to know that decisions we make here in Congress affecting this rather substantial revenue stream are soundly supported by objective science. We ask no less of the Secretary of Interior, when he's putting wolves and grizzly bears in our backyard, but we don't always get it.

Let me finish with the observation that the Land and Water Conservation Fund is a pot of money that is drawing particularly strong interest this year. There are several competing proposals in Congress and the Clinton administration has ideas as well, all looking to put OCS receipts to work purchasing environmentally sensitive lands, conserving habitat, and building recreational facilities. But, we must remember from where those dollars flow. It is the well bore of a producing oil and gas lease. No leasing means no drilling, which means no production, which means no replenishment of the Land and Water Conservation Fund account. There is no free lunch.

I now recognize the Ranking Member for any opening statement he may have.

[The prepared statement of Mrs. Cubin follows:]

STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

The Subcommittee on Energy and Minerals meets today to take testimony on a bill introduced by Congressman Porter Goss of the 14th Congressional District of Florida. H.R. 33 is a bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore of Florida, and for other purposes.

Mr. Goss has introduced this measure for several Congresses now. Twice previously he has appeared before the Subcommittee when we have held oversight hearings on the issue of moratoria on OCS oil and gas leasing. But today is the first time we have sought testimony on his bill, per se. We will hear the Administration's views as well as those of the State of Florida and the petroleum industry.

Basically, H.R. 33 directs the establishment of a joint Federal-state task force and mandates the preparation of assessments, studies and research, all to be reviewed by the task force, before the Secretary of the Interior may carry out his responsibilities under the OCSLA regarding oil and gas leasing offshore of the State of Florida. Although the bill encompasses the entire Federal OCS from the Georgia line in the Atlantic around the Florida Keys and Florida Bay into the Gulf of Mexico to the Alabama border, much of this area is already under a moratorium in one fashion or another. But the eastern Gulf of Mexico planning area, especially that portion adjacent to the very productive central planning area, is not. However, the current 5-year program plan of the Minerals Management Service, the document which prescribes the pace and progression of lease sales, shows but one sale for the eastern Gulf and that is not until late in the year 2001.

Yes, there are some already issued leases and even a few with commercial discoveries of hydrocarbons within the eastern Gulf planning area. But, the Coastal Zone Management Act provides opportunity for the State of Florida government to comment upon Interior Department approvals (or denials) of proposed drilling or development plans. Of course, the issue boils down to just how much deference, if any, the feds should give to the Governor of a state on OCS leasing decisions off that state's shoreline.

My colleagues and I from western States hear over and over again in the course of debates with from Members representing non-public land states "These are Federal lands, you know. My constituents own them just as much as yours do." Well, Federal oil and gas development of one's coastline is not unlike my situation. Now, I'd like to support even partial devolution of authority to coastal state Governors participating in Federal OCS decisionmaking. But I see very little reciprocity of this thinking when it comes to empowering my Governor to be an equal partner with the feds when it comes to shaping grazing, timber, mining, oil & gas and other public land policies in Wyoming.

Furthermore, although Wyoming has a bountiful endowment of mineral resources on our public lands, it still is far behind the Gulf of Mexico OCS in the dollar value of those assets flowing to the Treasury. My constituents need to know that decisions we make here in Congress affecting this rather substantial revenue stream are soundly supported by objective science. We ask no less of the Secretary of the Interior when he's putting wolves and grizzly bears in our backyard—but we don't always get it.

Let me finish with the observation that the Land & Water Conservation Fund is a pot of money that is drawing particularly strong interest this year. There are several competing proposals in Congress and Clinton Administration ideas, as well, all looking to put OCS receipts to work purchasing environmentally sensitive lands, conserving habitat and building recreational facilities. But, we must remember from where those dollars flow—its the well bore of a producing oil and gas lease. No leasing means no drilling, which means no production, which means no replenishment of the LWCF account. There is no free lunch.

[The Bill follows:]

106TH CONGRESS
1ST SESSION

H. R. 33

Imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. GOSS (for himself, Mr. MILLER of Florida, Mr. McCOLLUM, Mr. CANADY of Florida, Mr. POLEY, Mr. SHAW, Mr. WEXLER, Mr. SHAYS, Mr. BILL-
RAKIS, Mr. DAVIS of Florida, Ms. ROS-LEHTINEN, and Mrs. THURMAN)
introduced the following bill; which was referred to the Committee on Re-
sources

A BILL

Imposing certain restrictions and requirements on the leasing
under the Outer Continental Shelf Lands Act of lands
offshore Florida, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds that—

5 (1) preleasing, leasing, exploration, and develop-
6 ment and production of oil and gas from the outer
7 Continental Shelf without adequate scientific and en-
8 vironmental information does not provide the level of

1 protection needed for the conservation of the natural
2 resources of the Nation's coastal areas;

3 (2) the Secretary of the Interior, assigned the
4 primary responsibility for the proper stewardship of
5 the Nation's public lands and outer Continental
6 Shelf, is required to provide adequate environmental
7 analysis under the Outer Continental Shelf Lands
8 Act (43 U.S.C. 1331 et seq.), the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
10 and other Federal laws, before such lands are leased
11 to develop oil and gas resources; and

12 (3) to protect the marine, coastal, and human
13 environments of coastal States, the citizens of such
14 States are entitled to have an adequate body of sci-
15 entific and environmental information, with a mini-
16 mal level of uncertainty, before such leasing and de-
17 velopment are carried out.

18 **SEC. 2. AREAS COVERED.**

19 The areas to which this Act applies are—

20 (1) that part of the Eastern Gulf of Mexico
21 Planning Area that is east of the lateral seaward
22 boundary between the States of Florida and Ala-
23 bama;

24 (2) the Straits of Florida Planning Area; and

1 (3) that part of the South Atlantic Planning
2 Area that is south of the lateral seaward boundary
3 between the States of Florida and Georgia.

4 **SEC. 3. RESTRICTIONS AND REQUIREMENTS.**

5 (a) **GENERAL RULE.**—The Secretary shall not con-
6 duct any preleasing activities, hold any lease sale, or ap-
7 prove or permit any exploration, production, or drilling ac-
8 tivities under the Outer Continental Shelf Lands Act (43
9 U.S.C. 1331 et seq.) in any area described in section 2
10 unless—

11 (1) all assessments, studies, and research re-
12 quired for such area under section 4 have been com-
13 pleted;

14 (2) all such assessments, studies, and research
15 have been peer reviewed, by qualified scientists not
16 employed by the Federal Government, as provided
17 for and supervised by the Joint Task Force; and

18 (3) the Secretary has transmitted to the Con-
19 gress and to the Governor of Florida a report, which
20 has been reviewed by the Joint Task Force, certify-
21 ing that the available physical oceanographic, eco-
22 logical, and socioeconomic information, and other en-
23 vironmental, endangered and threatened species, and
24 marine mammal information, is adequate to enable
25 the Secretary to carry out his responsibilities in such

1 area under the Outer Continental Shelf Lands Act
2 and other Federal laws, with a minimal level of un-
3 certainty, with respect to all preleasing activities,
4 leasing, and exploration, production, and drilling ac-
5 tivities.

6 (b) SPECIFIC PROHIBITION.—Notwithstanding sub-
7 section (a), the Secretary shall not conduct any preleasing
8 activity, hold any lease sale, or approve or permit any ex-
9 ploration, production, or drilling activities under the Outer
10 Continental Shelf Lands Act in that part of the Eastern
11 Gulf of Mexico Planning Area that is south of 26 degrees
12 north latitude and east of 86 degrees west longitude.

13 (c) ADDITIONAL PROHIBITION.—Notwithstanding
14 subsection (a), the Secretary shall not conduct any
15 preleasing activity or hold any lease sale in any area de-
16 scribed in section 2 until after the expiration of the period
17 covered by the next oil and gas leasing program issued
18 under section 18 of the Outer Continental Shelf Lands
19 Act (43 U.S.C. 1344) after the leasing program in effect
20 under such section as of the date of enactment of this Act.

21 **SEC. 4. ASSESSMENTS, STUDIES, AND RESEARCH.**

22 The assessments, studies, and research referred to in
23 section 3(a) (1) and (2) are as follows:

1 (1) EASTERN GULF OF MEXICO PLANNING
2 AREA.—With respect to the area described in section
3 2(1):

4 (A) The Assessment of the Historical, So-
5 cial, and Economic Impacts of Outer Continen-
6 tal Shelf Development on Gulf Coast Commu-
7 nities, to be conducted by the Minerals Manage-
8 ment Service.

9 (B) The Northeastern Gulf of Mexico Ma-
10 rine Ecosystem Study, to be conducted by the
11 National Biological Survey.

12 (C) Any additional physical oceanographic
13 studies identified and recommended by the
14 Northeast Gulf of Mexico Physical Oceanog-
15 raphy Workshop conducted by the Minerals
16 Management Service in conjunction with Flor-
17 ida State University.

18 (D) Any additional studies or research in
19 such area needed to acquire information where
20 one of the National Research Council's reports
21 found available information inadequate.

22 (E) Any additional physical oceanographic,
23 ecological, or socioeconomic or other environ-
24 mental studies or endangered and threatened
25 species and marine mammal surveys requested

1 by the Governor of Florida or the Joint Task
2 Force to minimize the uncertainty about the ef-
3 fects of all preleasing activities, leasing, and ex-
4 ploration, production, and drilling activities on
5 the marine environment, the coastal environ-
6 ment, and the human environment of the State
7 of Florida, including any such request for the
8 expansion of assessments, studies, or research
9 described in subparagraphs (A) through (D).

10 (2) STRAITS OF FLORIDA PLANNING AREA.—

11 With respect to the area described in section 2(2):

12 (A) The Assessment of the Historical, So-
13 cial, and Economic Impacts of Outer Continen-
14 tal Shelf Development on Gulf Coast Commu-
15 nities, to be conducted by the Minerals Manage-
16 ment Service.

17 (B) Any additional physical oceanographic,
18 ecological, or socioeconomic or other environ-
19 mental studies or endangered and threatened
20 species and marine mammal surveys requested
21 by the Governor of Florida or the Joint Task
22 Force to minimize the uncertainty about the ef-
23 fects of all preleasing activities, leasing, and ex-
24 ploration, production, and drilling activities on
25 the marine environment, the coastal environ-

1 ment, and the human environment of the State
2 of Florida.

3 (3) SOUTH ATLANTIC PLANNING AREA.—With
4 respect to the area described in section 2(3), any
5 physical oceanographic, ecological, or socioeconomic
6 or other environmental studies or endangered and
7 threatened species and marine mammal surveys re-
8 quested by the Governor of Florida or the Joint
9 Task Force to minimize the uncertainty about the
10 effects of all preleasing activities, leasing, and explo-
11 ration, production, and drilling activities on the ma-
12 rine environment, the coastal environment, and the
13 human environment of the State of Florida.

14 **SEC. 5. JOINT TASK FORCE.**

15 (a) ESTABLISHMENT.—The Secretary of the Interior
16 shall establish a Joint Federal-State Outer Continental
17 Shelf Task Force for the purpose of carrying out the re-
18 sponsibilities assigned such Joint Task Force under this
19 Act.

20 (b) MEMBERSHIP.—The Joint Task Force estab-
21 lished under subsection (a) shall consist of—

22 (1) one representative each from the Environ-
23 mental Protection Agency, the Minerals Manage-
24 ment Service, the National Oceanic and Atmospheric

1 Administration, and the United States Fish and
2 Wildlife Service;

3 (2) four representatives from the State of Flor-
4 ida appointed by the Secretary of the Interior from
5 a list provided by the Governor of such State; and

6 (3) three members appointed by the Secretary
7 of Commerce from a list of individuals nominated by
8 the National Academy of Sciences who are profes-
9 sional scientists in the fields of physical oceanog-
10 raphy, marine ecology, and social science.

11 (c) COMPENSATION.—(1) Members of the Joint Task
12 Force appointed under subsection (b)(3), while performing
13 official duties under this Act shall receive compensation
14 for travel and transportation expenses under section 5703
15 of title 5, United States Code.

16 (2) Members of the Joint Task Force appointed
17 under subsection (b)(3) may be compensated at a rate to
18 be fixed by the Secretary of Commerce, but not in excess
19 of the maximum rate of pay allowable under section
20 5376(b)(1) of title 5, United States Code, for each day
21 such member spends performing the duties of the Joint
22 Task Force.

23 **SEC. 6. ENVIRONMENTAL IMPACT STATEMENTS.**

24 Approval of the first exploration plan submitted after
25 the date of enactment of this Act under section 11 of the

1 Outer Continental Shelf Lands Act (43 U.S.C. 1340) in
2 each of the 3 areas described in section 2 (1), (2), and
3 (3) shall be subject to the requirement of a detailed state-
4 ment submitted under section 102(2)(C) of the National
5 Environmental Policy Act of 1969 (42 U.S.C.
6 4332(2)(C)).

7 **SEC. 7. EFFECT ON OTHER LAWS.**

8 Nothing in this Act shall affect any prohibition in any
9 other law against any activities on the outer Continental
10 Shelf.

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to the Sec-
13 retary \$3,000,000 for each of the fiscal years 1999, 2000,
14 2001, 2002, 2003, and 2004 for carrying out this Act.

15 **SEC. 9. DEFINITIONS.**

16 For the purposes of this Act—

17 (1) terms defined in the Outer Continental
18 Shelf Lands Act have the meaning given such terms
19 in that Act;

20 (2) references to specific outer Continental
21 Shelf planning areas shall be to areas so designated
22 in the Department of the Interior Outer Continental
23 Shelf Five Year Oil and Gas Leasing Program,
24 1997–2002;

**STATEMENT OF HON. ROBERT A. UNDERWOOD, A DELEGATE
IN CONGRESS FROM THE U.S. TERRITORY OF GUAM**

Mr. UNDERWOOD. Madame Chair, I thank you for holding today's hearing on our colleague Congressman Porter Goss's bill, H.R. 33, a bill that would impose restrictions and requirements on the leasing and development of certain outer continental shelf leases located off the coast of Florida. I understand Mr. Goss introduced this legislation in the 105th Congress, although the Committee did not take action on that bill.

The OCS program is a major source of energy for the nation, currently providing about 18 percent of our total domestic production of oil and 27 percent of our production of natural gas; but, as is evidenced in Florida, it is not without controversy. As a result of the conflicts that have accompanied development of these resources, both the Congress and the President have imposed moratoria on new leasing and development in certain areas of the nation's OCS, including Florida. The Clinton Administration, like the Bush administration before it, supports the moratorium on oil and gas leasing off the Florida coastline. The requirement OCS five-year oil and gas program, covering the 1997 to 2002 period, excludes all areas included in the congressional restrictions from leasing consideration. In addition, President Clinton has excluded the area from leasing outside the eastern Gulf of Mexico until 2012.

In closing, let me say that I appreciate and support the intent of the concept proposed by Mr. Goss. If the State of Florida and its citizens are opposed to oil and gas development off of its coastline, the Federal government should respect that, even in Federal waters. However, the administration has legitimate concerns, which I'm sure we'll hear later, related to cost duplication of effort and legal implications that should be answered before the Subcommittee disposes of this bill. With that in mind, I look forward to hearing from our witnesses today. Thank you.

Mrs. CUBIN. Thank you, Mr. Underwood. Let me remind the witnesses that they must limit their oral testimony to five minutes, but that their entire statement will be put in the record. Also, let me mention that these hearings are now broadcast live over the Internet and there is an on/off switch on your microphones for your use in controlling the privacy of any whispering that you might want to be doing back there.

So, with that, I'd like to ask for—first of all, welcome Congressman Goss to the Subcommittee again this year and I look forward to your testimony.

[The prepared statement on Mr. Underwood follows:]

STATEMENT OF HON. ROBERT UNDERWOOD, A DELEGATE IN CONGRESS FROM THE
TERRITORY OF GUAM

Madam Chair, thank you for holding today's hearing on our colleague, Congressman Porter Goss's bill, H.R. 33, a bill that would impose restrictions and requirements on the leasing and development of certain Outer Continental Shelf [OCS] leases located off the coast of Florida. I understand Mr. Goss introduced this legislation in the 105th Congress, although the Committee did not take action on that bill.

The OCS program is a major source of energy for the Nation, currently providing about 18 percent of our total domestic production of oil and 27 percent of our production of natural gas, but, as is evidenced in Florida, it is not without controversy. As a result of the conflicts that have accompanied development of these resources,

both the Congress and the President have imposed moratoria on new leasing and development in certain areas of our Nation's OCS, including Florida.

The Clinton Administration, like the Bush Administration before it, supports the moratorium on oil and gas leasing off the Florida coastline. The required OCS 5-Year Oil and Gas Program, covering the 1997–2002 period, excludes all areas included in the congressional restrictions from leasing consideration. In addition, President Clinton has excluded the area from leasing outside the eastern Gulf of Mexico until 2012.

In closing, let me say, that I appreciate the intent of the concept proposed by Mr. Goss. If the State of Florida and its citizens are opposed to oil and gas development off its coastline, the Federal Government should respect that—even in Federal waters. However, the Administration has legitimate concerns related to cost, duplication of effort and legal implications that should be answered before this Subcommittee can responsibly dispose of the bill. With that in mind, I look forward to hearing from our witnesses today.

STATEMENT OF HON. PORTER J. GOSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. GOSS. Thank you, very much, Madame Chairwoman. I assure you, I have nothing to hide and whisper about. I'm very proud of this legislation. I'm extremely grateful to you and your Subcommittee for having this hearing. As you know, this is a quest not of mine, but of the people of Florida and the entire Florida delegation, and we believe we are leading the way, actually, for other states and other areas that have had similar concerns. And I would certainly say I well heard and am very receptive to your remarks about your beautiful state. I would point out there are some vast differences between our states: the highest point above sea level in my hometown is 14 feet above sea level; I suspect a slightly different statistic from where you live.

But the point is, it's the same and I would be very happy to join you in this approach, because we think this is a good approach that we have, to try and make decisions that are important decisions for both the country and the state and base those decisions on good fact, rather than on political pressure or who's got the loudest voice or whatever other criteria might be in play. So what we have got here is a situation well explained in my prepared remarks, which I will just summarize very quickly.

We've got an annual moratorium, which we've affected by putting a rider on an appropriations bill since 1983. That is a very bizarre way to handle what is a legitimate challenge that ought to be worked out by wise people with interest in this to come to a conclusion that has more certainty and more efficiency. And that's what we are proposing, setting up such a mechanism. We're calling it a joint Federal-state OCS task force and the composition of that task force, we have made a recommendation. I don't pretend to have total prescience or wisdom on that point. We felt it was a good balance the way we set it up. If there are other recommendations, obviously, we're receptive.

The point is right now, we are losing something by having this annual moratorium, in addition to time—legislative time in Congress. We find that Florida does have some protection against future leases, but not against the existing leases and there are property rights that go with those leases. So, we would like to deal with making a good decision not only with future, but how do we deal with the problem we have today. And I assure you, that's of great interest to the citizens and the government of Florida today. And

equally, the oil and gas industry does have several existing leases, which they paid good, hard dollars for, and they're unable to develop long-term strategy and plans to determine the viability and the exploitation of those leases, and that is, of course, unfair. So what we are trying to do is to go forward from that position and set up a process, where we can make good decisions that will remove those problems and create benefits for all interested parties.

We agree on certain things, and when I say "we," it's the people of Florida. And I'm not talking environmentalist or business or government or local government or rural farm owner or beach front dweller; I'm talking about everybody in Florida pretty much agrees that if we had an oil spill, it would have a devastating impact on our economy, given the basis of our economy being pretty much our beaches and shores, the tourism, and all the service industry, and relocation and growth of residents that goes with that.

The second thing we pretty much all agree on is that we don't have the necessary scientific data about the eastern Gulf and, in fact, other waters, whether they are properly state waters. And the boundary changes on one side of Florida and it's different on the other side, because of the—we're dealing with the Atlantic Ocean on one side and Gulf of Mexico on the other and different historical precedence of our we got there. But, the fact is, whether the water is Florida, American, Federal, or something that doesn't bother most people, they want to have the quality of water and they want to have it protected and they want to have a good beach experience. And the desire to maintain a good environment is real and the desire to maintain a viable economy is real, and they're both entirely legitimate and fall within our government purview and what we're about up here.

I think it is very important to state that we understand that this bill, as presented to you, is an improvement on the annual moratorium system, which is probably driving the appropriators crazy and it's certainly driving the rules committee crazy, because we don't like doing that, as you know, in the rules committee. There's been question that the Land and Water Conservation Fund could be affected. Yes, it could, and that should be part of the scientific findings, because we are not interested in doing anything, except creating some certainty for the business interest, and I think we do that on the basis of a factual examination of what we can do.

I'm aware there are some concerns about national security. Believe me, I do pay a lot of attention to national security, as you well know, and I understand that we need to take that into the formula for the reserves that may be in the Gulf of Mexico to deal with that, in the event that other sources of oil and gas are shut off.

All of those questions, I think are timely and it's time to face them straightforward and that's why I bring this forward. And I very much appreciate the opportunity to testify and we welcome any questions.

[The prepared statement of Mr. Goss follows:]

STATEMENT OF HON. PORTER J. GOSS, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF FLORIDA

Madame Chairman, I appreciate the opportunity to appear before you this afternoon. I commend the panel for holding this hearing. The issue of outer continental shelf oil and gas exploration moratoria is a vital one for Florida and many other

coastal states. I would like to discuss this issue from Florida's perspective, and make the case for H.R. 33, a bill that I have again introduced as a proposed solution to the existing Florida OCS stalemate. I am particularly pleased that the Committee has invited Mr. Michael Joyner of the Florida Department of Environmental Protection, to testify about this proposal. I look forward to his testimony.

As you know, each year Congress enacts restrictions on oil and gas activities in the eastern Gulf of Mexico as part of the Interior Appropriations bill. Florida's OCS moratorium was instituted in 1983, by our colleague, Rep. Bill Young, and it accomplished its goal as a short-term fix to protect the Florida coastline from a possible expansion of oil and gas exploration. I would note that this moratorium has enjoyed unanimous support from Florida's Congressional delegation. However, it was never intended to be a long term solution and I believe it fails to satisfy the interests of both parties to this debate: Florida is only protected against new oil and gas leases, while the oil industry is left holding several existing leases but without the ability to make any long-term exploration and development plans in the Eastern Gulf. I think that, fifteen years later, everyone realizes we need to find a better way to do business.

Floridians oppose offshore oil drilling because of the threat it presents to the state's greatest natural and economic resources: our coastal environment. Florida's beaches, fisheries, and wildlife draw millions of tourists each year from all over the globe, supporting our state's largest industry. Tourism supports, directly or indirectly, millions of jobs all across Florida, and the industry generates billions of dollars every year. A 1990 study by Lee County estimates that a major blowout/oil spill could cost the economy of Lee County alone some \$590 million in lost revenue. This translates into a loss of 12,300 jobs. Also, the on-shore facilities required to process the oil would likely change the character of the Florida coast, possibly contribute to the pollution of the environment, and pose serious problems for Florida's tourism and real estate industries.

Concern about this issue is not limited to our business community—there are several grass-roots groups who are dedicated to preserving and protecting our coastline. There is a petition and letter writing campaign in my district run by Marge and David Ward of the Citizens Association of Bonita Beach. The Wards'tireless efforts have yielded over 30,000 signatures opposed to drilling off Florida's coast, and they have generated letters of support from local chambers of commerce, government, and elected officials.

The Florida coastline boasts some of the richest estuarine areas in the world. These brackish waters, with their mangrove forests and seagrass beds provide an irreplaceable link in the life of many species, both marine and terrestrial. Florida's commercial fishing industry relies on these estuaries because they support the nurseries for most commercially harvested fish. Perhaps the most environmentally delicate regions in the Gulf, estuaries could be damaged beyond repair by a relatively small oil spill.

H.R. 33 was developed after extensive consultation with the state of Florida. It was supported by Governor Chiles and I am pleased to report that our new Governor, Jeb Bush, has also enthusiastically endorsed the proposal. In addition, the bill has a wide range of support among both the public and private sector in the state. I am particularly pleased to report that every single member of the Florida Congressional delegation has cosponsored H.R. 33, as in past Congresses.

This legislation was introduced to provide for a "time out" period during which no new leasing or drilling could take place in Federal waters off Florida's coast. During this period, a joint Federal-state task force would review the available scientific and environmental studies and (if necessary) recommend further ones. Once the joint task force determines that an adequate base of data exists, it would recommend what areas (if any) off Florida could safely sustain oil and gas exploration and production.

The benefits of this approach include:

- the opportunity to develop a more precise policy than afforded under the current moratorium, which must be renewed by Congress each year. This should provide the oil industry with greater certainty and an ability to plan in the context of a long-term strategy; and
- a central role for the State of Florida in a decision with great impact on our state—even though that decision would apply to waters under the jurisdiction of the Federal Government; and
- a decision that accurately reflects scientific rather than political pressures.

I recognize that some concerns have been raised about this proposal and I would like to take a moment to discuss some of those issues. First, the question I hear most often is why do we need to pass this legislation, when it is very likely Congress will continue to enact the annual moratorium, as it has for fifteen years. As I men-

tioned earlier, I believe the moratorium provides a short-term way to deal with this issue, but, in the long-run, it shortchanges both the State of Florida and the oil industry. I believe both parties would benefit from a scientifically crafted long-term approach to management of the Eastern Gulf. In addition, from a process perspective, I would prefer not to address substantive legislative issues through "riders" to an appropriations bill.

In addition, I have also heard concerns about the effect of H.R. 33 on revenues for the Land and Water Conservation Fund (LWCF), the principal source of Federal funds for land acquisitions by the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service and the U.S. Forest Service. The LWCF is funded by revenues from Federal outdoor recreation user fees, the Federal motorboat fuel tax, property sales and from oil and gas leases on the Outer Continental Shelf. As the Subcommittee is well aware, OCS revenues have accounted for more than 90 percent of the deposits in the LWCF, and, in some years, almost all deposits to this fund. I agree that the effect of H.R. 33 on revenues for LWCF is a critically important question, particularly given Federal land acquisition in Florida. Since the current moratorium prohibits any new leases, it effectively forecloses the possibility of future contributions to the fund from OCS activities in the Eastern Gulf of Mexico. If we continue our current approach—adopting the moratorium each year—that won't change. The joint-task force created by H.R. 33 would be charged with making a scientific decision on OCS activities in the Eastern Gulf and their recommendations would effectively address the LWCF issue.

Finally, I have heard concerns about the make-up of the joint task force provided for in H.R. 33. As drafted, the bill would create a task force consisting of one representative each from the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, and the U.S. Fish and Wildlife Service; four representatives from the State of Florida appointed by the Governor; and three members appointed by the Secretary of Commerce based on nominations from the National Academy of Sciences who are professional scientists in the field of physical oceanography, marine ecology, and social science. Clearly, the intent is to provide a scientific panel while allowing input from the State of Florida. If the Subcommittee wants to reconsider this makeup, I would be happy to discuss that issue further.

Finally, let me thank the Subcommittee for its indulgence in holding this hearing. I look forward to working with you on moving this proposal forward.

Thank you again.

Mrs. CUBIN. Thank you, Mr. Goss. The Chair now recognizes Mike Joyner, Director of Legislative and Governmental Affairs for the Florida Department of Environmental Protection.

STATEMENT OF MIKE JOYNER, DIRECTOR, LEGISLATIVE AND GOVERNMENTAL AFFAIRS, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mr. JOYNER. Thank you, very much, and good afternoon, Madame Chairman and committee member. I am Mike Joyner, the Director of Legislative and Governmental Affairs for the Florida Department of Environmental Protection. Thanks, very much, for the opportunity to present testimony on behalf of Governor Bush and the citizens of the State of Florida, regarding Congressman Goss's outer continental shelf leasing restriction bill, H.R. 33. This legislation will assure that adequate environmental studies and completed—or completed, pardon me, resulting in a better understanding of environmental risks associated with OCS oil and gas activities. It is one of several bills that are pending that limits oil and gas activities off of the Nation's coast.

The State of Florida has concerns over industrial activities associated with offshore oil and gas resource development that may negatively impact our coast. The Florida economy is based upon a warm climate, clean waters, and pristine natural areas. I think most of you know, you've probably all traveled to Florida, but environmental-related industry, such as recreation, tourism, commer-

cial and recreational fishing, as well as agriculture, are major economic activities in Florida. Annually, Florida welcomes approximately 42 million visitors from around the world, which results in billions of dollars, obviously, to our state and local economy. Clearly, with the majority of the state's population deriving income from jobs related to our rich and diverse marine and coastal resources, the state cannot afford to risk an environmental or economic disaster. Governor Bush opposes drilling off of Florida and will continue to carefully scrutinize all coastal activities, to ensure that they do not interfere with the state's interest.

Florida's coastal and marine environments, truly national treasures, provide an array of habitat, including offshore fishing grounds, productive estuaries, mangrove forests, sea grass beds, sandy white beaches and islands, and much of which are protected under state and federal preservation efforts. These coastal and marine resources are the foundation of Florida's economy and its quality of life. The state, often with federal assistance, strives to protect the self-sustaining resources for the benefit of our wildlife and those who live in and visit Florida.

Clearly, there are no active leases or plans to lease areas off of Florida's Atlantic coast, again repeating some of the things that Congressman Goss said; please bear with me. Primarily, our primary interest in oil and gas development off of Florida remains in the eastern Gulf of Mexico, off the panhandle region. New leasing near Florida's coastline was terminated through the support of previous governors, the Florida cabinet, the Florida congressional delegation, and certainly with the help of the federal government. However, there are approximately 150 active leases, totaling approximately 1,350 square miles remaining in the eastern Gulf of Mexico and further development and production is being proposed just 25 miles off of Florida's coast.

The National Academy of Science has completed their comprehensive review of the Mineral Management Service's environmental studies program with federal, state, and academic scientists, and they recommend that MMS conduct further studies. Any new leasing activities is alarming to those of us in Florida without completed environmental studies and analysis. While MMS has been working to rectify deficiencies identified by the Academy, progress in completing these studies has been somewhat slow. The MMS is presently conducting studies off the Florida panhandle. I'd also mention that a workshop is being planned for the fall, I think in October, a couple of months from now, to further identify and design ecological and physical oceanographic studies that are necessary for environmental analysis.

It is important to remember that the eastern Gulf of Mexico is uniquely geographically and ecologically—or is unique, pardon me, geographically and ecologically from the central and western Gulf. The vast majority of the central and western Gulf areas consist of soft muddy bottoms, where the eastern Gulf is often composed of carbonate sands with scattered low rocky—low relief rocky bottoms, which support subtropical plants and animals. Again, if you've been to Florida, you certainly have hopefully seen that firsthand. North America's only shallow water tropical reef system is found off of Florida and can be influenced by activities occurring

in the Gulf of Mexico; again, Key West, an area I used to visit often growing up in Florida.

Information learned from many years of oil and gas activities offshore Texas and Louisiana often unfortunately cannot be extrapolated to predict and evaluate impacts, which could occur in Florida's eastern Gulf. Many scientists believe that estuary Gulf marine and coastal communities are not well adapted to understanding the adverse impacts associated with oil and gas development. Catastrophic events, such as oil spills, may be unlikely, but studies—and I'll wrap this up quickly—but studies must address this issue, as well as other long-term and cumulative environmental social impacts. These include issues such as physical disturbances caused by anchoring, pipeline placement and rig construction, a resuspension of bottom sediments, chronic pollution from discharge of drilling effluents, production effluents and accidental releases of other toxic materials, social and economic impacts, and certainly environmental and threatened species.

Just a few more things. Without adequate environmental and socioeconomic information analysis, Florida has no assurances that OCS oil and gas activities can take place without causing irreparable harm to our natural and economic resources. It is premature to consider further exploration or precedent setting development and production in this undeveloped area until adequate environmental studies are completed and a better understanding of our environmental risk is known.

Similar to H.R. 112, which I understand affects California, H.R. 33 prohibits additional leasing and exploration or development, until adequate body of science and environmental information is available. Congressman Goss will—Congressman Goss's bill, excuse me, will allow MMS to complete studies, which address concerns raised by both the National Academy and our State of Florida. We encourage the markup and the passage of H.R. 33.

Finally, and in closing, Governor Bush and the State of Florida appreciate the opportunity to comment—or to submit comments and endorse Congressman Goss's bill. And on just a personal note, thanks, very much, I appreciate your courtesies.

[The statement of Mr. Joyner follows:]

STATEMENT OF MIKE JOYNER, STATE OF FLORIDA

Good afternoon, Madame Chairman and Members of the Committee. I am Mike Joyner, Director of Legislative and Governmental Affairs with the Florida Department of Environmental Protection. Thank you for the opportunity to present testimony on behalf of Governor Jeb Bush and the citizens of Florida regarding Congressman Porter Goss' Outer Continental Shelf (OCS) leasing restriction bill, H.R. 33. This legislation will assure that adequate environmental studies are completed resulting in a better understanding of environmental risks associated with OCS oil and gas activities. It is one of several bills which are pending that limit oil and gas activities off the nation's coasts.

The State of Florida has concerns over industrial activities associated with offshore oil and gas resources development that may negatively impact our coasts. The Florida economy is based upon its warm climate, clean waters and pristine natural areas. Environmental related industries, such as recreation, tourism, commercial and recreational fishing, as well as agriculture are major economic activities of Florida. Annually, Florida welcomes over 42 million tourists from around the world, resulting in billions of dollars added to our state and local economies. Clearly, with a majority of the state's population deriving income from jobs related to our rich and diverse marine and coastal resources, the state cannot afford to risk an environmental or economic disaster. Governor Bush opposes drilling off of Florida and will

continue to carefully scrutinize all coastal activities to ensure that they do not interfere with the state's interests.

Florida's coastal and marine environments, truly national treasures, provide an array of habitats including offshore fishing grounds, productive estuaries, mangrove forests, sea grass beds, sandy white beaches and barrier islands, much of which are protected under state and Federal preservation efforts. These coastal and marine resources are the foundation of Florida's economy and quality of life. The state, often with Federal assistance, strives to protect these self-sustaining resources for the benefit of our wildlife and those who live in and visit Florida.

Currently, there are no active leases or plans to lease areas off Florida's Atlantic coast. Primary interest in oil and gas development off Florida remains in the eastern Gulf of Mexico off the panhandle region. New leasing near Florida coastline was terminated through the support of previous Governors, the Florida Cabinet, the Florida Congressional Delegation, and eventually the Federal Government. However, about 150 active leases totaling about 1,350 square miles remain in the eastern Gulf of Mexico and further development and production is being proposed just 25 miles off Florida. The National Academy of Sciences has completed their comprehensive review of the Minerals Management Service's (MMS) environmental studies program with Federal, state and academic scientists, and they recommended that the MMS conduct further studies. Any new leasing activity is alarming without completed environmental studies and analyses.

While the MMS has been working to rectify deficiencies identified by the Academy, progress in completing these studies has been slow. The MMS is presently conducting studies off the Florida panhandle. A workshop is also being planned for the fall to further identify and design ecological and physical oceanographic studies that are necessary for environmental analyses. It is important to remember the eastern Gulf of Mexico is unique, geologically and ecologically from the central and western Gulf. The vast majority of the central and western Gulf consists of soft, muddy bottoms, where the eastern Gulf is often composed of carbonate sands with scattered low-relief rocky bottoms which support sub-tropical plants and animals. North America's only shallow-water tropical coral reef system is found off of Florida and can be influenced by activities occurring in the Gulf of Mexico. Information learned from many years of oil and gas activities offshore Texas and Louisiana often cannot be extrapolated to predict and evaluate impacts which could occur in the Florida eastern Gulf. Many scientists believe that the eastern Gulf's marine and coastal communities are not well adapted to withstand the adverse impacts associated with oil and gas development.

Catastrophic events such as oil spills may be unlikely, but studies must address this issue as well as other long-term and cumulative environmental and social effects. These include issues such as physical disturbances caused by anchoring, pipeline placement and rig construction; the resuspension of bottom sediments; chronic pollution from discharges of drilling effluents, production effluents, and accidental releases of other toxic materials; social and economic impacts; and endangered and threatened species.

Without adequate environmental and socio-economic information and analyses, Florida has no assurances that OCS oil and gas activities can take place without causing irreparable harm to our natural and economic resources. It is premature to consider further exploration or precedent setting development and production in this undeveloped area, until adequate environmental studies are completed, and a better understanding of environmental risks is known.

Similar to H.R. 112 affecting California, H.R. 33 prohibits additional leasing and exploration or development until an adequate body of scientific and environmental information is available. Congressman Goss' bill would allow the MMS to complete studies which address concerns raised by both the National Academy and the state. We encourage the markup and passage of H.R. 33.

Governor Jeb Bush and the State of Florida appreciate the opportunity to submit comments and endorse Congressman Goss' bill.

Mrs. CUBIN. Thank you for your testimony and thank you for being here, as well.

I find myself in a situation that is somewhat uncomfortable, because I totally am committed to the idea that the states, the people that live in the states, the governors of the states ought to have a large say so in what happens around their—in your case, around your shores, and, in my case, on public lands. I wish the states actually had more say so in that.

The position that I—I guess the line of questioning that I want to follow, this will be for you, Porter, the United States Coast Guard, as you know, maintains oil spill data for the federal government that is on the outer continental shelf. And the statistical summary of oil spill data that they have shows that vessel traffic is by far the more likely source of oil pollution into jurisdiction waters of the United States than are the platforms or the subsea pipelines or those kind of things. So, I know that that's one of the things that you would want to have studied in a scientific way.

But what I want to ask you is something that I have run into in Wyoming. Sometimes, there's a mind set that people just have an idea this is bad. I'm going to speak of Crown Butte gold mine, where someone came out and said that developing that mine would ruin Yellowstone. Now, I personally, was not in favor of developing that mine; but, nonetheless, I'm convinced by scientific data that it wouldn't have ruined Yellowstone. But, there was no amount of scientific study, no amount of convincing that could have convinced many people in Wyoming that it would not hurt Yellowstone and that it would be okay. So I guess what I'm—and you mentioned that there are private property rights concerns here, as well.

So is that the situation, do you think, with the folks along the shore to coast? Do you think that this study and the results—say they came back and said it wouldn't hurt the coast; it will hurt the coast more; they have vessels coming in and out. Do you think that will be accepted by the people? Will it really make any difference?

Mr. Goss. I think that is absolutely the nugget of the issue. I think you sized it up very well. The answer is that we are going to be confronted with making decisions. What we want is there to be no losers and all winners in the process. I believe that's possible. You are absolutely right about vessel discharge. It is a huge problem in the Florida Straits, because there's a lot of tonnage that goes up and down there and it causes a lot of damage. As you know, we're in danger of losing the coral reef for that and other reasons. And it's one of a kind. There's no place else. Like you have scenery in your state that is no place else, we have the stuff which is no place else. The mangrove forest of Florida Bay and southwest Florida and the Everglades is absolutely one of a kind on the globe.

“... can you estimate what Florida's needs will be for the Land and Water Conservation Fund for the protection of the Everglades and other sensitive areas, say, for the next five or ten years?”

We are in the process of developing a comprehensive land acquisition priority list for south Florida ecosystem restoration in response to a request from Congressman Regula. The Department of Environmental Protection, South Florida Water Management District and Executive Office of the Governor are working together to provide: (1) a list of all existing conservation land acquisition lands acquired to date; (2) a list of remaining lands needed; (3) an estimate of State and Water Management District projected expenditures; and (4) an estimate of unfunded needs. These lists should be finalized in October and we will forward them to you and your Committee at that time.

The State of Florida has an unprecedented conservation land acquisition program. We have spent over \$3 billion during the last ten years to acquire environmentally sensitive lands in Florida. Many of these acquisitions have been directed toward lands that help conserve and manage the Federal trust lands in Florida, particularly the greater Everglades ecosystem. Governor Jeb Bush and the Florida Legislature approved a successor program during the 1999 legislative session that will allow this legacy of conservation land acquisition to continue in Florida. We are poised

to continue our outstanding partnership with the Federal Government for many years to come.

And so we feel the responsibility to take care of it. It happens to be in a place called Florida and there happens to be a line built at the top of the peninsular and then there's some other states after that. But, this really is a national question, and I believe that the answer lies in saying, look, we're going to set up a system and we're going to get facts, so that when we sit down to debate these tough challenges and decisions we have to make, we are going to make the decisions that we have on the basis of fact.

Now, I'm not saying that everybody is going to get the same message the whole time. But, right now, what we have is interested parties, and there are several, putting their—how do I say this—best foot forward all of the time and putting your best foot forward sometimes doesn't give you the whole picture to make a balanced decision. We are weighing private property rights, no question about that. We are weighing the wishes of the people, who live in Florida, their quality of life type decisions. That's what politicians do and public services therefore.

I agree with you on the state's rights issue. I think that the sovereign State of Florida has a huge role in this, which is why we've tried to set up this joint mechanism; but, I, also, recognize that we're dealing with the waters of the United States of America. So, we've tried to collar a way that we can get all of these ingredients in one room, at the same time, lock the door, and come out with a solution—an agreement on how we are going to make the decisions on these challenges. That's what this is designed to do. It's not meant to tilt the playing field one way or the other.

I have personally seen oil spills in places where you didn't know there are oil spills, because there wasn't much quality there to start with. I have seen other places where oil spills have wiped out acres of mangrove forest. In my own district, we do ship oil; we have oil. We're not hypocrites. We turn on our car. We run air conditioning in the summer, heat in the winter—infrequently heat in the winter, I would say. But, we need oil, too, and we recognize that the oil and gas people have a totally legitimate interest in this. We recognize the national security interest in this.

I know very well, and to try to sum this up, that if you think of this as a zoning war—a zoning fight, what you want to do is you want to make sure that the neighborhood is happy and that you've honored all of the private property rights that are involved, the other rights of people. That's a tough decision. I would suggest that it is possible to exploit oil and gas off of the coast of Florida in some areas at a minimal risk, if it's done in a certain way. I think that's possible. I don't think there's any doubt. I think the gentleman from Louisiana could testify to that and others from Mississippi and Texas and so forth.

We have a different kind of risk situation in some areas. That needs to be taken definitely into account. Additionally, we happen to have an economy in the state that is based on tourism, natural environment. We sell eco-tourism. We sell it for our growth, our quality of life. We're one of the fastest growing states in the union. People do not want to trade off the shore side facilities for what I will call, say, oil and gas refinery hardware, railroad trains.

Now, some places have made that decision and they've done it. Galveston always comes to mind, in my discussions. Galveston is a place where they made that decision and that's what they do in Galveston. We've made the decision in Florida to try and do it the other way. I'm not so sure that we can't accommodate both; but, I won't know until we weigh all of the facts and then we take those facts to the public forum. But, I will say, as in any public forum, when you're making what I will call a political decision, the people who make those land use decisions, who are the local people, not the Federal Government, that's still going to be a factor. And I think it should be a factor based on fact, not on what I will call the psychology of the crowd and the audience at a given moment, because I think it will be fairer if we do it in fact. That's what we're trying to do here.

Mrs. CUBIN. And there is no question that I agree. I'm a chemist by training and I agree that sound science is predictable and it's absolutely what we need to base our decisions on, not just for the short term, but for the long term as well. It's the politicizing of issues that have caused problems for your state and for my state, as well.

I guess I don't have any other questions. Mr. Underwood?

Mr. UNDERWOOD. Just a brief question, because the discussion is very interesting, in the sense that we're trying to provide more scientific input into the process. But, at some point in time, you know, all the science in the world, even the information about oil spills being generated more by vessel traffic than by oil and gas exploration, doesn't make the difference, in terms of how people feel about it.

And so, you know, as you've outlined—and I'm very sympathetic to that. Where I come from, we have mangrove swamps and we have coral reef and they're all very fragile environments and they're easily disturbed and they could be disturbed by silt from, you know, construction sites and a whole host of things. So, I'm very sympathetic to the idea of trying to protect those. And sometimes, in the case of oil and gas exploration, for an economy that's driven by tourism or an economy that's driven by the visitor industry, the prospect of having oil and gas exploration is something that, you know, maybe other states or other areas will make a decision based on what they think is in their best interest. But, I think clearly, in your case, you—both you and the gentleman from the state government there have made the case that—that it seems like your intent is to—is to forestall the possibility of having these leases.

So, my question to you is just a brief one, for my edification, why is—why are the moratoria that are in place, why are they inadequate, in order to get the desired result?

Mr. GOSS. If you accept the desired results that I outlined in my comments, which is to reach a way to make a decision, rather than to keep temporizing and keep pushing this discussion down the road—because we are holding in abeyance right now by this moratorium—it is a moratorium—we're holding in abeyance both a final decision on private real property rights, where there has been real dollar investment in excess of \$100 million, and there is an expectation of realizing something on that investment, properly so by the

private property owners. On the other side of that issue is a very strong sentiment in the State of Florida, which votes for its elected officials on issues like this, that they will protect the economy, the quality life, and the shoreline. And there is a dispute over what is the best use of the land and where the most risk exists. And I suggest that the moratorium doesn't get us close to an answer. It just keeps pushing the answer down the road every year.

The second part of that is perhaps some year, somebody will forget to do the moratorium, then the issue is open and exploitable; or for some year for some other reason that appropriations bill will get lost in the shuffle. And perish the thought we would ever have an appropriations bill not passed; it never would happen, would it? So, there are some dangers in the situation. Additionally, the only other real protection is these Executive Orders and Executive Orders come and go with presidents, so that's not much protection.

And the real reason is there are varying degrees of risk in various parts of the Florida estuarine and water system and waterway system. There probably are some places in Florida that could accommodate some type of activity. I think that's an important part of the discussion. I think that, as I say, the land use decisions and so forth by the state laws and the Federal laws come to play in that. All of that should be weighed in this process.

I'm not saying that the present protection isn't adequate, I think it is adequate; I'm just saying it's not the final solution. And I think that one of the responsibilities we have here, instead of parking a problem, is to try and resolve it.

Mr. UNDERWOOD. Well, I would have to say that coming from the kind of jurisdiction that I come from, I certainly find very attractive the notion that you ought to build in more local input into the process of making a decision about what is normally thought of as Federal assets. But, certainly, it remains an open question, because your legislation is really provocative, in the sense that it's really offering a change in the way we make decisions about public lands and about not just OCS.

"We were talking about expiration for hydrocarbon fuel source today on the floor, the recent discussion about global climate change issues, and the CO₂ on the atmosphere. Does your department have any role or interest in that issue? Is your department interested in evaluating the fictions of decisions like this on CO₂ and global climate changes? Is that in your portfolio at all?"

There are a number of outstanding questions concerning emissions and global warming. For instance, is it real? What can be done about it if it is real? How urgent should our concern be? What will it cost? Will it affect U.S. industry disproportionately to less developed countries? How will our defensive position militarily be affected if we aggressively scale back our emissions from energy consumption? Will the effects be catastrophic? Is public health a concern? These questions, of course, lead to more.

Most of these issues are best addressed at the national level. In Florida we are aware of the technical issues involved in trying to determine the rate of global warming if indeed it exists. We will stay up to date on findings as they occur regarding this hypothesis. National Energy policy will drive this issue to such a degree that individual states will probably be only small players in the resolution of the question. Florida is ready to do its part in solving the problem once it is defined and would do so aggressively if needed. But in a sense, you know, we're reaching over into what—what the Chairlady had referred to earlier about all the other things that she so capably does at every hearing, brings in every issue related to Wyoming, no matter what the topic.

[Laughter.]

Mr. UNDERWOOD. And so, I've seen this at work a number of times. But, it really is a question of how we deal with what are thought of as national assets and how we build that process in. So, it's provocative in that sense. And for myself, I find it very engaging, because I think from where I come from, people don't have enough input into federal assets. Thank you.

Mr. GOSS. May I just add a further word to that. I agree with your premise that we have national assets and national matters here. We, also, have basically got local zoning, and it's that interplay. In this case, I will tell you we have all three levels of government, local, state, and federal government working together and we have all political parties, at least all known political parties in agreement on this. So, I will—as I stated in my answer to you—

Mr. UNDERWOOD. Even wrestlers are in that?

Mr. GOSS. To the Chair, well, then, as I stated, I will not make a guarantee that the decision will be made on a factual basis. I'm saying, however, the conversation ought to start on a factual basis, rather than on the basis of putting your best foot forward as an interested party.

Mrs. CUBIN. Mr. John?

Mr. JOHN. I'll just be very brief. Mr. Goss, most of the area—the outlying waterways around the panhandle of Florida, in your state, are under some sort of moratorium today, from the Georgia-Florida line, all the way around the Keys, up to Alabama; is that correct?

Mr. GOSS. There are varying degrees of protection; but the answer is essentially, yes, there is some regulation.

Mr. JOHN. And I guess your consideration is on the eastern Gulf side, with some of the leases that are proposed within this five-year plan of MMS. Is that kind of where you're going with your bill or is it all encompassing all along the shore?

Mr. GOSS. It is to deal with all of the Florida waters and offshore waters off of the Florida waters. The degree of scientific data that we want is to reveal what I think we are going to find, is that there are vast differences between the waters off, say, Jacksonville, Florida, in the north Atlantic cut, and let's say for Jefferson, in the very sensitive lower estuarine Keys. I think there are obvious differences. What we want to do is not put a one size fits all regulation. What we want to do is be able to have a scientific basis for making decisions about proposals, because most of these proposals, as you know, come in to do oil and gas exploration in area specific, a place you can put with the GPS out there on a chart.

So what we're trying to do is to figure out what the risk factors are in all these places, what the land based association and support system would be. And as you know in north Florida, we have one case where they're drilling in north Florida or they're proposing to drill, I'm not sure what the active status is, but they're actually planning to pipeline it into an adjacent state, in order to avoid the onshore facilities question. So the answer is, we want to do the whole thing of Florida, because the Florida delegation is together on this and we've cut out Florida because it's unique. But, we are not saying that this is only a Florida question. There are other states that have that, too, and I've testified before this Subcommittee on that part before with others from other states. We put this bill in for Florida, because we feel that we have a solution

here we want to try with this joint task force. And I represent southwest Florida, but all 23 members of the Florida delegation and both senators and the governor's office are four square behind what we're trying to do. This is not my bill, it's our bill.

Mr. JOHN. In the five-year program plan, does it mandate any kind of these type of studies? There's nothing out there ongoing now that would satisfy what you're trying to do?

Mr. GOSS. Well, I'll let Mr. Joyner respond to part of that; but as you've heard in his testimony, we haven't quite gotten there. There have been what I will call a series of different sort of think tank approaches to this. What we haven't done is given them, I guess, sort of a force of seriousness by bringing them all together and completing them and saying we all agree that this is pretty much the factual situation. What we have is somebody hiring somebody to go out and say, don't you think that the situation is about this, couldn't you find data to support that; somebody else with a different approach to it would say, don't you think we can go out and find data to do this. Now, I could find data to go all kinds of different ways. What I would really like to do is to get one basic credible setup joint group to give us data that they all agree is good data and then we'll play with the data when we get there, then we'll go to our zoning boards and have our town meetings. But, it's getting that base data is what we're trying to and provide protection while we're doing it.

Mr. JOHN. Okay.

Mrs. CUBIN. Mr. Inslee?

Mr. INSLEE. I'm going to pass, Madame Chair.

Mrs. CUBIN. I found my other question for you, Porter, and then I do have some for Mr. Joyner, and, actually, this is a two-part statement, question, whatever. The National Research Council does seem to have recommended that socioeconomic studies be conducted, and you addressed that in your testimony, as well. I want to make two points about that. Number one, is we have been trying to get socioeconomic input in environmental impact statements and environmental assessment studies, when we are trying to permit, for example, large gas field in Wyoming, and those issues have not been allowed to be entered into the environmental impact statement and the environmental assessment statements. And so, I was—if it's right for Florida, it ought to be right for everyone else. And so, I hope that we can work together to impress upon our colleagues that the socioeconomic impact of decisions that are made truly is something that should be considered when these decisions are made.

Mr. GOSS. I would be the first to testify that I think homosapiens is a legitimate part of the environment and I think, generally speaking, that ought to be considered. It may not be entirely relevant in every situation, I don't know.

Mrs. CUBIN. Exactly.

Mr. GOSS. But, I would certainly say it ought to be on the checklist.

Mrs. CUBIN. Then the other aspect of that, the socio-economic study I wanted to bring up was I would like to be sure that included in that study is a balancing of Florida's future energy needs. I understand there's going to—I mean, everyone would agree that

the energy needs for Florida is going to increase through the following years, and so the supply of energy versus the demand. And then, I, also, would like to—the study to include the socioeconomic impact of the likelihood of oil spills from vessels, as opposed to platforms and pipelines, that—that those should be factors, I think, in that study. Would you agree with that?

Mr. GOSS. I would absolutely agree. I think we want the total risk. I am looking at all aspects of this. Part of this discussion that we've gone into many times is if you do shore side facilities, what does that do to air quality, for instance. It's a fair question, if you're going to do shore side facilities; if you're not, not a very relevant question.

Perhaps the best answer I can give you to the question is, I think that the State of Louisiana has shown me conclusively that there is a way to extract oil and gas viably and also benefit the environment, at the same time. And I would take you to the rainy preserve in southern Louisiana, where they produce oil and gas and they, also, have a bird sanctuary. It is probably the single lesson that says, you don't have to have losers; everybody can win if you do this right.

Mrs. CUBIN. That's right; I think that's right.

Mr. Joyner, my staff recently read that there's a large desalinization plant that has been proposed for the Tampa Bay region for fresh water needs that the state will have. Do you have any idea what kind of electricity demand there will be for that plant?

Mr. JOYNER. It's my understanding—and I've got to admit, Congressman, I have been with the department for about six months now, so, quite honestly, I'm still learning where things are. But, yes, we do have an Office of Air that I think certainly would be very interested in that. What I'd like to be able to do is just go back—Howard Rhodes is the gentleman, very good reputation, in Florida that handles those issues. I'd like to go back to him and just express your comments.

Mr. INSLEE. Well, I appreciate that and I'll give you a card and you let me know what you're doing.

Mr. JOYNER. Please do.

Mr. INSLEE. Thanks a lot.

Mr. JOYNER. Thanks.

Mrs. CUBIN. The Chair thanks both of you for being here and for your wonderful testimony. And then if we have some written questions, I hope that we'll be able to get answers from you on those. So, thank you, very much.

Mr. GOSS. Thank you, Madame Chair, very much. We are indeed grateful for the opportunity.

Mrs. CUBIN. Thank you.

At this time, we'll call the second panel forward: Mr. Walt Rosenbusch, Director of the Minerals Management Service; Mr. Jay Hakes, Administrator of the Energy Information Administration.

Mr. Rosenbusch, would you like to begin?

STATEMENTS OF WALT ROSENBUSCH, DIRECTOR OF MINERALS MANAGEMENT SERVICE, U.S. DEPARTMENT OF THE INTERIOR; JAY HAKES, ADMINISTRATOR, ENERGY INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF ENERGY

Mr. ROSENBUSCH. Thank you, Madame Chairman and members of the Subcommittee. It's a pleasure to be here today to testify on H.R. 33. This is my first time to testify before the Subcommittee and just recently been appointed Director of The Minerals Management Service. However, I do know from past experience with the Department of Interior and the Assistant Secretary's office, that the Subcommittee takes a very active interest in the activities of the Minerals Management Service. And accordingly, I look forward to working closely with members of the Committee.

Prior to discussing the department's view on H.R. 33, I'd like to take just a moment to highlight some of the important facts concerning the OCS program. From an energy standpoint, the OCS produces about 22 percent and 27 percent, respectively, of our nation's domestic oil and natural gas. And by 2001, oil and gas production on a daily basis is expected to increase from 3.3 million barrels of oil equivalent in 1995 to as much as 4.9 million barrels of oil equivalent, on a per-day basis. From an economic standpoint, MMS collects on average over four billion dollars per year in mineral revenues and over three billion of that total comes from the OCS. These monies go to the Federal treasury to help pay for Federal programs, but a significant majority of these revenues are shared with various onshore and coastal states. Finally, a portion of OCS revenues, as already been mentioned, goes to the Land and Water Conservation Fund, a program that benefits all Americans. Historically, OCS revenues have provided over 90 percent of the funding to the LWCF.

When this administration assumed management of the OCS program in 1993, I think it's fair to say that it had substantial problems facing it. There were congressional moratoria on leasing and development activities, ongoing breach of contract litigation by lessees with certain leases, and unresolved issues associated with existing leases in various areas that demanded our attention. However, six years later, many of those controversies have been resolved or substantial progress has been made towards resolving them. I believe the main reason the department has been able to move the OCS program forward is because we recognized early on that conflict resolution would have to be a high priority and that the best way to proceed would be to listen very carefully to our stakeholders.

Our conflict resolution efforts were primarily made up of two components. The first was to endorse the existing annual congressional moratoria that were in effect. We did this in order to assure our stakeholders that the status quo would be maintained while discussions ensued on the direction of the OCS program.

The second major component of our conflict resolution effort was the development of the OCS five-year program for the year 1997 to 2002. That program was guided by three principles: one, consensus-based decision-making; two, science-based decision-making; and three, focusing on the use of natural gases and environmentally preferred fuel. That program was developed with signifi-

cant stakeholder participation and collaboration, and for the first time since annual moratoria were enacted, we now have an OCS five-year program that does not propose to lease in areas where opposition and controversy led to those restrictions. In addition, in June, 1998, the President issued a directive that certain OCS area be withdrawn from future leasing consideration until at least the year 2012. These areas had been under annual leasing moratoria and are not part of the department's current five-year program.

From this short history, I believe you can see that we are serious about working with and listening to our stakeholders and basing our decisions on good science, and I believe our track record over the past six years has borne out this fact.

With regards to our views on H.R. 33, the department has carefully reviewed the proposed bill, and while we appreciate the intent of the legislation to protect Florida's coast, we have concerns regarding the moratoria provisions and environmental research requirements of the bill. Some of the provisions would at best be duplicative. Moreover, there are other provisions of the bill that could be detrimental to the program. Instead of the approach advocated by H.R. 33, we believe that the current laws, processes, and programs already in place to address the OCS leasing and development related issues are working and should be continued. The OCS decision-making process is one that is comprehensive and well thought out. At each step of that process, there are substantial and meaningful ways for stakeholders to have their concerns addressed.

I'd like to conclude my remarks by saying that in retrospect, I believe that the past six years have taught us valuable lessons with respect to the OCS program. The most notable lesson is that it is absolutely critical for the program to be based on consensus, the willingness to listen to our constituents, and to working in a collaborative fashion to resolve issues; otherwise, we are bound to repeat the mistakes of the past. I believe the program we now have in place takes those lessons to heart. Furthermore, we remain committed to building on those efforts and to involving our stakeholders at every step of the process.

Madame Chairman, this concludes my oral remarks. I would be happy to answer any questions.

[The prepared statement of Mr. Rosenbusch follows:]

STATEMENT OF HON. WALT ROSENBUSCH, DIRECTOR, MINERALS MANAGEMENT SERVICE, UNITED STATES DEPARTMENT OF THE INTERIOR

Madam Chairman, and Members of the Subcommittee, I appreciate the opportunity to testify on H.R. 33—a bill to impose restrictions and requirements on the leasing and development of certain Outer Continental Shelf (OCS) lands offshore Florida. However, before addressing the specifics of H.R. 33, I would like to begin by highlighting some important facts concerning the OCS program.

First, the OCS program is a major source of energy for the Nation, currently providing about 22 percent of our total domestic production of oil and 27 percent of our production of natural gas. Hand in hand with this much needed energy production, the program generates substantial national and regional economic benefits. Those benefits come in the form of bonus, rent, and royalty payments to the Federal Treasury (almost \$6 billion in 1998 and over \$125 billion (to date)—a portion of which is distributed to coastal States under section 8(g) of the OCS Lands Act—as well as income, local jobs, and taxes generated by petroleum companies and a host of manufacturers and other firms located throughout the country.

Furthermore, OCS revenues are the major funding source for both the Land and Water Conservation Fund (LWCF) and, as of last year, the Historic Preservation Fund (HPF)—programs that benefit all Americans. To date, over \$19.7 billion and

\$3 billion have gone into the LWCF and HPF, respectively. The OCS program has an excellent safety and environmental record, and it produces a large quantity of natural gas, which is the most environmentally preferred form of fossil fuel.

These benefits notwithstanding, the OCS program has been the subject of conflict, controversy, and—ultimately—moratoria that have been in effect for many years for certain areas of the nation's coast. The history of moratoria is well documented in two reports produced by the Minerals Management Advisory Board—*Moving Beyond Conflict to Consensus (April 1993)* and *Environmental Studies in OCS Areas Under Moratoria: Findings and Recommendations (May 1997)*. These reports were previously provided to the Committee. The former had a significant influence on the Department's development of its management approach, and the latter we use in managing our OCS Environmental Studies program.

THE DEPARTMENT'S APPROACH TO MANAGING THE OCS PROGRAM

When this Administration assumed management of the OCS program in 1993, congressional moratoria were in effect for both the Atlantic and Pacific coasts, the Eastern Gulf of Mexico, and the North Aleutian Basin off Alaska. There were lease sales scheduled in the Atlantic and Eastern Gulf of Mexico areas under leasing moratoria; there were drilling restrictions on previously issued leases in the southeastern part of the Eastern Gulf of Mexico, in the North Aleutian Basin, and off North Carolina; and there was breach-of-contract/takings litigation that had been filed by the companies holding those leases. There also were existing leases in the areas subject to leasing moratoria off the Florida Panhandle and off California that demanded our attention; and there were proposed lease sales off Alaska that were generating controversy.

The Department believed that while the OCS program held great potential, it had become mired in controversies because it had been insufficiently attentive to the public's desires. Therefore, the Department embarked on a strategy designed to decrease the controversy so that conflicts and concerns could be addressed in a more rational atmosphere. This approach placed a high priority on conflict resolution and consulting with—and listening very carefully to—the OCS program's various stakeholders.

Endorsing Annual Congressional Moratoria

The first approach we used was to endorse the existing annual congressional moratoria as a way to assure the stakeholders that the status quo would be maintained while discussions ensued. We felt that it was extremely important to ensure that no new leasing occur in areas where we were attempting to resolve intense disputes concerning already existing leases. In retrospect, the annual moratoria that were in effect proved to be a very useful tool that enabled us to:

- settle litigation concerning the leases in the North Aleutian Basin and in the southeastern part of the Eastern Gulf of Mexico, which resulted in their relinquishment;
- settle litigation on the leases off North Carolina, which resulted in the relinquishment of 32 leases while preserving the Manteo Unit for possible exploration;
- cancel proposed lease sales in the Atlantic and in the Eastern Gulf off Florida that were precluded by the moratoria, thereby allowing us and the stakeholders to concentrate on resolving issues related to potential exploration and development of remaining leases; and
- focus our efforts off California on the possible development of existing leases without the distractions that proposals for new leasing would engender.

In short, the annual moratoria provisions and the actions we were able to take helped us begin building trust with our constituents and stakeholders and make strides in putting the OCS program on firmer footing in those controversial areas.

At the same time, we took under careful consideration the sales off Alaska that had been proposed in the OCS 5-Year Program for 1992-1997 that had been approved by the previous Administration. After consulting with stakeholders, we decided to:

- cancel sales in the Chukchi Sea, Hope Basin, Gulf of Alaska, and St. George Basin Planning Areas based on low industry interest and some concerns for other resources that were expressed by native groups and others; and
- proceed carefully and deliberately in the presale processes for Beaufort Sea Sale 144 and Cook Inlet Sale 149, which resulted in successfully conducting those two sales after a 5-year hiatus in Alaska OCS leasing.

Our decisions resulting in the cancellation of three proposed Alaska sales—as well as cancellation of Atlantic and Eastern Gulf of Mexico sales—were made with the view that this Administration would have the opportunity to formulate its own 5-

year program (covering the 1997-2002 timeframe). In developing that program, we would consult further with stakeholders to reach consensus on any future sale proposals for those areas and others.

Developing an OCS 5-Year Program by Consensus

The second approach we used to address past controversies with the OCS program was to develop an OCS 5-Year Program for 1997-2002 that was based not only on the substantive and procedural requirements of section 18 of the OCS Lands Act, but also on three general guiding principles endorsed by the President and the Secretary—consensus-based decisionmaking, science-based decisionmaking, and the use of natural gas as an environmentally preferred fuel. We consulted with and listened to stakeholders from start to finish in the 2-year preparation process.

As a result, the current OCS 5-Year Program is one that was developed by consensus and through the active participation of our various stakeholders. As such, it has allowed us to focus our energies on constructively discussing and resolving specific issues related to areas to be leased, as opposed to debating which areas are appropriate to even consider for lease.

The President's June 1998 OCS Directive

The third approach the Administration used to address stakeholder concerns regarding OCS leasing and development was to administratively withdraw certain OCS areas from further leasing consideration for a period of time. Specifically, in June 1998, the President issued a directive to the Secretary of the Interior to withdraw from leasing consideration until at least 2012 OCS areas located offshore the east and west coasts of the United States, the majority of the Eastern Gulf of Mexico, and the North Aleutian Basin offshore Alaska. In general, the areas administratively withdrawn were the same areas that had been under annual congressional moratoria for many years and where controversies or concerns still remained. Further, the President's directive also permanently prohibited future OCS leasing activity in marine sanctuaries.

As a result of the actions I have just discussed, the OCS program now reflects stakeholder desires with respect to the role the program should play in meeting the Nation's energy needs. Furthermore, it is important to note that the current OCS 5-Year Program, the President's June 1998 OCS directive, and annual congressional moratoria are in harmony; i.e., all areas prohibited from leasing consideration in the Department's annual appropriations legislation are excluded from leasing consideration in the Department's 5-Year Program and are administratively withdrawn from future consideration until 2012. Of note, the Department requested, and the Administration included in the President's FY 2000 Budget, the areas under leasing moratoria in the Fiscal Year 1999 Omnibus Appropriations Act (Public Law 105-277) be continued in Fiscal Year 2000.

PROVISIONS OF H.R. 33

With respect to OCS leasing, exploration, and development activities offshore the State of Florida, H.R. 33 proposes to—

- prohibit leasing and preleasing activities offshore Florida at least until after the expiration of the period covered by the next OCS 5-Year Program (ie; until 2012), and permanently prohibit leasing activities in areas in the Eastern Gulf south of 26 degrees N. Latitude and east of 86 degrees W. Longitude;
- extend the prelease and leasing prohibition even further until (1) all environmental research, assessment and studies called for in the bill are completed and peer-reviewed; and (2) the Secretary prepares a report certifying that he has adequate information to carry out his duties under the OCS Lands Act with a "minimal level of uncertainty;"
- permanently prohibit the approval of any exploration or production activities in the Eastern Gulf south of 26 degrees N. Latitude and east of 86 degrees W. Longitude, and for other areas offshore Florida—to prohibit the approval of any permit or exploration or production activity until (1) all environmental research, assessments and studies called for in the bill are completed and peer-reviewed; and (2) the Secretary prepares a report certifying that he has adequate information to carry out his duties under the OCS Lands Act with a "minimal level of uncertainty;" and establish a joint Federal-State Task Force to supervise the peer-review of all research and to review the report prepared by the Secretary certifying that he has adequate information available to carry out his duties under the OCSLA.

These provisions would apply to three OCS planning areas—that part of the South Atlantic Planning Area located offshore Florida; the Straits of Florida Planning Area; and that part of the Eastern Gulf Planning Area located offshore Florida.

However, there is no OCS leasing proposed in the 1997-2002 OCS 5-Year Program for either of the first two areas, and likewise, there are no existing OCS leases in these areas. Therefore, the only area affected by the legislation would be the Eastern Gulf of Mexico Planning Area. There is a small area located 15 miles offshore Alabama and more than 100 miles offshore Florida that is proposed for possible lease in late 2001, and there are approximately 110 existing leases located in that part of the Eastern Gulf affected by the provisions of the bill.

VIEWS ON H.R. 33

We have carefully reviewed the provisions of H.R. 33 in light of current law, the President's OCS directive, and the Department's efforts to address past controversies with the OCS program. We appreciate the intent of the bill—to protect Florida's coast—but we have concerns regarding the effect that the moratoria provisions and the environmental research requirements will have on the OCS program.

Proposed Leasing Moratorium in H.R. 33

With regard to the leasing restrictions proposed in the bill, we would again note that the current OCS 5-year Oil and Gas Leasing Program for 1997-2002 is a consensus-based program which proposes only a limited area for potential lease in 2001 in the Eastern Gulf of Mexico and no leasing in other OCS areas offshore Florida. In the Eastern Gulf of Mexico, the area for possible lease is located primarily offshore Alabama and more than 100 miles off the coast of Florida. During development of the current OCS 5-Year Program, both the States of Florida and Alabama agreed to allow this area to be considered for possible lease.

Furthermore, the President's June 1998 OCS directive prohibits the Department until at least 2012 from considering leasing areas offshore Florida that are located outside the limited area in the Eastern Gulf of Mexico previously agreed to by the States of Florida and Alabama.

Even if an area offshore Florida were to be considered for possible leasing after 2012, it is important to note that there is a comprehensive set of laws in place to guide that decisionmaking process. I have attached a chart to my testimony that outlines that process from the development of an OCS 5-Year Program all the way through the review and approval process for an OCS Development and Production Plan. From this chart, it is readily apparent that at each point of the OCS process, decisions would be subjected to a detailed planning and consultation process as outlined in the OCS Lands Act as well as requirements under the National Environmental Policy Act and numerous other environmental statutes. Also, in the case of proposed lease sales, exploration plans, and development plans, preparation of a section 307 consistency determination under the Coastal Zone Management Act would also be required. Therefore, there are many points in the current OCS leasing process that would ensure that State concerns are substantively addressed prior to any final decisions regarding an activity.

Finally, and as I previously mentioned, through the annual appropriations process as well as the President's OCS directive, the Department has endorsed a leasing prohibition offshore Florida for areas lying outside mutually acceptable areas contained in the OCS 5-Year Program for 1997-2002 in order to work cooperatively with the State to resolve issues of concern and obviate the need for long-term moratoria. H.R. 33 could be counterproductive to continued dialogue with affected constituencies and may diminish the motivation to continue the difficult process of building trust with all affected parties.

Proposed Drilling Moratorium in H.R. 33

H.R. 33 also contains language that would impose a drilling moratorium offshore Florida for a period of time that is tied to the completion of certain research, assessments and studies. The Department has concerns with this provision. First, it could undermine the statutory and regulatory processes in place to consider proposals for industry operations on leases with already-approved exploration or production plans. Second, it could undermine the ongoing consultation and dialogue necessary with the State of Florida and local governments to determine the most appropriate ways to explore for or develop existing OCS leases.

Most importantly, imposition of a drilling moratorium would have an immediate impact on the approximately 110 existing leases located in the Eastern Gulf offshore Florida. In turn, the drilling moratorium could have severe economic implications on lessees and operators and could very likely set the stage for litigation for a potential buyback of those leases. Although none of these leases are yet producing, many have been explored, several have "producible" wells, and in at least one instance, the lessees are pursuing efforts to develop a significant natural gas find on their leases. The value of these existing leases would be significant, and the potential liability to the American taxpayer could be substantial.

In *Conoco v. United States*, decided in 1996, language similar to that contained in H.R. 33 was addressed by the United States Court of Federal Claims. The Court found that the Federal Government was liable for breach of contract and the plaintiffs were entitled to damages.

Although the case was subsequently reversed on other grounds, it is true that similar language spawned expensive and time-consuming litigation for both sides. Therefore, if H.R. 33 is enacted with these restrictions on the process of approving and permitting exploration and other drilling activities, it could set the stage for extensive litigation and possible buyback.

Proposed Environmental Research Requirements of H.R. 33

MMS has concerns with the section 4 environmental research requirements since they do not take into account the comprehensive and open process MMS uses to determine what environmental research is necessary for a given OCS area. Further, the bill fails to give adequate recognition to the extensive suite of environmental studies MMS has developed with regard to areas offshore Florida—particularly in the Eastern Gulf of Mexico. In addition, section 4 does not take into account the extensive peer review process that is already in place to ensure the integrity of OCS environmental research.

Finally, although section 4 references the need to conduct studies as recommended by the National Research Council (NRC), it does not take into account the recommendations coming out its review of the MMS Environmental Studies Program. The NRC provided final guidance in its report to MMS—Assessment of the U.S. Outer Continental Shelf Environmental Studies Program: IV Lessons and Opportunities, NRC, 1993—and MMS has relied heavily on its recommendations and guidance as it considers environmental studies needs for the Eastern Gulf of Mexico.

Listed below is a status of our environmental research in the Eastern Gulf of Mexico and an overview of NRC guidance vis-a-vis various provisions of the bill.

(1.) Studies required in H.R. 33.

Section 4 outlines certain specific studies that should be conducted by MMS and also requires an unlimited number of additional, unspecified studies that may be requested by the Governor of Florida or the Joint Task Force (as proposed in section 5 of the bill).

In fact, the socioeconomic study called for in section 4(l)(A) should be completed in late 1999 and is entitled "Socioeconomic Baseline and Projections for Selected Florida Panhandle Communities." The ecosystem study called for in section 4(l)(B) is scheduled to be under-taken in Fiscal Year 2001. In conjunction with that study, MMS plans to hold a workshop this October in Florida to delineate the scope of the study. Finally, the physical oceanography studies called for in section 4(l)(C) are currently underway and scheduled for completion in the near future.

With regard to the NRC studies called for in section 4(l)(D), it should be noted that the NRC report referenced in the bill discussed the adequacy of information with respect to the southwestern Florida area and indicated that the physical oceanographic information was marginal for that area. However, no existing leases remain in this area and, this is part of the Eastern Gulf that is both under annual congressional moratoria and the President's June 1998 OCS directive regarding new leasing.

However, MMS has added a considerable amount of information to our knowledge of ocean circulation in the Eastern Gulf, a matter of concern expressed in the NRC report. We are nearing completion of several projects employing anchored instruments, satellite images, surface drifting Buoys, and computer models to look at how ocean currents move in this area. In particular, we are studying the interaction, if any, between the nearshore currents and eddies from the head of DeSoto Canyon. Although, to date, there have been only natural gas discoveries in the area, this knowledge will help us better understand what might happen if an oil spill did occur. These efforts will be reviewed at the October workshop to determine what additional research should be considered. Additionally, new meteorological information will also help us see if there may be any potential effects from the emissions of OCS activities.

We have also improved our understanding of the biological and coastal resources in the eastern Gulf. A recently completed field study of whales in this area is providing new information on where these animals can be found. In a cooperative effort, MMS and the State of Florida have just finished updating information on a wide variety of coastal resources for storage on a geographic information system to aid the State and Federal government in assessing potential impacts to these resources.

Our understanding of the human environment in this area has also improved. Baseline information regarding the socioeconomic conditions of selected Florida panhandle communities has recently been completed and is being examined to project how these conditions may change in the future. Several new studies that have either just started or are planned to start in the near future should also give us a better understanding of the Florida socioeconomic environment.

In summary, through these studies MMS has addressed the issues raised by the NRC report and has continued to identify new issues through outreach programs and issue specific workshops to ensure that decisions are based on the best available information.

(2.) Peer review of studies.

H.R. 33 proposes to require all research required by the bill to be peer reviewed by qualified scientists who are not employed by the Federal Government. MMS already has an available peer review mechanism recognized by the NRC. In Report IV, the NRC strongly emphasized that MMS should use the OCS Advisory Board Scientific Committee for advice on environmental research. Scientific Committee members are independent, nationally-recognized experts in the marine and social sciences, appointed by the Secretary of the Interior, and not employed by the Federal Government. Most members have served on NRC committees and other special “peer review” panels, and are very frank in giving MMS advice in open, public meetings. Furthermore, the Scientific Committee provides peer review on MMS research.

Therefore, the additional layer of peer review provided for in the bill is not necessary to ensure quality science and, indeed, provides no method to resolve conflicts that could occur from these two separate reviews.

(3.) “Minimizing Uncertainty” Through Studies.

H.R. 33 would require the Secretary to certify that he has adequate information available to carry out his duties under the OCS Lands Act with a “minimal level of uncertainty” before approving leasing or exploration/development activities. This requirement implies that the only way to minimize uncertainty is by conducting additional research and that all studies mentioned by the NRC must be completed. However, in Report IV, the NRC stated that—

“it cannot—and should not—prescribe a detailed plan of studies for the Environmental Studies Program. Because the state of knowledge, budget constraints, and other factors change continuously, this Committee can provide only broad guidance on priorities based on its assessment of current conditions.”

The MMS has followed the guidance from the NRC and is under the oversight from its Scientific Committee in setting its research agenda, as recommended by the NRC.

Further, the bill proposes that the Secretary be prohibited from conducting any leasing or development activities until all assessments specified in the bill are completed, peer reviewed, and approved. This requirement could be interpreted to mean that all information, including that needed for exploration and development activities, must be completed and approved prior to even considering a leasing action. This requirement would run counter to both recommendations by the NRC and the environmental assessment process envisioned in NEPA.

The OCS program and NEPA both recognize that levels of environmental information necessary to make the first decision (i.e., holding a lease sale) are not the same as those necessary to make a decision on the placement of a platform. It would be literally impossible to have all the information necessary to make decisions with “a minimal level of uncertainty” on the approval of an exploration or development plan prior to the decision to hold a lease sale. Such information is best gathered and assessed once the location and specific circumstances of the proposed exploration or development activity are known.

Finally, H.R. 33 also permits the Governor of Florida or the Task Force to require “any” additional information to “minimize uncertainty.” This provision would essentially give the Governor and the Task Force a blank check to require any kind of study, or endless numbers of studies, regardless of the applicability of that study to OCS decisionmaking. In Report IV, the NRC stated—“The process of deciding how much science is enough should be a process whereby scientific knowledge provides to decision makers an assessment of potential impacts and risks—including the range of uncertainty-associated with an action. The response to scientific uncertainty need not always be the commissioning of additional studies. Any decision whether or not to conduct further studies should have a rational basis that can be documented.”

The NEPA process provides the best approach to defining what the real issues are with regard to a project and uses the “scientific knowledge” method highlighted by

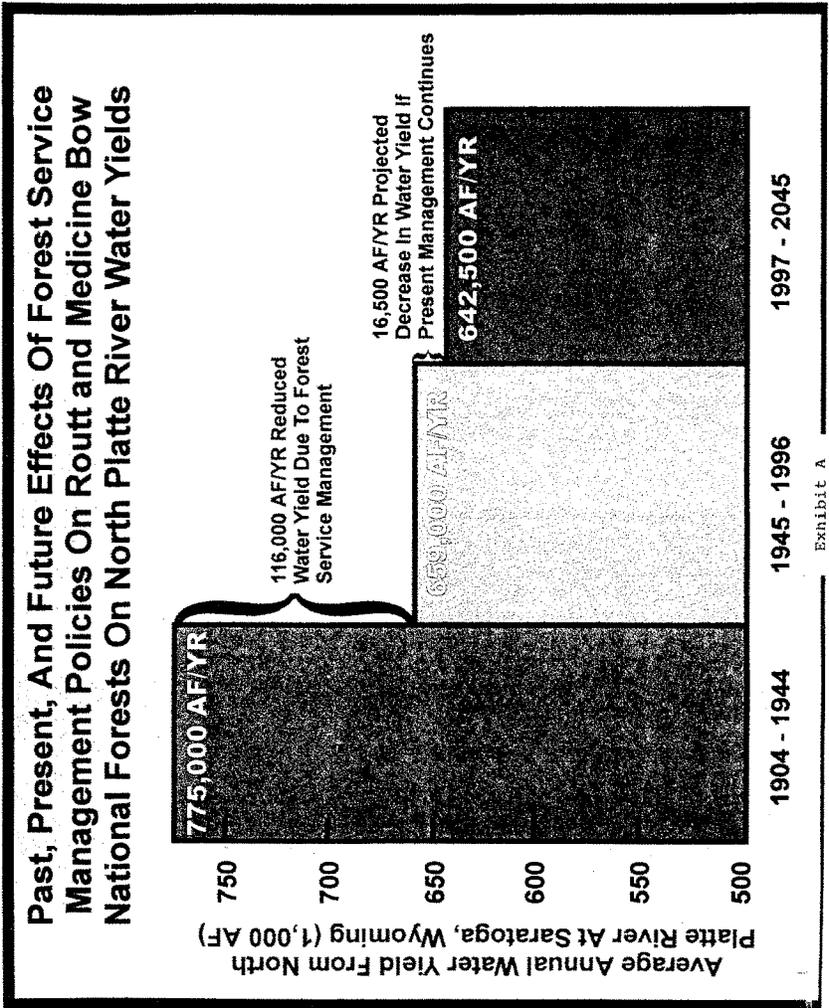
the NRC to provide to decisionmakers and the public an assessment of potential impacts and risks, including uncertainty. For example, many of the deliberations by the NRC centered on oil. But to date, only natural gas has been discovered in commercial quantities in the Florida Panhandle area, and gas is expected to comprise a significant portion of the hydrocarbon resources found in that area. The development of natural gas can have quite different impacts than oil. One would not need to know everything possible about the effects of oil spills to develop gas fields. For development of a gas field, the NEPA analysis would key on issues associated with impacts from gas development.

CONCLUSION

In summary, while we appreciate the intent of the legislation, we believe that the current consultative and environmental processes already in place—along with the Administration's willingness to listen carefully to its stakeholders and make decisions based on good science—are the best way to proceed with the OCS program. As experience has shown us, consideration of OCS areas to lease and develop should be based firmly on science and consensus, or we are bound to repeat the mistakes of the past. We believe we have made significant strides in building public consensus concerning the OCS program in the past several years. Further, our Environmental Studies program supports the NRC's recommendations regarding scientific studies. These efforts should be allowed to continue.

Madam Chairman, this concludes my prepared remarks. However, I will be pleased to answer any questions Members of the Subcommittee may have.

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- USFS, 1999.** Medicine Bow/Routt National Forests Web Page. <http://www.fs.fed.us/mrnf/faq/forfaq.htm>.



Mrs. CUBIN. Thank you for your testimony. The Chair now recognizes Mr. Hakes.

STATEMENT OF JAY HAKES, DIRECTOR OF LEGISLATIVE AND GOVERNMENTAL AFFAIRS, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mr. HAKES. Thank you, Madame Chair, and thank you, members of the Committee for this opportunity to discuss the pattern of energy consumption in the State of Florida. I would point out that almost all of this information is available on the Internet, so the Committee and, in fact, the general public all over the country has easy access to it.

For today's hearing, I believe I can be very brief. Rather than repeat what's available elsewhere, I would just like to highlight a few major aspects of Florida's energy use. Florida has grown rapidly to become the fourth most populous state in the country, but it's profile of energy use differs in several respects from the profile of the nation as a whole. Relative to other states, Florida does not have a lot of heavy manufacturing industries, which decreases its total need for energy. On the other hand, Florida has long driving distances and a large tourism industry, adding to the demand for petroleum-based transportation fuels. And if we look at the first chart that I brought with me, and it's also Chart 1 in the written testimony, which I believe you have, you can see that the red bar there, which reflects petroleum use, is by far the biggest source of energy in Florida and more so on a percentage basis than it is elsewhere.

The state uses relatively little natural gas or oil for space heating, because of its mild winters, and it does have heavy demand for air conditioning; therefore, these factors increase the need for electricity, which is quite great in the state. And if we look at the electricity generation chart, we can see, again, that relative to the rest of the country, petroleum plays a fairly big role. Petroleum, there again the red bar, is 16 percent of electricity production in Florida. Now, that's not the largest amount of electricity; but in the rest of the nation, it averages about 2 or 3 percent of electricity. Since the early 1970s, when we had a lot of electricity coming from petroleum, today we have very little, except for some places like Florida.

Florida's topography is very flat, as was mentioned by the initial witness, which makes the potential for hydropower very limited. And finally, Florida's population is likely to continue to grow more rapidly than the nation as a whole. This leads to the expectation that its energy consumption will also rise faster than elsewhere. The amount of electricity used in Florida, for example, is estimated by the Energy Information Administration to increase about 2.2 percent a year, from 1997 to 2005.

These comments, I believe, cover the most salient points, and I'd be glad, at the appropriate time, to answer any questions from the Committee.

[The prepared statement of Mr. Hakes follows:]

**Testimony of Jay Hakes
 Administrator, Energy Information Administration
 U.S. Department of Energy
 before the
 House Committee on Resources
 Subcommittee on Energy and Mineral Resources
 on
 Electric Power and Other Energy Needs for the State of Florida
 AUGUST 5, 1999**

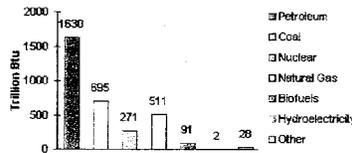
Thank you for the opportunity to appear before you today to provide you with information on the “forecasting demand for electric power and other energy needs for the State of Florida.”

EIA maintains profiles with historical data for all states. These profiles are available to the public on the Internet. EIA generally does its projections into the future on a national or regional basis, not by state. Because of the size of Florida, however, we are able to provide the committee some state projections for electricity growth.

Overview

Florida produces a very limited amount of crude oil and natural gas. Energy consumption is primarily petroleum. Florida ranks 3rd in the country in consumption of petroleum and electricity and 8th nationally in total energy consumption. Florida is among the top 4 States in consumption in the residential, commercial, and transportation sectors, but only 20th in the industrial sector. Coal is the most important fuel for Florida’s electric utilities. Florida’s overall energy prices rank 9th in the Nation. Chart 1 depicts the primary energy sources consumed by the State.

Chart 1. Primary Energy Consumed in Florida by Source, 1996



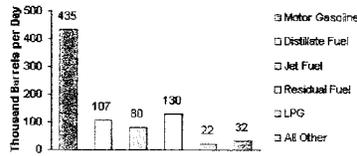
Petroleum and Natural Gas

Florida has small onshore reserves of petroleum and natural gas. Although an offshore proved field for natural gas has been established there is no public data available on the amount of offshore reserves. In 1997 petroleum reserves were 91 million barrels of crude oil and 17 million barrels of natural gas liquids. Natural gas reserves were 96 billion cubic feet of dry gas. Production of petroleum and natural gas is done on a very limited scale. Half of the State’s energy need is met by petroleum. Florida consumed 806 thousand barrels per day of petroleum in 1996. Over half of this

Source: Energy Information Administration

was in the form of motor gasoline. Natural gas consumption was 485.7 billion cubic feet in 1997. Chart 2 depicts Florida's consumption of petroleum products in 1996.

Chart 2. Petroleum Consumed in Florida by Product, 1996



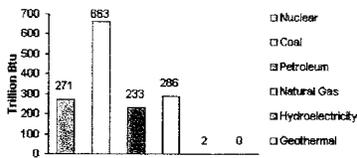
Natural Gas Restructuring

The state has no unbundled service programs for residential customers of natural gas. Natural gas service in the state is provided by 8 regulated utilities and 50 municipalities. All 8 utilities provide transportation services to large customers but not to residential users. The Florida Public Service Commission intends to pass rules for unbundling commercial and industrial customers by the end of 1999 but has no plans for residential unbundling. In 1997, Florida had 532,790 residential and 48,251 commercial customers, with commercial customers consuming nearly three times as much gas as the residential: 37 billion cubic feet versus 13 billion cubic feet. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$11.90 and \$6.85 per thousand cubic feet, respectively. The average city gate price in Florida was \$3.97 per thousand cubic feet.

Electricity

Florida had the fourth largest population and the third largest utility generating capability in 1996. The largest portion (about 45 percent) of electricity generated in Florida comes from coal-fired plants. Florida is also very reliant on nuclear power (nearly 20 percent) and power from oil-fired (about 16 percent) and gas-fired plants (nearly 20 percent). Chart 3 depicts the fuels used by electric utilities in 1996.

Chart 3. Electric Utility Use of Energy in Florida, 1996

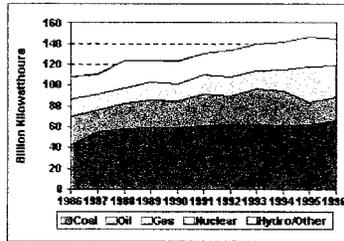


Nonutility electric power generators used an additional 363 trillion Btu. This is 20 percent of the total fuels used by the electric power industry, as compared to the 1986 share of 9.1 percent. Coal and wood waste together account for about half of the fuel. Natural gas is a large component also.

Two of the three largest plants in the State, Crystal River and Turkey Point, have nuclear generating capability. The largest utility in the State is the Florida Power and Light Company, which operates three of the State's five largest plants. Florida has an insignificant amount of hydropower capability and generation. The average price of electricity, 7.18 cents per kilowatthour, was sixteenth most expensive in the Nation. Florida is a net importer of electricity although it is a long peninsula with significant population centers at the southern end, making importing opportunities limited.

The utilities generated 145 billion kilowatthours of a total of 167 billion kilowatthours that were produced in Florida in 1996. The nonutilities produced the balance of 22 billion kilowatthours. Their share increased from 5.0 percent in 1986 to 13.2 percent in 1996. Chart 4 shows the utilities generation of electricity by primary energy source, 1986-1996.

Chart 4. Utility Generation of Electricity by Primary Energy Source, 1986-1996



Emissions

The Clean Air Act Amendments of 1990 specified a number of utility plants to begin compliance with stricter emissions standards for sulfur dioxide (SO2) and nitrogen oxides (NOx) in 1995. Charts 5-7 depict these emissions and carbon dioxide from 1986 to 1996.

Chart 5. Estimated Sulfur Dioxide Emissions 1986-1996

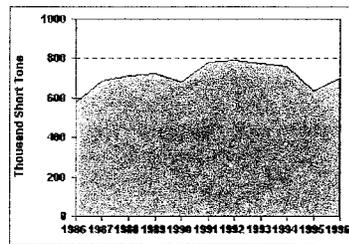


Chart 6. Estimated Nitrogen Oxide Emissions 1986-1996

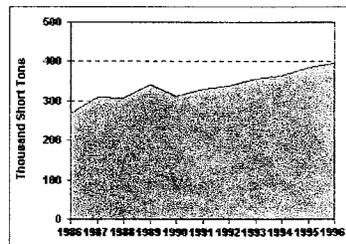
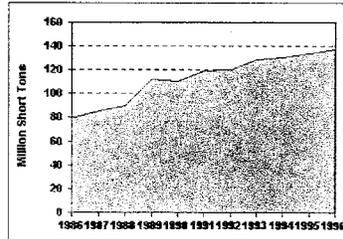


Chart 7. Estimated Carbon Dioxide Emissions 1986-1996



The utility plants included 2,286 megawatts of nameplate capacity at Gulf Power's Crist plant and Tampa Electric Company's Big Bend plant. Emissions of SO₂ from Florida electric generation rose from 1986 to 1991, but declined from 1991 to 1996. Both emissions of NO_x and carbon dioxide (CO₂), however, increased over both periods. Florida's SO₂, NO_x, and CO₂ emissions were all among the top 7 nationally in 1996. Its concentration rankings were all also high, among the top 12.

Electricity Restructuring

The U.S. electric power industry is undergoing profound change. The industry, once considered a natural monopoly, is opening its wholesale market to competition as a result of the Federal Energy Regulatory Commission's open access order issued on April 24, 1996. Regulatory orders and legislation for the State of Florida are summarized here.

Regulatory Orders

4/99: The PSC approved a merchant plant to be built in New Smyrna by Duke Energy. The combined cycle gas plant has a photovoltaic unit to offer a "green" pricing option as part of the plant's marketing. The utilities in the State opposed the plant, but the PSC stated that the plant, and other merchant plants proposed to be built could help solve the State's reserve margin problem, lack of photovoltaics, and market share concerns.

2/99: The PSC ruled that investor-owned utilities must disclose the sources of generation and purchased power by fuel type to consumers

8/98: Responding to competitive pressures that can lower electric bills for large consumers, the PSC approved discount rates (up to 20%) for new and expanding businesses. The Florida Alliance for Lower Electric Rates Today opposes the discounts, and proposes state-wide competition for all consumers.

Legislation

4/99: The legislature adjourned April 30 with no major electric industry restructuring effort or even a study considered.

Electricity Outlook

Demand for electricity is expected to increase at an average rate of approximately 2.2 percent per year through the year 2005. For the Southeastern Electric Reliability Council/Florida, defined as the State of Florida but without the western panhandle, the outlook for electricity demand in billion kilowatthours is shown in Table 1.

**Table 1. Outlook for Electricity Demand for Florida
By Sector and Year (Billion Kilowatthours)**

	<u>1997</u>	<u>2000</u>	<u>2005</u>
Residential	77.50	84.87	93.78
Commercial/Other	69.46	74.89	81.77
Industrial	14.15	14.34	15.27
Transportation	0.71	0.76	1.34
Total	161.82	174.85	192.17

The forecasts are taken from the Energy Information Administration's National Energy Modeling System. The electricity use in the transportation sector is mainly for electric rail such as intercity, commuter and transit rail systems.

I will be happy to answer any questions that the committee members may have.

**PETROLEUM PRODUCTS RECEIVED
INTO THE STATE OF FLORIDA CY 1997**

<u>Traffic</u>	<u>Name</u>	<u>Tons</u>
Domestic	Crude Petroleum	15,260
	Gasoline	24,714,711
	Kerosene	31,527
	Distillate Fuel Oil	5,785,950
	Residual Fuel Oil	9,258,750
	Lube Oil & Greases	41,680
	Naphtha & Solvents	20,509
	Asphalt, Tar & Pitch	855,205
	Petroleum Coke	383,654
	Liquid Natural Gas	327,298
	Petro. Products NEC	<u>598,700</u>
		42,033,244
Foreign	Crude Petroleum	22,735
	Gasoline	1,128,841
	Kerosene	1,939,004
	Distillate Fuel Oil	420,230
	Residual Fuel Oil	1,879,456
	Lube Oil & Greases	20,720
	Petro. Jelly & Waxes	2,747
	Naphtha & Solvents	164,789
	Asphalt, Tar & Pitch	108
	Petroleum Coke	639,569
	Liquid Natural Gas	<u>29</u>
	6,218,228	
Sum		48,251,472

Source: Waterborne Commerce Statistics Center, U.S. Department of Transportation

THE MMS OCS Leasing, Exploration, and Development Process



Abbreviations: ADP, Application for Permit to Drill; CD, Consistency Determination; CZM, Coastal Zone Management; EIS, Environmental Impact Statement

**MMS ENVIRONMENTAL STUDIES EXPENDITURES
OFFSHORE FLORIDA**

	<u>Completed Studies</u>	Ongoing Studies	Total
Physical Oceanography	\$ 9,264,771	\$ 10,659,903	\$ 19,924,674
Atmospheric Sciences	\$ 319,373	\$ 6,313,933	\$ 6,633,306
Fate and Effects	\$ 577,866	\$ 4,901,607	\$ 5,479,473
Biological Sciences	\$ 6,111,206	\$ 28,599,478	\$ 34,710,684
Protected Species	\$ 365,421	\$ 1,134,699	\$ 1,500,120
Socioeconomics	\$ 2,418,835	\$ 1,220,531	\$ 3,639,366
Environmental Information Management	\$ 1,407,804	\$ 2,737,677	\$ 4,145,481
Totals	\$ 20,465,276	\$ 55,567,828	\$ 76,033,104

Source: Minerals Management Service, U.S. Department of Interior

Mrs. CUBIN. Thank you, very much. I will start the questioning with you, Mr. Hakes, I guess. Obviously, Florida's consumption of energy will be increasing, as your testimony said. So, how bad will it get from the energy deficiency standpoint for Florida in the next decade or so, and factoring in that desalinization plant at Tampa Bay, if that has been done?

Mr. HAKES. Well, we have relatively few states in the country that are major energy producers. You have Louisiana, Texas, and Colorado. The West produces a lot of gas and oil. But, I don't have a calculation of—any energy produced in Florida, unless you consider nuclear production. There is some limited gas and oil onshore. But, basically, its energy use will continue to grow and, under current plans, the production probably would not grow at all. It's not unique in that respect. There are a number of states that are big consumers of energy that don't produce much energy.

Mrs. CUBIN. Yeah, that's absolutely true, but a lot of the other states that don't produce a lot of energy don't have—go off the shore 12 or 35 miles, where you can't even—wouldn't even be able to see platform from land and have the potential to produce that oil or gas in a safer fashion, I guess, than having vessels bring oil in. So, that's the only thing I'm trying to—trying to balance out somehow the needs and the responsibilities.

Mr. Rosenbusch, welcome. This is your first opportunity to testify in front of the Committee and you did an excellent job and I—

Mr. ROSENBUSCH. I'll be sure to tell my mom, thank you.

Mrs. CUBIN. Well, I have to say that you were just the model of decorum. We appreciate the intent of the bill to protect Florida's state, but we have concerns. I mean, I can't wait to hear you say this bill stinks or—

[Laughter.]

Mrs. CUBIN. But can you further respond to Mr. Joyner's testimony about the adequacy of environmental studies that need to be done in the eastern Gulf planning area?

Mr. ROSENBUSCH. Yes, Madame Chairman, I'd be glad to. Just to start off, to give us a backdrop to this, about \$76 million worth of environmental studies has either been completed or is in the progress in the process of being completed right now relative to Florida. The National Academy of Sciences and the National Resource Council did make recommendations, in terms of the necessity to perform additional studies, but I would also suggest and state that they, said that those studies should be related to specific—specific activities, as we move forward. In other words, not all studies need to be completed up front before you make any decision; Instead, the process that we have in place right now accommodates the fact that there's going to be science that's needed and that science will be determined based upon what activity or action is being proposed, as opposed to trying to do it all at at one time.

Mrs. CUBIN. Just for my own edification, in addition to the money spent on the studies already, how much sunk investment costs are at stake in the eastern Gulf? I think that your testimony referred to \$90 million in bonus bids. But wouldn't a buy out be substantially more expensive than that?

Mr. ROSENBUSCH. Yes, Madame Chairman, there would probably be some other costs associated with that those leases. The \$94 million is strictly just the—

Mrs. CUBIN. Just the bonus?

Mr. ROSENBUSCH.[continuing] just the bonus. I would imagine that a lessee would make a claim for other investments that may have been made on that lease.

Mrs. CUBIN. I think a key phrase in H.R. 33 is the term “minimizing uncertainty.” And as with many policy issues, a point I want to make, what is the point of diminishing returns, with respect to OCS leasing? Wouldn't the decision to allow natural gas produced in the Gulf to be used for electric generation, rather than barges and other vessels that would come in full of crude oil and leak and what not? Wouldn't the way to minimize uncertainty be to allow pipelines and plants that would use natural gas for electric generation? I mean, that seems to me like that would minimize uncertainty, which is such a prevalent term in this legislation.

Mr. ROSENBUSCH. Madame Chairman, I appreciate that question. It would—I guess in my own mind, be inappropriate for me to second guess what the stakeholders and the citizens of Florida consider to be an inappropriate activity. But, we would certainly suggest that the process that we have in place contemplates both the science that is needed and the concerns of the citizens before any decision is made. Whether a platform is considered more or less harmful is actually sometimes more in the eye of the beholder.

Mrs. CUBIN. One last question for you, Mr. Hakes. How do you think Florida will likely meet the increased deficiency in the needs that it has for electricity in the next five years? Are natural gas fired combined cycle turbines the likeliest new source, do you think?

Mr. HAKES. Yes. We believe that in most areas of the country, that the gas fired plants are more economical than their competitors, because of the lower capital cost, and I believe that's also the case in Florida.

Mrs. CUBIN. Do you know if there are any plans to build pipelines to Florida or are there any pending construction projects that you know about?

Mr. HAKES. There have been some expansions to the pipeline capabilities into Florida and there has been public discussion of substantially enlarging that pipeline capacity.

Mrs. CUBIN. And so, you think that's where it will come from then, from—see, that would be great for my state, if we could send gas to Florida. But—

Mr. HAKES. We project nationally that the market for natural gas will grow from about 22 trillion cubic feet now to about 30 trillion cubic feet in about 2013, and that's, again, because in most areas of the country, these gas fired electric plants are so attractive economically.

Mrs. CUBIN. They're cleaner. Yeah, of course, you know, coal, too. Well, thank you, very much. Mr. Underwood?

Mr. UNDERWOOD. Thank you, very much, and Mr. Rosenbusch, congratulations on your position. You did well today.

Basically, I wanted to kind of understand the impact of Mr. Goss's bill. As I understand it, what would be the difference be-

tween what exists in California today, in the manner in which leases are dealt with, and the system that's being proposed by Mr. Goss?

Mr. ROSENBUSCH. Today, the process that's in place for California is the same process that we have in place for any other area that's included in the five-year program, and that is a process that incorporates the OCS Lands Act, the National Environmental Policy Act, and the Coastal Zone Management Act, working in tandem. That is a process where—at each step along the way—whether it's in evaluating whether that acreage should be included in a five-year program, all the way through to ultimately where some activity, some specific action on a lease, you look at whether it is consistent with local—and state and concerns and Coastal Zone Management Act policies as well. The process is not any different. It is the same.

In terms of the process is that is out there in California, that is not what Mr. Goss is asking for in his legislation. I believe what Mr. Goss is asking for for is something that's different.

Mr. UNDERWOOD. Okay. What would be the net effect of implementing Mr. Goss's, other than having additional studies? Structurally, how would—you know, how would that either facilitate or impede your work or how would that facilitate or impede good public policy, in your estimation?

Mr. ROSENBUSCH. Our concerns, if I will, are that it would impede the process that is currently in place, the process I earlier discussed that incorporates the OCS LA, NEPA, and the CZMA. That process allows for a continuing dialogue with than affected state. Our concerns are that if Mr. Goss's legislation, if becomes a public law, it would, if you will, delay the dialogue—necessasary to identify concerns, and identify cxoncerns and issues or until the end of 2012 or until such time there is enough environmental information out there to make a decision.

Mr. UNDERWOOD. Okay. Thank you for those answers.

Mr. HAKES, how many—I'm trying to understand the impact of these charts about whether Florida is energy self-sufficient. How many states would you estimate are energy self-sufficient or—how many states would you estimate?

Mr. HAKES. Well, I mean, clearly, Texas, Louisiana. I think some of the western states might be; but, certainly, most of them are not and the country certainly is not. We import most of our oil now. And although the vast majority of gas is domestic, we are importing an increasing share from Canada.

Mr. UNDERWOOD. Okay.

Mr. HAKES. I could probably calculate that for you, if you would like that in the record. I just don't know it off the top of my head.

Mr. UNDERWOOD. No, I'm just wondering whether the importance of the charts is to show that Florida needs a pipeline from Wyoming.

[Laughter.]

Mrs. CUBIN. Maybe not from Wyoming.

Mr. UNDERWOOD. Thank you.

Mrs. CUBIN. Mr. John?

Mr. JOHN. Mr. Underwood, if you wouldn't mind, I could maybe give you some idea of states that are self-sufficient. Over 80 per-

cent of the oil and gas exploration in the OCS is done right off the coast of my home state of Louisiana, so we are a huge producer of oil and gas out in OCS.

Mr. ROSENBERG. I—Rosenbusch, I'm sorry, I have seen some conflicting numbers. As you are aware, there is a bipartisan group of members of this Committee—there's a congressman working on a pretty extensive, pretty wide sweeping outer continental shelf revenue sharing piece of legislation—and we've been basing it on some numbers and trying to build a consensus. And, actually, it's going very, very well. I see in your testimony, where you said that six billion dollars came into the Federal treasury in 1998. We had done—yeah, in 1988. Using some figures that we have been dealing with was four billion that was given to us early on in the process and then, of course, in the President's budget, we are now dealing with 2.875 or 2.825 or something like that, and that was based, from what I understand, on about \$14 oil.

Have you done any recalculations—now that the price albeit a short term, but has definitely bumped up and is bumping up at the \$20 barrel or right underneath it, have you done any recalculations on the total effect or the total receipts of offshore oil and gas?

Mr. ROSENBUSCH. I believe we have updated our calculations. Part of the confusion lies in fact that oftentimes we talk amongst ourselves about total receipts that are collected by Minerals Management Service and then, it could be only be onshore receipts, or it could be OCS receipts. And so, I think that our latest number is around \$3 billion, but I would be glad to provide any additional information that we have, in terms of the latest numbers.

Mrs. CUBIN. Mr. John?

Mr. JOHN. And I understand the volatility of that industry and that market. It is a moving target and moves daily.

Also, I want to talk about the trends in the non-moratoria areas of the OCS, with lease sales. Where do you see that going, as far as its impact on the total amount of revenue? I mean, is it increasing 5, 10 years down the road? Is it decreasing, you know, with the technology and the offshore—and the deep water that's—that's starting to develop today? Do you see it increasing or decreasing?

Mr. ROSENBUSCH. In short, I'd see it increasing, but I would have to say that probably—there are some caveats to that and I would be glad to—and let me just sort of itemize a few of those and then be glad to provide some additional information for you.

For instance, the Gulf of Mexico has about, in terms of deep water leasing, and the activity is going to—has gone from 1,000 leases now to 4,000 leases that are under lease in the Gulf of Mexico. A lot of the production that we have—the production increases that we're seeing today are actually from leases that were let prior to the Deep Water Royalty Relief Act. The new acreage that is under lease, that probably won't be coming on line for another two or three years. And so, I think that there are going to be some increases there, but they're going to be—it will really depend upon, as you know, the success of the exploration plan or the exploration effort, as well as the market, what's available—what the price is, I guess, basically, in terms of whether or not to move forward or when to move forward on those—on that project.

Mr. JOHN. And I guess being from Louisiana, we have chosen to be a producing state and have benefited from all of the economics of that industry, and other states have chosen to stay out of that. And I guess my concern, not only as a state legislature in Louisiana that served on the resources Committee, but also up here in Congress, is that although we get a lot of the benefits from it, I am very much concerned about our domestic oil and gas industry, as a whole, in the United States. And I don't—and shove to the side the economic benefits of it, I see this, as one of the gentlemen mentioned earlier, as a national security problem. And you look at it, time and time again, and read history and read books about military conflicts and what has brought people down and what has brought—what has survived from the strongest countries, and it is oil and gas—I mean, it is the gas industry. So, I am very, very concerned about our industry and what we're doing and what we are not doing to try to make sure that that's a thriving industry, because importations, as we very well know, we are addicted to the importation of the cheap oil, which is great for a lot of folks, but we need to look at the big picture.

And I guess my last question, as it relates to H.R. 33, do you feel that your office and your department have the appropriate resources and manpower to look at some of the data and do the kinds of studies that H.R. 33 is trying to do in the first place? I mean, obviously, H.R. 33 is wanting to buy some time, because there are obvious differences in the water bottoms of Louisiana, the Gulf of Mexico, and the mouth of the Mississippi, and the beautiful beaches in Florida. But tell us a little bit—or if you could help me understand, does your department do that now? Do they have the resources to do that and how—would it just be a buying of time type thing, when we may have that data and the resources to gather that?

Mr. ROSENBUSCH. To answer the first part of your question, “yes,” we do have the resources. That is part of our mandate and a part of our budget request and appropriations that we get each year. We use some of these funds to perform environmental studies, on areas involved in pre-leasing activities or for studies for an EIS associated with a specific activity that being proposed, like a drilling permit or such.

Mr. JOHN. Right.

Mr. ROSENBUSCH. So, I think we have those resources. But that's not the entire question. I would simply state, in response to your second part of the question, whether it's extending the time or buying additional time, I would just say that we believe that what's being proposed in H.R. 33 would be, at best, a duplicative effort. We already have a process that Congress has given us and that we have taken, at least in the six years that this administration has been responsible for management of the OCS, we have taken very seriously. We understand that it requires a consensus effort as well as good science. It's a deliberative and consultative process.

Mr. JOHN. Thank you, very much.

Mrs. CUBIN. I thank the witnesses for their testimony and the members for their questions. The members may have some additional written questions that they'll submit and we'd appreciate—

we'll keep the record open for those responses. Thank you, very much.

Mr. ROSENBUSCH. Thank you, very much.

Mr. HAKES. Thank you.

Mrs. CUBIN. Now, the third panel, which is just one person, Charlie Bedell, with Murphy Exploration and Production Company, would please come forward. Welcome. The Chair recognizes Mr. Bedell.

STATEMENT OF CHARLES A. BEDELL, MURPHY EXPLORATION AND PRODUCTION COMPANY, NATIONAL OCEAN INDUSTRIES ASSOCIATION; AMERICAN PETROLEUM INSTITUTE; U.S. OIL AND GAS ASSOCIATION; INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA; DOMESTIC PETROLEUM COUNCIL; NAD INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

Mr. BEDELL. Thank you, Madame Chairman and members of the Subcommittee. I'm very proud to be here today. I almost hesitate to read the list of groups I'm representing. It will take up most of my time, but it is the National Ocean Industries Association, the American Petroleum Institute, U.S. Oil and Gas Association, the Independent Petroleum Association of America, the Domestic Petroleum Council, and the International Association of Drilling Contractors. All these groups have made substantial and valuable input and we thank them all for helping us in the preparation of this testimony. My name is Charles Bedell. I'm the Manager worldwide for environmental regulatory compliance for Murphy Exploration and Production Company in New Orleans, Louisiana. We understand that the written testimony will be included in the record and we have made some specific references in that testimony to specific provisions of H.R. 33. And so, I would just like to react, being the last person testifying here, to some of the things that I've heard today and perhaps address a few specifics.

What we're really talking about here today seems to be communication, and the balancing, of Federal and state powers, jurisdictions, responsibilities, things that aren't new or applicable to just this subject, but which—I think have come into pretty clear focus, as we've listened to the testimony today. I'm really glad to hear some of the things that the distinguished gentleman from Florida, Mr. Goss, has said, as he introduced his bill and explained it. We're glad to see that he sees that there is some possibility for actual accommodation and that exploration and development activities, production activities may, in fact, some day be able to go on in concord with the State of Florida.

The other areas of agreement seem to be that Florida does need energy and it's going to need increased electrical, capacity, and that natural gas is the fuel of choice, to fuel that expansion. And, of course, that's a national expansion, a national need, as you pointed out.

And what we have trend is. The real basis of this problem is how do we really communicate together on these things. As in the warden in Cool Hand Luke said, what we have here is a failure to communicate, and I guess we really do, unfortunately. On the one hand, we have citizens, who are living along the coast. They have

their present lifestyle and they enjoy it, rightly so. Then maybe groups will get formed when they perceive a threat and they become a little more militant and the word "fight" begins to creep into the conversations between all the stakeholders.

And on the other side, you have people like myself, who work 24 hours a day, seven days a week, and 365 days a year, and do it for a whole career and they're all through the oil industry with the real dedication to bring about environmental safety and compliance with regulations. The MMS testimony, I think, clearly shows that we have had a very, very good record and our operations are safe and they protect the environment. And, actually, studies are beginning to document the fact that, as far as red fish and some their polulation has approximately doubled what they would be, if it wasn't for the productuction platforms that exist now in the Gulf of Mexico.

So, we have, on the other side, folks who are worried that—I think there's a group called Gulf Coast Environmental Defense that said that fisheries will be closed down and they said they'd be closed down for two seasons after drilling begins, and, of course, we've had 36 wells drilled already—off Florida already exploration wells. There was no opposition to the environmental impact study that has already been done in Florida for the Destin Dome Project. And so, we have a situation where scientific information has piled up. Since I've been involved in this for about 25 years, I speak with some authority, when I say that there's probably more scientific information out there than people can effectively deal with.

Back in 1979 through 1982, I was a member of the Gulf of Mexico Regional Technical Advisory Committee that the Department of Interior had, at the time, under the OCS Lands Act. And when we looked at the budget for MMS, one of our initial recommendations was that these new things called computers be used to try to come up with common formats and to expedite the access of the scientific community and the decision makers in government to studies that were available. So, we don't see that adding a new group of people, a committee to review and ask for more studies, that is found in this bill, will lead to any real resolution of the problem.

We agree with MMS that the present regulatory situation is one that's adequate, and that it has involved the states. And if I had brought along—for instance, on that Destin Dome 56 project, the application for the permit to go forward with development it would cover this tabletop and includes four million dollars worth of scientific studies and surveys, things that go beyond the requirements of the regulations, due to the fact that our operator, Chevron, made specific contacts with the State of Florida and with EPA, with all agencies involved, so that we could proceed and get facts that they wanted before we had conflict. And, unfortunately, we haven't been able to avoid that.

So, we urge that the Subcommittee reject this bill, at this time, and give the present system a continued opportunity to function and to allow us to try to deal with the issues of who can offshore development through that system. With the assistance of MMS and their increasingly active role in public education and through groups like NEED, The National Energy Education Development Project, and others, we think that this may be able to work, hope-

fully, in the end. Thank you, again, for the opportunity to appear today.

[The prepared statement of Mr. Bedell follows:]

Mrs. CUBIN. Thank you for being here. I want to follow up on one of Mr. Joyner's statements regarding the National Research Council's call for further studies. Could you, please, describe for me the range and scope, you know just short, of the studies that you and your partners have caused to be performed on the Destin Dome project?

Mr. BEDELL. Yes, I'd be happy to supply the Subcommittee with the precise list and can do that in pretty short order, hopefully. One of the things was photo documentation of the bottom. There have been a lot of comments about the difference between the eastern part of the Gulf and the western, and I'm sure there are some. My undergraduate training is in biology, ecology, and animal behavior, but I went wrong and went to law school, I guess. I think that there aren't as many differences between these areas, as some might like to believe.

We did shoot, I think—and please don't hold me exactly to this—but around 1,000 miles of video tape with a remote operated vehicle going along the bottom and saw a lot of mud, a lot of sand, and very little life. There's a lot better quality and a lot more life around platforms, frankly, than there is on the bottom of the area of the Dustin Dome 56 unit. This is very expensive work. It was not even required. Socioeconomic studies are also involved. Everything that's been raised as an issue of concern, and legitimately so by the people of Florida and through Congressman Goss, all these things are being addressed. And sometimes one feels like that we're saying something, but there's nobody there listening at the other end.

Mrs. CUBIN. The lights on, but nobody is home.

Mr. BEDELL. Yes, ma'am.

Mrs. CUBIN. Would you tell me just a little bit more about the project. I think it's a dry glass—dry gas play, isn't it?

Mr. BEDELL. Yes, ma'am.

Mrs. CUBIN. Is there potential to get this natural gas to Florida in a relatively direct way?

Mr. BEDELL. Well, absolutely. As I believe the gentleman from Florida stated, we, in the initial planning process, had talked to folks along the coast. But there was apprehension about the method for getting the gas to shore, they didn't want it to cross the State of Florida or go in across their beaches. Now, I have to add that during the time when when I was the minority counsel for the Ad Hoc Select Committee on the Outer Continental Shelf here in the House, we went to Scotland and did some field hearings of what was going on there, as far as North Sea development in the mid-'70s. We were taken to a golf course, where huge pipelines came ashore underground. We talked to farmers and they had huge pipelines going through under their pastures and there wasn't any problem.

I would like to add, also, that there is a document that the Committee should probably take note of with regard to the studies that the gentleman from Florida referred to. The National Research Council and National Academy of Sciences studies. It is an MMS

document called "Cumulative Effects." This is the latest version. It was published in 1997. It covers 1992 to 1994. It shows the cumulative effects of the Outer Continental Shelf Oil and Natural Gas Resource Management Program and in it how the MMS directly addressed those requests for additional information and the alleged shortcomings of the system at the time when the National Research Council made its recommendations. It shows the degree to which the MMS has tried to address those needs, and I think successfully so.

Mrs. CUBIN. Thank you. Thank you for being here. I thank the staff for all of their hard work. We look forward to seeing you again. As I said earlier, the record will be held open for written responses that any Committee members might have. And so if there's no further business, this Committee hearing is adjourned.

[Whereupon, at 3:29 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

INFORMATION AND LITERATURE ON OTHER PRAIRIE WILDLIFE SPECIES AS WELL, TO DETERMINE THEIR STATUS.

The black-tailed prairie dog is the cornerstone of the network of prairie wildlife species. The prairie dog colonies are home or otherwise provide food and cover to as many as 150 other species in the short-grass and mixed-grass prairie ecosystem. Unfortunately, many of the colonies of prairie dogs that remain in these ecosystems are fragmented and cover only a small acreage. These small "islands" of prairie dogs that are so commonly seen along the Front Range simply do not support the kind of matrix of wildlife species that rely on prairie dog colonies for survival.

We are heading for a "train wreck" through the loss of species diversity associated with prairie dog colonies and within the short-grass and mixed-grass prairie ecosystem. The National Wildlife Federation is taking steps to help stop this train wreck from occurring.

Prairie Dogs Are a Threatened Species

In July 1998, the National Wildlife Federation filed a petition with the U.S. Fish and Wildlife Service to list the black-tailed prairie dog as a threatened species under the Endangered Species Act. Since then, we have been working closely with the states to develop state management strategies for black-tailed prairie dogs, and trying to put a stop to poisoning of prairie dogs on Federal lands. In addition, the National Wildlife Federation is taking action to secure a home for prairie dogs and prairie wildlife on the National Grasslands.

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I., State Management Strategies

National Wildlife Federation staff sat down with representatives from Wyoming, South Dakota and Colorado in January 1999 to begin exploring ideas for a coordinated state strategy to address prairie dog management in the ten states with black tailed prairie dogs. In March of this year, the state of Colorado hosted a meeting of the ten prairie dog states to start a formal dialogue on interstate coordination for prairie dogs. The result of this effort is an Interstate Strategy for the Management of Prairie Dogs, which was submitted to the Western Association of Fish and Wildlife Agencies for their review in July 1999 at their meeting in Durango.

We are expecting this Strategy to be favorably received, and will be working with individual states, including Wyoming and Colorado, to develop state-specific management plans. By the end of this year, or early in 2000, we hope to have comprehensive management plans in place in all the states with black-tailed prairie dog habitat.

I will use my allotted time to highlight some of those successes, and to discuss the challenges we are facing in the future in the restoration and protection of prairie wildlife species.

Bald Eagle Recovery

As a symbol of our Nation and a spiritual icon for Native Americans throughout the West, the restoration of populations of the bald eagle is particularly noteworthy. When the Endangered Species Act was enacted, the species of bald eagles had

suffered severe declines due to habitat loss and pesticide use. This summer, the Secretary of the Interior announced that the bald eagle populations in the country have recovered to the point that the eagle has been removed from the Federal Endangered Species list. Due to the work of countless individuals and the assistance of many government agencies at the Federal, state and tribal, and local levels, the bald eagle once again soars above many areas in the United States.

Wolf Recovery

Another important symbol of freedom and strength is the gray wolf. These animals were virtually exterminated from the lower 48 states through both government and private control programs. When the Endangered Species Act was passed, wolves were one of the original species listed. America's hearts were lifted as the pen door was opened in 1995, and the first wolves were released by the Secretary of the Interior into the Yellowstone ecosystem. Today, in Yellowstone and elsewhere, we are seeing the results of two decades of efforts to recover the wolf populations, with animals expanding their range in Wyoming, Montana, Idaho and even into Oregon. Some day, we hope to have populations of wolves roaming in Colorado as well, which was part of the historic range for the species.

The success story with wolves means that we will soon be able to delist the wolves from the Endangered Species Act in the Rocky Mountain West. As a first step, the U.S. Fish and Wildlife Service will soon propose down-listing wolves from their present endangered classification to a classification as a threatened species. This action will help put the natural populations of wolves that are expanding in the West on the same footing as the experimental populations of wolves in Yellowstone Park and Idaho and will pave the way for total de-listing early in the next century.

The National Wildlife Federation is working with the U.S. Fish and Wildlife Service on these efforts and anticipates strongly supporting the down-listing proposal. However, we still need to work with the states to come to grips with wolf management and develop a program for each state with wolf populations.

STATEMENT OF COALITION FOR SUSTAINABLE RESOURCES, INC.

(CSR) is a Colorado nonprofit corporation which was formed for the purpose of encouraging the prompt recovery of species designated as threatened or endangered under the Federal Endangered Species Act, using sound scientific, technical, and legal means, and in a manner which avoids unnecessary interference with private property rights.

CSR is very concerned that the proposed recovery programs for the listed threatened and endangered species in the Platte River Basin will interfere with private property rights and fail to recover the endangered species, primarily because of U.S. Forest Service management practices on the national forests at the headwaters of the Platte River. Because of these concerns, CSR submits the attached written comments and exhibits to the Committee for inclusion in the printed hearing record.

Sincerely,

Kurt Bucholz, Vice President,
Coalition for Sustainable Resources, Inc.

SUMMARY

The production of high-quality water from forested watersheds is dependent upon healthy forests. Reduced water yield is an early symptom of forests that are losing diversity due to aging stands. Later symptoms of an unhealthy forest (which often degrade water quality) include increasing mortality from insects, disease, and blowdowns, in addition to the increasing frequency of catastrophic fires. Historic U.S. Forest Service management practices have significantly decreased water production in the Platte watershed. Continuing reductions in water yield caused by USFS management practices jeopardize the continued existence of downstream endangered and threatened species in Nebraska and undermine recovery program efforts to achieve target flow goals established by the U.S. Fish & Wildlife Service.

FOREST COVER AND STREAMFLOW

From 30 to almost 75 percent of the annual precipitation that falls upon the forested headwaters of the Platte River is consumed by mature forest vegetation through the complex processes of evapo-transpiration. Much has been learned about these processes from research in forest hydrology. Simply put, dense forest cover results in more evapo-transpiration, lower levels of soil moisture, with less water

available for streamflow (Leaf, 1999a). More than 80 years of watershed research throughout the United States, much of which is specifically oriented toward the West, has demonstrated that timber harvest, or vegetation removal, reduces net evapo-transpiration and results in increased streamflow. Studies have shown similar responses occur following deforestation due to insect epidemics and fire (Troendle, 1998). The amount of increased streamflow created can be accurately estimated by the USFS-developed WRENSS handbook procedure.

As trees reoccupy a site after logging or natural disturbances such as fire, blow-down, and/or insects, water use increases with time until the conditions of maximum water use (complete hydrologic utilization) of a fully occupied forest are reestablished. Results from the Fraser Experimental Forest show that lodgepole pine in the subalpine zone reaches complete hydrologic utilization in about 80 years, and spruce/fir in a little over 100 years. Aspen reaches complete hydrologic utilization in about 30 years (Leaf, 1999a).

HISTORIC BACKGROUND

A century ago, many forests on the public domain were ravaged by fire and unregulated logging. Water spilling off the denuded and fire-glazed watersheds created damaging floods in the spring and after storms, followed by periods of extremely low flows later in the season. Those flow patterns interfered with agriculture, commerce, and prosperity.

Fear arose that forest lands might soon disappear, leaving the country with a shortage of both timber and healthy watersheds. Congress responded by passing the Organic Administration Act of 1897, which outlined the primary purposes of the national forests as (1) securing favorable conditions of water flows, and (2) furnishing a continuous supply of timber the use and necessities of the citizens of the United States (*USvN*, 1978).

The Multiple Use-Sustained Yield Act of 1960 provided additional direction. This act is "supplemental to, but not in derogation of" the Organic Act (*USvNM*, 1978; Steen, 1976 at page 307). It authorizes the Forest Service to manage for range, recreation, wildlife, fish, and other purposes in addition to, but not in place of, management for the primary timber and water responsibilities for which the national forests were established.

The forested headwaters of the Platte River experienced large-scale disturbance events prior to the time they were added to the national forest system. Early records from Larimer County, Colorado (1886) and the USDA Bureau of Forestry (1904) suggest that 60 percent of northern Colorado's forests had been recently disturbed and consisted of seedlings, saplings, or were still black from recent fires (USFS, 1994). As a result of those disturbances, forests of a century ago in the Platte basin had many large openings and contained a large proportion of young timber stands.

Prior to World War II, the Forest Service sold a modest amount of timber while allowing the previously disturbed areas to restock. Harvest increased during and after WW II, and remained fairly constant for the next four decades. A steady decline in the rate of harvest has been experienced since the early 1990s. Timber harvest has always been less than the rate of growth. For example, harvest on the Medicine Bow National Forest averaged about 23 percent of the current growth rate until 1950, 43 percent from 1951 to 1984, and is currently only 12 percent of the growth rate (USFS, 1985 at 111-57; USFS, 1998 at Page 36).

Harvesting at far less than the rate of growth while suppressing fire, insects, and disease has led to serious overstocking that is increasingly being recognized by experts in the field. Former Regional Forester Elizabeth Estill made the following statement during a 1997 address to the Colorado Legislature's Joint Committee on Agriculture and Natural Resources:

"We are growing much more wood than we are harvesting," Estill said. "Our forests are heavily stocked—many in excess of natural levels—and (at) high risk for disturbances like fire and insects." (Estill, 1997).

Dave Blackford, former Renewable Resources Group Leader of the Medicine Bow-Routt National Forest, commented on stand age and size at a 1995 public meeting in Saratoga, Wyoming:

The USFS was then asked what the age of the medicine Bow was and if there was a decrease in timber due to a lack of growth. Blackford said the answer would surprise most people. "The stands in both the Medicine Bow and Routt are older than they have ever been and bigger than they've ever been," Blackford said. "The reason is that for the last 100 years we have made every effort to control fires and insects." (Blackford, 1995).

Dr. Denny Lynch of the Colorado State University College of Natural Resources gave the following testimony to the United States House of Representatives Subcommittee on Forests and Forest Health on March 18, 1997:

Studies of paired photographs taken at the turn of the century and more recently, consistently suggest that forest areas have recovered and even increased substantially In short, today's forests seem to be at the edge or outside the range of what we expect for the normal conditions, or what ecologists refer to as the "range of natural variability." . . . When forest canopies close and rain or snow is evaporated back into the atmosphere before reaching the forest floor, we lose valuable water supplies (Lynch, 1997).

As forest stocking levels have increased to the edge or outside the range of natural variability, water yield from those forests has inevitably decreased to the edge or outside the range of natural variability.

National forests are over stocked with over-aged timber. While experts recognize this problem, USFS has taken no corrective steps to remedy the situation. Instead, the problem has been compounded by USFS management decisions to reduce timber harvest.

As the forest continues to grow, individual forest communities will gradually move into the more mature structural stages. This maturation will be accompanied by an increase in crown cover 61 percent of the forested lands are mature, and the percentage of forested land in mature condition is projected to increase under all alternatives. (USFS, 1997 at 3-89, 3-111).

The Platte Basin Forests are not unique in regard to overstocked conditions due to an inadequate level of timber harvesting. Based on current harvest levels, it is estimated about .4 percent of the forested area in the Central/Southern Rocky Mountains is altered by timber harvest in a 10 year period.

At this rate it would take about 200 years to disturb 8 percent of the forested landscape, and 2500 years to disturb all of it (USFS, 1999).

History and timber inventory data show that half or more of the forested watershed in the Platte basin had been recently disturbed prior to establishment of the national forests. The disturbed areas have been reoccupied by forest while under USFS stewardship, and that forest has steadily grown from the stage of minimum water use toward the stage of maximum water use. A recent analysis of stand age and stocking levels on the Medicine Bow-Routt National Forests, combined with an analysis of historic gaging station records, led to the conclusion that the 1945-1996 yield from national forest lands above Saratoga, Wyoming was 116,000 acre feet per year less than the yield experienced during the 1904-1944 period (Leaf, 1999a).

The present harvest rate on the Medicine Bow-Routt has decreased to less than a third of the harvest rate of the previous four decades, so for every acre harvested there are more than two previously harvested acres being reoccupied by trees that are growing toward complete hydrologic utilization and maximum water use. It is estimated that the yield upstream of Saratoga, Wyoming will decrease another 16,500 acre feet per year over the next 50 years if present management policy continues (Leaf, 1999b).

Other methods were considered but would cause unacceptable environmental damage. For example, allowing wildfires to burn and regenerate forested areas has historically been unacceptable because of the smoke that pollutes the air, sediment that pollutes the waters, and the complete altering of the Forest environment that results from wildfires. (USFS, 1985 at 11-44).

However, the probability of fire events that would mimic early conditions are remote since agricultural uses in the lower valley areas and social acceptance of large free running fire have and will continue to influence wildfire suppression. (USFS, 1997 at D-64).

Because fire cannot be allowed to return to its historic levels, forest age and density will always remain above historic levels (and water yield below historic levels), unless USFS intervenes and actively manages the vegetative cover on national forest lands.

DOWNSTREAM ENDANGERED SPECIES

The whooping crane, piping plover, interior least tern, and pallid sturgeon have been listed as a threatened or endangered species pursuant to the Endangered Species Act, and Critical Habitat has been designated for protection in the Central Platte Region of Nebraska. The U.S. Fish & Wildlife Service has been designated for protection in the Central Platte Region of Nebraska. The U.S. Fish & Wildlife Service has determined that an additional 238,000 acre feet per year of water, over and above the existing flows, is necessary to meet target flows established for the listed species in the Central Platte Region. Virtually all of the water available to the Platte is generated from snowmelt on densely forested Federal land, most of which is controlled by the USDA, Forest Service (Leaf, 1999a). Total gaged yield is some 2.5 million acre feet per year and consumptive requirements are about 1.5 mil-

lion acre feet per year, leaving an annual flow of about a million acre feet through the Critical Habitat in Central Nebraska.

Various forest plans for the Routt, Medicine Bow, and Arapaho/Roosevelt National Forests, which straddle the continental divide, state that water yield from those Forests could be increased by approximately 400,000 acre feet per year., without degrading water quality or increasing flood peaks, by the implementation of vegetative and snow management programs. A substantial portion of this water would accrue to the Platte River, and the remainder would accrue to the Colorado River Basin above the critical habitat designated for the Colorado River endangered fish species. A moderate water yield management scenario would increase water yield in the Platte Basin by 249,000 acre feet per year by patch cutting 50 percent of USFS lands classed as tentatively suitable for timber harvest over the next 50 years, but does not include cloud seeding, snowfencing, or reentry of stands for thinning (Leaf, 1999a). Leaf (1999c) has shown that a significant portion of water generated by forest management practices will arrive at the Critical Habitat without interfering with the existing system of water rights administration. It is clear that restoration of water yield to historic levels from national forest watersheds would provide most, if not all, of the additional water necessary to meet target flows at the Critical Habitat.

USFS ACTION AND INACTION

The U.S. Forest Service is required by both the Organic Act of 1897 and the Multiple Use-Sustained Yield Act of 1960 to maintain watersheds in a condition of favorable flow. The Endangered Species Act requires each Federal agency to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species. Section 7(a)(1) of the ESA imposes on USFS an affirmative obligation to utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation of endangered species and threatened species.

USFS promptly used the downstream threatened and endangered species as justification to require bypass flows or mitigation at the time of permit renewal for water diversion facilities located on national forest lands. In one case, USFS concluded that annual evaporative water depletions of 0.7 acre feet off a pond located on the Arapaho-Roosevelt National Forest would, unless mitigated, harm the downstream endangered species and their habitat.

USFS also concluded that the cumulative effects of small depletions from ponds and spring developments for livestock, and wells for cabins, campgrounds and work centers, harm the downstream endangered species and their habitat. Under an interagency agreement, USFS paid \$95,000 to the Fish & Wildlife Service to mitigate the calculated 504 acre feet of annual small depletions to the Platte Basin.

While USFS has addressed the effects of small depletions on the downstream listed species, it has ignored the huge depletions caused by its management practices. The agency refutes its own science and three-quarters of a century of gage records and states that there has been no significant decline in water yield in the Upper North Platte over the last 80 years. (USFS, 1997, Comment Response Report at 403).

Older forest plan revisions followed NFMA regulations and offered a wide range of alternatives, including one that emphasized water yield. Recent plan revisions have not offered an alternative to increase water yield, and the management prescription for increased water yield has been dropped.

The Routt NF has recently adopted unrealistic and misleading baseline water yields that are apparently based on the yield from a mature forest that is in the stage of complete hydrologic utilization. Considering water yield from a forest that consists entirely of mature stands as a baseline is as reasonable as expecting all the people in Colorado to be over the age of 50.

Instead of providing water for the downstream listed species, USFS is using those species as a tool to gain additional control over privately-owned water diversions located on national forest lands. It is clear that the Federal agencies wish to ignore their own research and legal obligations, and instead place the burden of recovering the listed species on the backs of resource users.

CONCLUSION

Forest Service research shows that a watershed maintained in a condition of favorable flow will have enough forest cover to prevent floods, yet will have openings to catch snow and promote runoff. At the same time, the forest must not be allowed to become so old or dense as to invite catastrophic stand replacement and subsequent watershed damage. The Organic Act directs the Forest Service to maintain those favorable conditions by removing excess fuel as wood products.

Forests in the Platte watershed have grown old and dense under USFS stewardship and show signs of forest health problems in addition to conditions of unfavorable flow. Infestations of mountain pine beetles are increasing and an outbreak of spruce bark beetle seems likely after a 14,000 acre blowdown north of Steamboat Springs. Fires are becoming larger, more difficult to control, and are causing more damage. The May, 1996 Buffalo Creek fire southwest of Denver burned 10,000 acres of dense pine, claimed two lives, and has cost the City of Denver millions of dollars due to damage from sedimentation.

The major purpose of vegetation treatment on the Forest is to create and maintain healthy, diverse forest communities. A healthy, diverse forest is more attractive for recreation use and scenic quality; provides habitat for a wide variety of wildlife species; and assures a steady flow of water and wood products for the use of society . . . (USFS, 1984 at Preface i).

The dangerous buildup of forest fuels is an urgent problem in Platte watersheds. USFS and state foresters have warned that a 2,500-square-mile swath from north of Fort Collins to south of Colorado Springs is ripe for an Oakland-sized disaster (Oulton, 1996). A multi-resource vegetation management program could easily be designed that would both increase water yield and reduce fuel loads. Prescribed fire and wildfire suppression costs would be greatly reduced, a very significant economic benefit, if such a program were implemented.

In addition, the economic value of increased water yield averages from 6 to 10 times the value of timber products generated by watershed management (Gosnell et. al, 1987; Brown and Harding, 1987). Water added to the North Platte by watershed management would be at the upper end of that value range because of the many efficient hydroelectric generating facilities in that river system. A vegetation management program designed to increase water yield and improve forest health would maximize net public benefits.

Instead of maintaining the watershed in a condition of favorable flow and providing water for citizens, USFS is depleting the river and causing the private sector to cover its depletions. The states of Nebraska, Wyoming, and Colorado are diligently working on a recovery program for listed species in the Platte Basin, but their efforts to achieve the target flows required by the Fish & Wildlife Service are doomed to failure as long as flows from national forest lands at the headwaters continue to decrease. It is time for USFS to obey the Organic Act, the Multiple Use-Sustained Yield Act, and the Endangered Species Act and join the recovery program.