AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

OVERSIGHT HEARING ON THE U.S.-MEXICO TRANSBOUNDARY HYDROCARBON AGREEMENT AND STEPS NEEDED FOR IMPLEMENTATION; AND LEGISLATIVE HEARING ON H.R. 1613, OUTER CONTINENTAL SHELF TRANSBOUNDARY HYDROCARBON AGREEMENTS AUTHORIZATION ACT

OVERSIGHT AND LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

Thursday, April 25, 2013

Serial No. 113–13

Printed for the use of the Committee on Natural Resources

Available via the World Wide Web: http://www.fdsys.gov
or
Committee address: http://naturalresources.house.gov

U.S. GOVERNMENT PRINTING OFFICE

80–979 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON NATURAL RESOURCES

DOC HASTINGS, WA, *Chairman*
EDWARD J. MARKEY, MA, *Ranking Democratic Member*

Don Young, AK
Louie Gohmert, TX
Rob Bishop, UT
Doug Lamborn, CO
Robert J. Wittman, VA
Paul C. Broun, GA
John Fleming, LA
Tom McClintock, CA
Glenn Thompson, PA
Cynthia M. Lummis, WY
Dan Benishek, MI
Jeff Duncan, SC
Scott R. Tipton, CO
Paul A. Gosar, AZ
Raúl R. Labrador, ID
Steve Southerland, II, FL
Bill Flores, TX
Jon Runyan, NJ
Mark E. Amodei, NV
Markwayne Mullin, OK
Chris Stewart, UT
Steve Daines, MT
Kevin Cramer, ND
Doug LaMalfa, CA
Vacancy

Peter A. DeFazio, OR
Eni F. H. Faleomavaega, AS
Frank Pallone, Jr., NJ
Grace F. Napolitano, CA
Rush Holt, NJ
Raúl M. Grijalva, AZ
Madeleine Z. Bordallo, GU
Jim Costa, CA
Gregorio Kilili Camacho Sablan, CNMI
Niki Tsongas, MA
Pedro R. Pierluisi, PR
Colleen W. Hanabusa, HI
Tony Cárdenas, CA
Steven A. Horsford, NV
Jared Huffman, CA
Raul Ruiz, CA
Carol Shea-Porter, NH
Alan S. Lowenthal, CA
Joe Garcia, FL
Matt Cartwright, PA

Todd Young, *Chief of Staff*
Lisa Pittman, *Chief Legislative Counsel*
Jeffrey Duncan, *Democratic Staff Director*
David Watkins, *Democratic Chief Counsel*

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

DOUG LAMBORN, CO, *Chairman*
RUSH HOLT, NJ, *Ranking Democratic Member*

Louie Gohmert, TX
Rob Bishop, UT
Rob Wittman, VA
Paul C. Broun, GA
John Fleming, LA
Glenn Thompson, PA
Cynthia M. Lummis, WY
Dan Benishek, MI
Jeff Duncan, SC
Paul A. Gosar, AZ
Bill Flores, TX
Mark E. Amodei, NV
Steve Daines, MT
Kevin Cramer, ND
Doc Hastings, WA, *ex officio*

Steven A. Horsford, NV
Matt Cartwright, PA
Jim Costa, CA
Niki Tsongas, MA
Jared Huffman, CA
Alan S. Lowenthal, CA
Peter A. DeFazio, OR
Tony Cárdenas, CA
Raúl M. Grijalva, AZ
Colleen W. Hanabusa, HI
Joe Garcia, FL
Vacancy
Vacancy
Edward J. Markey, MA, *ex officio*

CONTENTS

	Page
Hearing held on Thursday, April 25, 2013	1
Statement of Members:	
Duncan, Hon. Jeff, a Representative in Congress from the State of South Carolina	6
Prepared statement of	7
Chart submitted for the record	9
Holt, Hon. Rush, a Representative in Congress from the State of New Jersey	3
Prepared statement of	5
Lamborn, Hon. Doug, a Representative in Congress from the State of Colorado	1
Prepared statement of	3
Statement of Witnesses:	
Beaudreau, Hon. Tommy P., Acting Assistant Secretary for Land and Minerals Management, U.S. Department of the Interior	9
Prepared statement of	11
Response to questions submitted for the record	13
Groves, Steven, Bernard and Barbara Lomas Senior Research Fellow, Margaret Thatcher Center for Freedom, The Heritage Foundation	39
Prepared statement of	41
Manuel, Athan, Director, Lands Protection Program, Sierra Club	48
Prepared statement of	49
Milito, Erik, Group Director, Upstream and Industry Operations, American Petroleum Institute	28
Prepared statement of	29
Pascual, Ambassador Carlos, Special Envoy and Coordinator for International Energy Affairs, Bureau of Energy Resources, U.S. Department of State	14
Prepared statement of	15
Response to questions submitted for the record	17
Simmons, Daniel R., Director of Regulatory and State Affairs, Institute for Energy Research	30
Prepared statement of	32

OVERSIGHT HEARING ON THE "U.S.-MEXICO TRANSBOUNDARY HYDROCARBON AGREEMENT AND STEPS NEEDED FOR IMPLEMENTATION"; AND LEGISLATIVE HEARING ON H.R. 1613, "OUTER CONTINENTAL SHELF TRANSBOUNDARY HYDROCARBON AGREEMENTS AUTHORIZATION ACT"

Thursday, April 25, 2013
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in Room 1324, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, Wittman, Thompson, Duncan, Daines; Holt, Horsford, Costa, Grijalva, and Garcia.

Mr. LAMBORN. The Committee will come to order. The Chairman notes the presence of a quorum, which, under Committee Rule 3(e), is two members. The Subcommittee on Energy and Mineral Resources is meeting today to hear testimony on an oversight and legislative hearing on, "U.S.-Mexico Transboundary Hydrocarbon Agreement and Steps Needed for Implementation."

We also have a legislative hearing on H.R. 1613, Representative Duncan of South Carolina and Hastings of Washington, and Salmon of Arizona, "Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act."

Under Committee Rule 4(f), opening statements are limited to the Chairman and Ranking Member of the Subcommittee. However, I ask unanimous consent to recognize the author of H.R. 1613, Mr. Duncan of South Carolina, for 5 minutes to give an opening statement.

[No response.]

Mr. LAMBORN. Hearing no objections, so ordered.

I also ask unanimous consent to include any other Members' opening statements in the hearing record, if submitted to the Clerk by close of business today.

[No response.]

Mr. LAMBORN. Hearing no objection, so ordered. I now recognize myself for 5 minutes.

STATEMENT OF THE HON. DOUG LAMBORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. LAMBORN. I would like to thank everyone for attending our hearing today. The Subcommittee is meeting to provide oversight on issues surrounding the U.S.-Mexico maritime boundary and the

development of shared hydrocarbon reservoirs in the Gulf of Mexico. We are also conducting a legislative hearing to discuss the gentleman from South Carolina, Mr. Duncan's bill, H.R. 1613, which enacts the U.S.-Mexico Transboundary Hydrocarbon Agreement, and provides greater guidance on how those agreements should be enacted in the future.

The current absence of legal certainty around hydrocarbon reservoirs that may overlie our maritime boundary with Mexico in the Gulf has prevented the Administration from leasing, and U.S. companies from exploring and developing these energy opportunities to bring more energy to market. In addition, due to the lack of an agreement with Mexico, there is currently a moratorium on exploration and development for 1.4 miles on either side of an area of the boundary known as the Western Gap.

As you are aware, under the Obama Administration roughly 85 percent of our Nation's Outer Continental Shelf is closed to exploration and development, at significant cost to our Nation's energy and economic security. This Committee has long supported opening far more substantial acreage to exploration, yet the Administration has dragged its feet. This acreage along our maritime boundary with Mexico seems to be one area where we can agree that exploration and development can and will happen, pending the approval of an agreement that clearly delineates how any hydrocarbon resources that straddle our two Nations' borders should be developed fairly and safely.

In 2012, after many years of discussion, then-Secretary of State Hillary Clinton and her Mexican counterpart signed an agreement on how to explore, develop, and share revenue from transboundary hydrocarbons, lifting the ongoing moratorium in the Gap area, and the de facto moratorium along the boundary. This Agreement, if implemented correctly, is a rare opportunity to expand U.S. energy production, create new American jobs, and grow our economy by opening new areas to oil and natural resources development.

I am deeply disappointed that it has taken the Administration more than a year since the Agreement was signed to finally transmit to Congress something for us to consider. The full Committee Chairman and I have both been supportive of enacting this Agreement, and we have been patient in waiting for the Administration to send language up to the Hill.

Although we were harshly criticized by the then-Secretary for not acting, we were and remain committed to acting on this issue. This is made clear by the fact that it was less than 5 weeks ago when the Administration finally submitted some information to Congress. And here we are, taking action today.

We must approach this hearing remembering that approval of this Agreement sets an important precedent for other similar transboundary hydrocarbon agreements that we may arrive at with other nations. It is important that we get it right, so that we may, along with our ally, Mexico, set an example on how together we may foster the shared goal of developing our Nation's Outer Continental Shelf for economic prosperity and energy security.

[The prepared statement of Mr. Lamborn follows:]

Statement of The Honorable Doug Lamborn, Chairman, Subcommittee on Energy and Mineral Resources

I'd like to thank everyone for attending our hearing today. The Subcommittee is meeting to provide oversight on issues surrounding the U.S.-Mexico maritime boundary and the development of shared hydrocarbon reservoirs in the Gulf of Mexico. We are also conducting a legislative hearing to discuss the gentleman from South Carolina, Mr. Duncan's bill, H.R. 1613, which enacts the *U.S.-Mexico Transboundary Hydrocarbon Agreement* and provides greater guidance on how these agreements shall be enacted in the future.

The current absence of legal certainty around hydrocarbon reservoirs that may overlie our maritime boundary with Mexico in the Gulf has prevented the Administration from leasing and U.S. companies from exploring and developing these energy opportunities to bring more energy to market. In addition, due to the lack of an Agreement with Mexico, there is currently a moratorium on exploration and development for 1.4 miles on either side of an area of the boundary known as the 'western gap'.

As you are aware, under the Obama Administration, roughly 85% of our nation's Outer Continental Shelf is closed to exploration and development, at significant cost to our nation's energy and economic security. This Committee has long supported opening far more substantial acreage to exploration, yet the Administration has dragged its feet. This acreage along our maritime boundary with Mexico seems to be one area where we can agree that exploration and development can and will happen—pending the approval of an agreement that clearly delineates how any hydrocarbon resources that straddle our two nation's borders should be developed fairly and safely.

In 2012, after many years of discussion, then-Secretary of State Clinton and her Mexican counterpart signed an Agreement on how to explore, develop and share revenue from transboundary hydrocarbons, lifting the ongoing moratorium in the Gap area and the defacto moratorium along the boundary. This Agreement, if implemented correctly, is a rare opportunity to expand U.S. energy production, create new American jobs, and grow our economy by opening new areas to oil and natural resources development.

I am deeply disappointed that it has taken that Administration more than a year since the agreement was signed to finally transmit to Congress something for us to consider. The Full Committee Chairman and I have both been supportive of enacting this agreement and we have been patient in waiting for the Administration to send language up to the Hill. Although we were attacked by the Secretary for not acting, we were and remain committed to acting on this issue. This is made clear by the fact that it was less than 5 weeks ago when the Administration finally submitted information to Congress, and here we are acting today.

We must approach this hearing remembering that approval of this Agreement sets an important precedent for other similar transboundary hydrocarbon agreements that we may arrive at with other nations. It is important that we get it right so that we may, along with our ally Mexico, set an example on how together we may foster the shared goal of developing our nation's outer continental shelf for economic prosperity and energy security.

Mr. LAMBORN. I would now like to recognize the gentleman from New Jersey.

STATEMENT OF THE HON. RUSH HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Dr. HOLT. I thank the Chair. I want to begin by saying welcome to the witnesses. And I think it is a good thing that the Majority is seeking to move legislation that would allow the Department to go forward with implementing the Agreement with Mexico that was brokered more than a year ago. We may have some specific concerns with details in the legislation, but I look forward to working with the Majority to address this bill and the issues of this bill as it moves through the process. We should seek to give the Department of the Interior the authority needed and requested to move forward to implement the Agreement.

However, I think it is important to put this bill in the larger context, and to speak about what we are not doing. Last Saturday was the third anniversary of the BP Deepwater Horizon disaster. The BP spill, one of the worst environmental disasters in American history, it cost 11 lives and more than 4 million barrels of oil spilled into the Gulf, costing the livelihood of residents of the Gulf to the tune of many billions of dollars. And what have we done in this Committee to respond to that disaster and to ensure that nothing like it ever happens again in the Gulf waters, which we will be talking about today? Nothing.

Last Congress wasted countless hours investigating the editing of the Administration's 30-Day Safety Report, which recommended a temporary moratorium on the drilling, but we failed to enact a single piece of legislative reform out of this Committee to improve the safety of offshore drilling.

My friend, our Chair, the gentleman from Colorado, talks about his impatience with what he calls the inaction by the Administration. I would like to point out that we, Congress, this Committee, have not raised the civil penalties that could be levied by the Interior Department against oil companies that violate the law. To put the absurdity of the current level of fines in perspective, the most that BP could be fined by Interior for its spill, the worst spill we have ever seen, is $21 million. That is for a company that made $12 billion last year. That hardly counts as even a slap on the wrist.

We have not raised the liability cap from $75 million to ensure that oil companies are held accountable and that taxpayers are not stuck with the bill for cleaning up spills. That is why this week I will be reintroducing the Big Oil Bailout Prevention Act, legislation that would remove the cap on oil spill liability and protect taxpayers from being stuck with the bill.

We have not provided a steady and direct funding stream for the Interior Department and other offshore drilling regulators to ensure that there is an effective cop on the beat.

We have not codified the important drilling safety reforms that the Interior Department has put in place to ensure that they won't be undone by a subsequent Administration.

We have not even brought in the chief executive officers of the largest oil companies to tell Congress and the American people what they have done to make offshore drilling safe, to tell us what lessons they have learned. The heads of these companies should appear before this Committee to answer questions that most Americans have. But under this leadership, the leadership of this Committee, if you are a top oil company executive, evidently CEO stands for Consistently Evading Oversight.

The only response Congress has taken to the BP oil spill has been to pass the RESTORE Act to ensure that 80 percent of the Clean Water Act fines and penalties will be sent to the Gulf Coast. That is certainly valuable for Gulf Coast communities, I support that, but it is not nearly enough.

The entity formed out of the BP Spill Commission recently released another report card. So I want to make the point this is not just this Member of Congress speaking here. The report card assessed or assigned a grade to us and it gave Congress a D+, barely

passing. That is something we should be ashamed of. And our response should be far more comprehensive than this bill.

Representative Markey and I will be reintroducing legislation to implement the reforms that were recommended by the independent BP Commission, and it is well past time that Congress act on that. We owe it to the families, we owe it to the workers, we owe it to the taxpayers and everyone in this country. I thank the Chair.

[The prepared statement of Dr. Holt follows:]

Statement of The Honorable Rush Holt, Ranking Member, Subcommittee on Energy and Mineral Resources

Thank you.

Mr. Chairman, I want to begin by saying that I think it is a good thing that the Majority is seeking to move legislation that would allow the Department to move forward with implementing the agreement with Mexico that was brokered more than a year ago. We may have some specific concerns with pieces of this legislation that I would look forward to working with the Majority to address as this bill moves through the process but we should seek to give the Interior Department the authority they have requested from the Congress to move forward on implementing this agreement.

However, I think it is important to put this bill in a larger context. Last Saturday was the third anniversary of the BP Deepwater Horizon disaster. The BP spill was one of the worst environmental disasters in American history. Eleven people lost their lives. More than 4 million barrels of oil spilled into the gulf. The cost to the livelihoods of the residents of the Gulf was in the tens of billions of dollars.

Yet, what have we done in this Committee to respond to that disaster and ensure nothing like it ever happens again? We have not enacted a single legislative reform out of this Committee to improve the safety of offshore drilling.

We have not raised the civil penalties that can be levied by the Interior Department against oil companies that violate the law so that they are a meaningful financial deterrent. To put the absurdity of the current level of fines in perspective, the most that BP could be fined by DOI for its spill—the worst spill we have ever seen—is $21 million. That is for a company that made $12 *billion* last year. That isn't even a slap on the wrist for an oil giant like BP.

We have not raised the liability cap from $75 million to ensure that oil companies are held accountable and taxpayers are not stuck with the bill for cleaning up spills.

We have not provided a steady and direct funding stream for the Interior Department and other offshore drilling regulators to ensure that they have the resources they need to be an effective cop on the beat.

We have not codified the important drilling safety reforms that the Interior Department has put in place to ensure that they can't simply be undone by future Administrations.

And we have not even brought in the Chief Executive Officers of the largest oil companies to tell the Congress and the American people what they have done to make offshore drilling safer; to tell us what lessons they have learned. The heads of these companies should appear before this Committee to answer questions for the American people. But under this Republican Congress, if you're a top oil company executive, CEO stands for Consistently Evading Oversight.

The only response the Congress has taken to the BP spill has been to pass the RESTORE Act and ensure that 80 percent of the clean water act fines and penalties will be sent to the Gulf Coast. That is extremely important for the communities of the Gulf Coast but it is not nearly enough.

The entity formed out of the BP Spill Commission recently released another report card to assess the response to the spill. It gave Congress a D-plus. That is something we should be ashamed of. And our response should be far more comprehensive than this bill.

Representative Markey and I will shortly be reintroducing legislation to implement the reforms that were recommended by the independent BP Commission. It is well past time that this Congress takes action on that legislation. We owe it to the families and the workers and the economy of the Gulf.

I yield back the balance of my time.

Mr. LAMBORN. I would like to now recognize the gentleman from South Carolina for 5 minutes.

STATEMENT OF THE HON. JEFF DUNCAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. DUNCAN. Thank you, Mr. Chairman, and thank you for holding this hearing today on H.R. 1613, the Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act. I introduced this bill with my colleagues, Chairman Doc Hastings of the Natural Resources Committee, and Chairman Matt Salmon of the Foreign Affairs Subcommittee on the Western Hemisphere, and I thank them for their leadership and teamwork as we move this Agreement forward.

In fact, Chairman Salmon recently held a hearing where the Transboundary Agreement was discussed at length.

Congress should pass this implementing language for the U.S.-Mexico Transboundary Hydrocarbons Agreement to expand energy production in the Gulf, strengthen our partnership with our ally, Mexico, and provide the framework for similar future agreements with other neighbors in the Western Hemisphere, while also protecting United States sovereignty.

At a time when we continue to face national security threats to our homeland, including potentially hostile and growing Iranian presence in Latin America, strengthening relations with countries in our hemisphere through expanded energy productions is a lifeline.

H.R. 1613 also provides certainty to offshore operators that only U.S. inspectors will be able to issue stop-work orders. It will protect American companies from legal conflicts which force them to choose between either breaking the law or disclosing confidential information to their detriment. The Obama Administration's Dodd-Frank Law contains exactly this risk, in requiring that resource extraction companies disclose payments to foreign countries, regardless of whether this conflicts with the U.S.-Mexico Hydrocarbons Agreement and Mexican law. We must ensure U.S. companies are protected and not prevented from developing these important energy resources.

Because of the benefits of an all-American energy production, this aspect of the bill is critical. Energy production is a segue to job creation. We have seen the boom in energy jobs because of expanded production in places like North Dakota. In fact, Mr. Chairman, I would like to say that when you get off an airplane in North Dakota, they give you a job whether you need one or not.

When you drive down Route 90 in Louisiana from Lafayette down to New Iberia, on down to Houma, and on down to Thibodaux toward the coast, you see business after business after business that is there to support the offshore industry. We are not just talking about the offshore drilling activity, we are talking everything that supports that.

That is the kind of business, when we expand production in Federal waters to use our natural resources, we create thousands of jobs on land, both in the industry and also in the support industries. And when we talk about industry, those guys go eat at local restaurants, they contribute to the United Way and their Chamber of Commerce, and they go to church and they tithe. It is a tremendous trickle-down economy.

When Americans are free to produce all-American energy, everyone benefits. The Transboundary Agreement would further lead to job creation and energy independence. That is why, for a country that believes in all-American energy production, the status quo just isn't acceptable.

I have a message from South Carolina. Our energy costs are too high. Our home and business electricity costs are rising. Our way of life is at stake, and the end result of stonewalling energy production creates an even greater risk. It is the true hockey stick in energy environment.

And, Mr. Chairman, I would like to submit for the record the U.S. Energy Information Administration Annual Energy Review of 2011. And it shows that from 1970 to 2010, that the energy expenditures per capita truly goes up in a dramatic hockey stick graph.

And I am going to submit that for the record.

Mr. LAMBORN. If there is no objection, so ordered.

[NOTE: The chart submitted for the record by Mr. Duncan can be found at the end of his prepared statement.]

Mr. DUNCAN. Thank you. While energy consumption per capita has fallen nearly 10 percent since 1980, Americans are paying well over twice as much per capita on energy costs as they were that same year. Furthermore, when we prohibit Americans from producing energy, we also strangle the ingenuity that defines them. Free to dream and innovate, Americans will always find a better, safer way of extracting, producing, and using our natural resources to fuel the American Dream. Because the Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act will open a currently off-limits area of the Gulf of Mexico, we will take a real step forward to increase production and provide relief from rising energy costs.

It has been 13 years since the 2000 Treaty on the Continental Shelf identified hydrocarbon reservoirs in the Western Gap that should be developed. While we are finally making progress on this front, this effort does not end here. We will continue to create a true all-of-the-above free-market energy strategy.

As a final note, our founders granted us the authority under Article 4, Section 3, Clause 2 of the United States Constitution to make all needful rules and regulations respecting the territory or other property belonging to the United States. As long as the Federal Government owns these resources, we have an obligation to free them for use by the Americans.

I look forward to the testimony today in working with all of Congress to provide implementation language of this Transboundary Agreement. And with that, Mr. Chairman, I will yield back.

[The prepared statement of Mr. Duncan follows:]

Statement of The Honorable Jeff Duncan, a Representative in Congress from the State of South Carolina

Mr. Chairman, thank you for holding this hearing today on H.R. 1613, the Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act. I introduced this bill with my colleagues Chairman Doc Hastings of the Natural Resources Committee and Chairman Matt Salmon of the Foreign Affairs Subcommittee on the Western Hemisphere, and I thank them for their leadership and teamwork as we move this agreement forward.

Congress should pass this implementing language for the U.S.-Mexico Transboundary Hydrocarbons Agreement to expand energy production in the Gulf, strengthen our partnership with our ally Mexico, and provide the framework for similar future agreements with other neighbors in the Western Hemisphere while also protecting U.S. sovereignty. At a time when we continue to face national security threats to our homeland, including a potentially hostile and growing Iranian presence in Latin America, strengthening relations with countries in our hemisphere through expanded energy production is a lifeline.

H.R. 1613 also provides certainty to offshore operators that only U.S. inspectors will be able to issue stop work orders. It will protect American companies from legal conflicts which force them to choose between either breaking the law or disclosing confidential information to their detriment. The Obama Administration's Dodd-Frank law contains exactly this risk, in requiring that resource extraction companies disclose payments to foreign countries regardless of whether this conflicts with the U.S. Mexican Hydrocarbons Agreement and Mexican law. We must ensure U.S companies are protected and not prevented from developing these important energy resources. Because of the benefits of all-American energy production, this aspect of the bill is critical.

Energy production is a segue to job creation.

We've seen the boom in energy jobs because of expanded production in North Dakota. When you get off a plane there, they give you a job whether you need it or not.

When you drive down route 90 in Louisiana, from Lafayette to New Iberia and on down towards the coast, you see business after business there to support their offshore industry. When we expand production in federal waters to utilize our national resources, we create thousands of jobs on land, both in the industry and to support it. If we were allowed to open up South Carolina's coast the way Louisiana and North Dakota are open for business, we could create the same effect there. But the oil companies aren't the only ones that would benefit. Because when oil companies, large or small, make a profit, the quality of life for everyone improves, through created jobs, lower energy costs, by-products, investments in more energy production, and countless other ways.

That's the irony of individuals pursuing their own way of life, as they see fit, in a free market. When Americans are free to produce all-American energy as individuals, everyone benefits.

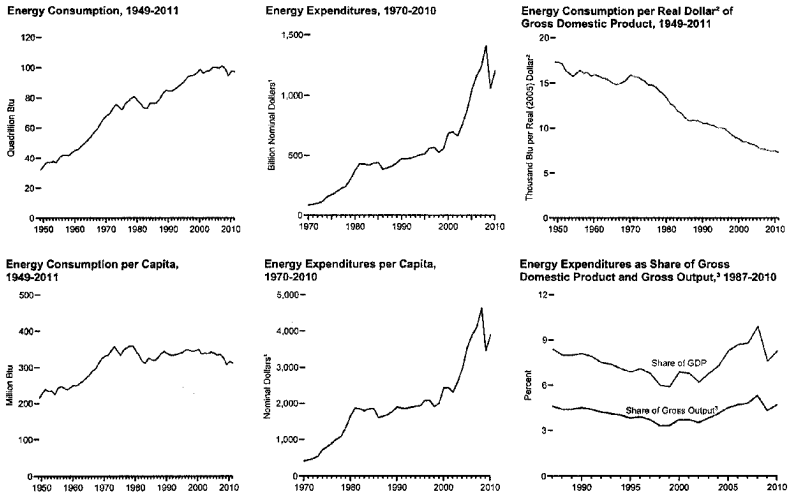
And that's why, for a country that believes in all-American energy production, the status quo just isn't acceptable. I have a message from South Carolina: our fuel costs are too high, our home and business electricity costs are rising, and our way of life is at stake. The end result of the risk-averse mindset stonewalling energy production creates an even greater risk. It is the true hockey stick in the energy and environment debate. While energy consumption per capita has fallen nearly ten percent since 1980, Americans are paying well over twice as much per capita on energy costs as they were that same year. Furthermore, when we prohibit Americans from producing energy, we also strangle the ingenuity that defines them. Freed to dream and innovate, Americans will always find better, safer ways of extracting, producing, and using our natural resources to fuel the American Dream.

Because the Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act will open a currently off-limits area of the Gulf of Mexico, we will take a real step forward to increase production and provide relief from rising energy costs. It has been thirteen years since the 2000 Treaty on the Continental Shelf identified hydrocarbon reservoirs in the Western Gap that should be developed. While we are finally making progress on this front, this effort does not end here. We will continue creating a true, all-of-the-above, free market energy strategy.

As a final note, our founders granted us authority under Article IV, Section 3, Clause 2 of the Constitution to "make all needful rules and regulations respecting the territory or other property belonging to the United States". As long as the federal government owns these resources, we have an obligation to free them for use by Americans.

We have sworn to defend this Constitution. Our founding principles outlined in it—which protect the rights of individuals—are still the foundation for our government formed by the consent of the governed, and for our way of life. America will remain the land of the free for as long as the right to life, liberty, and the pursuit of happiness remains our declaration.

Figure 1.5 Energy Consumption and Expenditures Indicators Estimates



[1] See "Nominal Dollars" in Glossary.
[2] In chained (2005) dollars, calculated by using gross domestic product implicit price deflators in Table D1. See "Chained Dollars" in Glossary.
[3] Gross output is the value of gross domestic product (GDP) plus the value of intermediate inputs used to produce GDP.
Source: Table 1.5.

12 U.S. Energy Information Administration / Annual Energy Review 2011

Mr. LAMBORN. Thank you. We will now hear from our first panel of witnesses. I would like to invite forward our two witnesses, The Honorable Tommy Beaudreau, Acting Assistant Secretary for Land and Minerals Management of the U.S. Department of the Interior, and Ambassador Carlos Pascual, Special Envoy and Coordinator for International Energy Affairs for the U.S. Department of State.

Like all of our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to 5 minutes, as outlined in our invitation letter to you.

Our microphones are not automatic, so you have to press the button when you begin speaking. The yellow light comes on after 4 minutes, and the red light at 5 minutes.

Thank you for being here. Mr. Beaudreau, you may begin.

STATEMENT OF HON. TOMMY P. BEAUDREAU, ACTING ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. BEAUDREAU. Thank you, Chairman Lamborn, Ranking Member Holt, and members of the Subcommittee. I am pleased to appear before you today to discuss legislation to implement the Agreement between the United States of America and the United Mexican States concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico.

I am Tommy Beaudreau, Acting Assistant Secretary for Land and Minerals Management at the Department of the Interior, and also Director of the Bureau of Ocean Energy Management, BOEM, which oversees oil and gas-related resource evaluation, environmental reviews, and leasing in Federal waters offshore the United

States. I am very pleased to appear before the Subcommittee this morning, alongside Ambassador Pascual, who is one of the United States' foremost diplomats concerned with our relationship with Mexico, as well as global energy issues.

I would like to begin my testimony today by briefly highlighting a few of the central points about the benefits to the United States and to U.S. industry that implementation of the U.S.-Mexico Transboundary Reservoir Agreement offers.

Offshore oil and gas development in the Gulf of Mexico has been and will remain one of the cornerstones of the United States' energy portfolio. The offshore oil and gas industry continues to invest tremendous amounts of capital and technical know-how into exploring and developing oil and gas resources in the Gulf. This includes spurring the innovations necessary to safely and responsibly develop emerging world-class prospects in deep and ultra-deep water.

During BOEM's last three offshore oil and gas lease sales in the Gulf of Mexico, held in a period of less than 12 months, industry has invested approximately $3 billion in leases, the bulk of which were directed toward promising emerging prospects in the deep water. Despite industry's general enthusiasm for exploration and development in the deep-water Gulf of Mexico, leasing in the vicinity of the U.S.-Mexico maritime boundary has been muted.

Areas in U.S. waters within 1.4 miles of the maritime boundary currently are under moratorium and cannot be leased. More broadly, the entire Western Gap boundary region is currently subject to legal uncertainty about how potential transboundary reservoirs would be handled. And, therefore, in my view, industry has been reluctant to move forward confidently with exploration in that area.

For example, there are currently 379 unleased blocks in the western and central Gulf near the U.S.-Mexico maritime boundary, and only 14 blocks that have been leased. I hope that the Transboundary Agreement can be brought into effect soon, so that, among other things, it can be factored into industry's consideration of our next Western Gulf lease sale, which we announced just yesterday will be held in August.

Implementation of the Transboundary Reservoir Agreement would provide this much-needed legal certainty to the region, and is in alignment with our goals to promote safe and responsible development of the Nation's offshore oil and gas resources. The Agreement also is, I believe, strongly supported by industry. It is a pragmatic agreement designed to encourage voluntary, commercial solutions between companies operating on the U.S. side of the maritime boundary and their counterpart, PEMEX, on the Mexican side. We worked with U.S. industry during the negotiation of the Agreement, to ensure that the Agreement not only provide the legal certainty necessary to justify investment in this region, but also would be commercially workable.

The central principle of the Agreement is to encourage voluntary unitization agreements between U.S. side companies and PEMEX to equitably allocate production from any reservoir straddling the maritime boundary. Unitization is a very familiar concept that is routinely applied by companies working in the U.S. Gulf of Mexico.

Ultimately, if no voluntary unitization agreement can be reached, the company would be able to move forward with development unilaterally.

Finally, the Transboundary Reservoir Agreement represents an important step in promoting safe and responsible development in a technically challenging operating environment on both sides of the boundary. Under the heightened standards that followed from Deepwater Horizon, U.S. industry is working more safely and responsibly than ever before. The Agreement would not change the laws or regulations that industry works under in the U.S. Gulf of Mexico, but does provide further opportunity for cooperation between the United States, Mexico, and the offshore industry to promote high standards for safety and environmental protection.

I appreciate very much H.R. 1613, the bill introduced last week by this Committee to implement the Transboundary Agreement. I also appreciate the strong vocal and bipartisan support for implementing the Agreement that I have heard from the Subcommittee. Thank you, and I will be happy to answer your questions.

[The prepared statement of Mr. Beaudreau follows:]

Statement of The Honorable Tommy P. Beaudreau, Acting Assistant Secretary, Land and Minerals Management, United States Department of the Interior

Chairman Lamborn, Ranking Member Holt, and members of the Subcommittee, I am pleased to appear before you today to discuss legislation to implement the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico.

Background

On February 20, 2012, the United States and Mexico signed an Agreement concerning the development of oil and gas reservoirs that cross the international maritime boundary between the two countries in the Gulf of Mexico (excluding submerged lands under Texas jurisdiction). This Agreement would establish a framework for the cooperative exploration and development of these hydrocarbon resources. The Mexican Senate overwhelmingly approved the Agreement in April 2012. The Congress likewise should pass implementing legislation approving the Agreement and providing the necessary authority to bring it into force. The administration has proposed such legislation, and this proposed legislation has been shared with the Subcommittee.

The Agreement would allow, for the first time, leaseholders on the U.S. side of the maritime boundary to cooperate with the Mexican national oil company, Petróleos Mexicanos (PEMEX), in the joint exploration and development of hydrocarbon resources. This agreement will make nearly 1.5 million acres of the Outer Continental Shelf, currently subject to a moratorium under the Western Gap Treaty, immediately available for leasing and also make the entire transboundary region, which is currently subject to legal uncertainty in the absence of an agreement, more attractive to U.S.-qualified operators. For example, the Department of the Interior's Bureau of Ocean Energy Management estimates that transboundary area currently under moratorium contains as much as 172 million barrels of oil and 304 billion cubic feet of natural gas.

Benefits of Implementing the Agreement

The Agreement provides a legal framework for cooperative offshore oil and gas development along the maritime boundary, sets clear guidelines and provides legal certainty for those operations, supports the President's goal of ensuring domestic energy security and demonstrates our shared duty to exercise responsible stewardship of the natural resources in the Gulf of Mexico. It is built on a commitment to the safe, efficient, environmentally sound, and equitable development of transboundary reservoirs. The Agreement also offers the potential for generating additional revenue for the United States and Gulf States from the lease blocks located along the delimited U.S.-Mexico maritime boundary in the Gulf of Mexico.

The Mexican market has long been closed to participation by U.S. companies, but a 2008 energy reform law in Mexico opened a window for joint hydrocarbon explo-

ration and development with foreign entities as long as it would take place pursuant to an international agreement on transboundary reservoirs. The Agreement would take advantage of that opening. It would also end the moratorium on development along the boundary in the Western Gap and provide U.S.-qualified leaseholders with legal certainty regarding the development of transboundary reservoirs along the entire boundary so as to encourage investment. The Agreement would remove legal and structural barriers that currently impede exploration and development along our maritime boundary with Mexico. A significant portion of the U.S. maritime boundary with Mexico—the full length of the boundary in the Western Gap—is subject to a moratorium on drilling and exploration pursuant to the Western Gap Treaty. Upon entry into force the Agreement would lift the moratorium and open up this area—nearly ten percent of the U.S. portion of the Gap—to hydrocarbon development. Finally, having the Agreement in place will mitigate the safety and environmental risks that would result from unilateral exploration and development along the boundary.

Implementing Legislation

The implementing legislation would provide the necessary domestic legal authority to implement certain key terms of the Agreement, including:

- To authorize the Secretary of the Interior to approve unitization agreements and other arrangements necessary for the management of the transboundary reservoirs and geologic structures subject to the Agreement;
- To make available, in certain narrow circumstances necessary for the functioning of the Agreement, information related to the exploration, development, and production of a transboundary reservoir that may be considered confidential, privileged, or proprietary under law; and
- To participate in those dispute resolution processes.

One of the fundamental components of the Agreement would allow leaseholders on the U.S. side of the boundary and Pemex to explore and develop jointly as a "unit" a transboundary reservoir or geologic structure, as leaseholders frequently do on the U.S. side of the boundary. The Agreement is designed to provide incentives for PEMEX and U.S.-qualified operators to enter into voluntary unitization agreements governing the development of transboundary reservoirs. Unitization—where two or more leaseholders manage the exploration and development of a resource as a unit through a single operator—promotes the rational, efficient production of a resource, reduces waste, and minimizes the number of wells that must be drilled. Existing leases are not covered by the Agreement; however, existing lessees may voluntarily opt-in to the framework if they so choose.

In cases where a unitization agreement is not initially reached between a U.S.-qualified operator and Pemex, the Agreement provides a process to determine whether the reservoir in question is, in fact, a transboundary reservoir that should come under the Agreement, and a carefully-calibrated process to determine the allocation of the resource between the two countries and provide the U.S. operator and Pemex another opportunity to form a unitization agreement. If they cannot reach an agreement, the Agreement would ultimately allow for unilateral production by each side, up to the amount of hydrocarbons that exist on its side of the boundary. In other words, in these circumstances U.S.-qualified operators and PEMEX would individually develop the resources on each side of the border while protecting each nation's interests, resources and sovereignty. We anticipate, however, that the same economic incentives that currently drive voluntary unitization in the U.S. Outer Continental Shelf will similarly drive voluntary unitization under the Agreement, and that this mechanism will be rarely if ever used.

The Agreement encourages the United States and Mexico to promote common safety and environmental standards. However, the U.S. is under no obligation to alter its existing environmental laws or standards. Mexico's standards will apply to operations under Mexican jurisdiction and U.S. standards will apply to operations under U.S. jurisdiction.

The Agreement would also establish a system of joint inspections, which would allow U.S. safety personnel to inspect PEMEX facilities involved in a transboundary operation. Again, however, each jurisdiction retains its authority and responsibility to regulate activity on its side of the boundary. The DOI's Bureau of Safety and Environmental Enforcement and the United States Coast Guard already maintain a strong working relationship with the Mexican offshore regulatory authority, the Comision Nacional Hidrocarburos (CNH), and this Agreement promotes further cooperation between the U.S. and Mexico with respect to drilling safety and oil spill response standards and practices.

H.R. 1613

H.R. 1613, The Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act, was introduced late last week. We appreciate the opportunity to provide the following preliminary views at this time.

Generally, the bill would amend the Outer Continental Shelf Lands Act to provide Congressional approval of the underlying Agreement (Title II); enact implementing legislation authorizing the Secretary of the Interior to take actions necessary to implement the terms of the Agreement; and give the Secretary the authority to implement the terms of any future transboundary hydrocarbon agreement and establish a process for the approval of such agreements.

We support the goal of this legislation to grant the Secretary of the Interior general authority to implement the Agreement and to provide Congressional approval of the Agreement. The Administration welcomes the opportunity to work with Congress to approve this important agreement.

Conclusion

In sum, the Agreement provides a much needed mechanism to facilitate the responsible and efficient exploration and development of hydrocarbon resources along the U.S. Mexico maritime boundary and provides new opportunities for U.S. companies. The Agreement provides incentives for PEMEX and U.S.-qualified operators to enter into voluntary commercial agreements to unitize transboundary reservoirs and does not change the application of existing laws or alter existing standards. Once the Agreement is in force, both the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement will assume their respective regulatory responsibilities to implement the Agreement as authorized.

Mr. Chairman, we look forward to working with the subcommittee to enact legislation implementing this important Agreement with our Mexican partners in Gulf of Mexico energy development.

Response to Questions Submitted for the Record by Tommy P. Beaudreau, Acting Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior

Questions from Representative Jeff Duncan:

1. Will there be any regulatory changes to U.S. leaseholders as a result of the approval of this agreement?

Response: The Agreement does not change the application of existing U.S. laws or alter existing environmental, safety, or conservation regulations governing the activities of U.S. lessees. Further, leases in existence at the time the Agreement enters into force would be unaffected by the provisions of the Agreement. (Holders of such leases may, however, voluntarily decide to avail themselves of the contractual options provided for in the agreement once it enters into force.) It will be necessary to promulgate regulations to put into operation the new authority granted by the implementing legislation and to implement U.S. obligations under the Agreement. For example, current statutory authority and regulations do not permit the Secretary to approve activities that involve operations outside U.S. jurisdiction. Consequently, current regulations, such as those governing unitization, will need to be updated in order to allow the Department to approve activities that take place within the jurisdiction of Mexico.

2. How does the Administration currently plan to address inequities between U.S. laws (i.e., Dodd Frank) and their potential conflict with Mexican laws?

Response: Mexico's laws and regulations will apply to operations under Mexican jurisdiction; U.S. laws and regulations will apply to operations under U.S. jurisdiction. However, the Agreement encourages both jurisdictions to adopt—only if they each judge it appropriate—common safety and environmental standards and requirements for activities carried out under the Agreement. The U.S. is under no obligation to alter its existing laws or regulations. We anticipate that the collaborative review and consideration of laws, regulations, and standards may help to promote the independence, and increase the capacity, of Mexico's nascent regulator, the National Hydrocarbons Commission.

3. Do you foresee any obstacles to adjudicating disagreements through the joint commission?

Response: We do not foresee any obstacles to implementing the dispute resolution provisions of the Agreement. The Joint Commission would assist in resolving dis-

putes under the Agreement. The Joint Commission must be established no later than 90 days after the Agreement enters into force. Each Government must appoint one representative and one alternate to the Joint Commission. Under the terms of the Agreement, the Joint Commission is responsible for examining "any dispute or other matter referred to it by either Executive Agency relating to the interpretation and implementation of the Agreement, or any unforeseen issues arising under the Agreement". In the event the Joint Commission cannot resolve a dispute, the dispute could be referred to: (1) an expert for binding arbitration on matters involving the existence of a transboundary reservoir, the allocation of production, and the reallocation of production; and (2) the governments for consultation, non-binding mediation, or arbitration (which will not be binding) for matters involving the interpretation and implementation of the Agreement.

Mr. LAMBORN. Thank you for your testimony.

Ambassador Pascual, you may begin.

STATEMENT OF AMBASSADOR CARLOS PASCUAL, SPECIAL ENVOY AND COORDINATOR FOR INTERNATIONAL ENERGY AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. PASCUAL. Thank you very much, Chairman Lamborn, Ranking Member Holt, other members of the Subcommittee on Energy and Mineral Resources. I appreciate the opportunity to appear before you today, together with my colleague, Assistant Secretary Tommy Beaudreau. It is a great honor.

I know that each and every member of the Committee is concerned about our Nation's energy security. I can assure you that Secretary Kerry and the Department of State share that concern. The legislation this Committee has introduced could provide an important vehicle to accelerate safe and effective development of hydrocarbon resources that cross the U.S.-Mexico maritime boundary.

The Administration supports the swift passage of legislation to allow for the implementation of the Transboundary Agreement signed by Mexico and the United States in February 2012. As indicated earlier, Mexico ratified the Agreement in April 2012. With passage of the authorizing legislation you have introduced, the United States and Mexico can move immediately to seek private investment in conjunction with Mexico's national petroleum company, PEMEX, to develop resources that would strengthen North America's potential role as a hub for energy security.

Let me stress the importance the State Department assigns to fostering a stable energy partnership with Mexico. Our energy trading relationship with Mexico is essential to stability in American energy markets. It is essential to assuring adequate supplies to sustain American economic growth. Mexico has huge reserves, 10.2 billion barrels in proven resources, but its production fell by 23 percent from 2004 to 2011.

Still, a more positive future for Mexican production is very much within reach. Mexican President Enrique Peña Nieto has made energy reform a priority. His party has agreed to submit legislation for comprehensive energy reform, once the landmark telecommunications reform has been passed. With the passage of the reform, Mexico could attract international investment to develop its hydrocarbon resources and reverse the decline in oil production. The implementation of the Transboundary Agreement could provide a down payment on those prospects for investment.

Most fundamentally, the Agreement would enable meaningful energy sector collaboration between the United States and Mexico. With congressional approval, we anticipate that this collaboration would provide U.S. operators with the ability to demonstrate the benefits of their participation in the Mexican energy market.

The reasons are simple. The Agreement, as you so clearly stated at the outset, Mr. Chairman, will provide legal certainty companies need to invest. That legal certainty would establish incentives to develop resources in U.S. territory, but were too close to the boundary to have been considered previously. In approving each transboundary contract, the United States would ensure that safety provisions comply with appropriate safety requirements. This is a business-friendly arrangement. It will potentially increase revenues and energy security with strong safety and environmental payoffs.

Specifically on H.R. 1613, let me underscore that the Administration welcomes the Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act that was introduced late last week. It is a promising step forward to implement the U.S.-Mexico Transboundary Agreement. We support the goal of this legislation to grant the Secretary of the Interior general authority to implement the agreement and to provide congressional approval of the agreement. We look forward to working further with the Department of the Interior and the Committee on some of the specific provisions of the bill, as well as to secure expeditious approval of this legislation.

In conclusion, we are encouraged by the accelerating pace of movement on finalizing this Agreement. As many House Members, and as has been stated indeed today, it is a win-win for the United States and Mexico. I appreciate the time you are devoting to this issue, and hope that we addressed your request for information on the potential benefits for both the United States and Mexico. I look forward to answering your questions.

[The prepared statement of Mr. Pascual follows:]

Statement of Special Envoy, Ambassador Carlos Pascual, Bureau of Energy Resources, U.S. Department of State

Chairman Lamborn, Ranking Member Holt, and other Members of the Subcommittee on Energy and Mineral Resources. I appreciate the opportunity to appear before you today.

I know that each and every Member of this Committee is concerned about our nation's energy security, and I can assure you that Secretary Kerry and the Department of State share that concern. For that reason, I am happy to be here today to discuss the Transboundary Agreement between Mexico and the United States. The Administration supports the swift passage of legislation to allow for the implementation of the Transboundary Agreement signed by Mexico and the United States on February 20, 2012. We look forward to working with you on the legislation introduced last week to accelerate the safe and effective development of hydrocarbon resources that cross the maritime border between Mexico and the United States.

Let me begin by stressing the importance that the State Department assigns to fostering a stable energy partnership with Mexico. Our energy trading relationship with Mexico is an important component of North American energy security as evidenced by the fact that Mexico is our third largest supplier of imported crude oil and the largest export market for U.S. refined petroleum products. It is also a growing market for U.S. natural gas exports. The Transboundary Agreement, by establishing greater legal clarity for the development of reserves that traverse the U.S.-Mexico border, would bring significant benefits to the United States and Mexico.

The United States and Canada have experienced an increase in energy production as a result of private investment, entrepreneurial ingenuity, technological innova-

tion and strong commodity prices. U.S. oil production has increased by about 35% in the past five years. In contrast, Mexico has 10.2 billion barrels in proven reserves, but its production fell by 23 percent from 2004 to 2011, and projections forecast Mexican production will continue to decline in the short-term. This significant trend is often attributed to the maturation of major fields and the challenges for the national oil company, Petróleos Mexicanos (PEMEX), to maintain the necessary levels of investment in the sector. Mexican President Pena Nieto has made energy reform a priority, and if it is successful, Mexico could attract international investment and expertise to develop its hydrocarbon resources and reverse the decline in oil production. The Transboundary Agreement could be a down payment on the promise of more fundamental reform. Private investors would have a framework to develop cooperatively resources crossing the U.S. maritime border with Mexico. Such commercial engagement could capture resources that are currently not being developed because of legal uncertainty, and demonstrate that private investment produces resources and revenues that benefit the Mexican people and economy.

Despite the challenges facing Mexico in the near term, the exciting story here is that North American energy production as a whole could boost our respective national and global energy security. In North America, our energy resources give us the prospect to assure our energy supply. Just as important, North American resources will contribute to global market supplies, help balance global markets, and help promote the kind of stability in global energy markets that we need to support our domestic economic growth. Such opportunities, including the Transboundary Agreement between the United States and Mexico could support increased Mexican and North American production capacity and could be critical to world supplies and economic growth.

Background

The Transboundary Agreement between the United States and Mexico addresses the development of oil and gas reservoirs that cross the international maritime boundary between our two countries in the Gulf of Mexico (excluding submerged lands under Texas jurisdiction). The Mexican Senate overwhelmingly approved the Agreement in April 2012. The Administration has proposed legislative language that would provide the Secretary of the Interior the necessary authority to implement the Agreement, and this proposed language has been shared with the Subcommittee.

Role of the Agreement

The Transboundary Agreement is an important step in our national efforts to better secure our energy future and at the same time promote a stronger and long-term cooperative relationship with Mexico in meeting each country's energy security goals. We believe the agreement would help facilitate the safe and responsible management of offshore petroleum reservoirs that straddle our maritime boundary and strengthen overall our bilateral relations.

The Agreement would enable meaningful energy sector collaboration between the U.S. and Mexico (and in particular between U.S. operators and PEMEX). We anticipate that this collaboration under the Agreement would provide U.S. operators with the ability to demonstrate the benefits of their participation in the Mexican energy market, potentially leading to deeper and more meaningful collaboration over time.

This Agreement will make nearly 1.5 million acres of the Outer Continental Shelf more attractive to U.S. operators by unlocking areas for exploration and development along our maritime boundary within U.S. jurisdiction. The Agreement would eliminate the moratorium on drilling along the boundary in the Western Gap, and provide legal certainty needed for investment in the boundary region outside of the Western Gap. It would allow American companies to enter into agreements—unitization agreements—with PEMEX for the joint exploration and development of resources in specific areas. The development of a reservoir as a single deposit generally reduces the amount of drilling. Activities under unitization agreements would be required to comply with appropriate safety standards. As a package, these arrangements will potentially increase revenues and provide greater energy security, while mitigating safety and environmental risks that could result from unilateral development by each country along the boundary.

We are pleased that the Agreement would advance safety and environmental protection in the Gulf and provide significant safety and environmental benefits that would not occur without it. First, it provides for a system of joint inspections for all activity that takes place under the Agreement. Though Mexican law would apply to operations under Mexican jurisdiction and U.S. law would apply to operations under U.S. jurisdiction, each side would have the ability to work with the other to ensure that all activity that takes place under the Agreement—wherever it occurs—

meets all applicable laws and standards. In addition, under the Agreement our two countries would continue to work together to ensure that their respective standards and requirements are compatible where appropriate for the safe, effective, and environmentally responsible implementation of the Agreement.

In all aspects, the Transboundary Agreement offers the United States and Mexico significant benefits. It would, for the first time, establish a framework that would facilitate the development of hydrocarbon reservoirs that cross our maritime boundary with Mexico. This is a business friendly arrangement with strong safety and environmental payoffs.

H.R. 1613

We welcome H.R. 1613, The Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act that was introduced late last week. It is a promising step forward to implement the U.S.-Mexico Transboundary Agreement. We support the goal of this legislation to grant the Secretary of the Interior general authority to implement the Agreement and to provide Congressional approval of the Agreement. We look forward to working with the Department of the Interior and the Committee on this important piece of legislation for expeditious approval.

Conclusion

In conclusion, we are encouraged by the accelerating pace of interest and movement on implementing this agreement. It is one that provides a much needed mechanism to facilitate the responsible and efficient exploration and development of hydrocarbon resources along the U.S.-Mexico maritime boundary. As many House Members have stated, it is a "win-win" for the United States and Mexico and also a winner for North American energy security because it fosters stronger relationships in the development of our shared energy resources.

I appreciate the time you and your staff are devoting to this issue and hope that we addressed to your satisfaction your requests for information on the many potential benefits for both the United States and Mexico, should the Agreement be brought into force.

Thank you again for this opportunity to testify before this Subcommittee and I would be pleased to answer any questions the subcommittee might have.

Response to Questions Submitted for the Record by Ambassador Carlos Pascual

Question 1: Will there be any regulatory changes to U.S. leaseholders as a result of the approval of this agreement?

Answer: Approval of this Agreement would not change the application of existing standards. That is, Mexico's standards will apply to operations under Mexican jurisdiction and U.S. standards will apply to operations under U.S. jurisdiction. The Agreement has an Article that specifically addresses "Safety and Environmental Protection." Under this Article, the Governments shall adopt, where appropriate, common safety and environmental standards and shall strive to ensure that their respective standards and requirements are compatible where necessary for the safe, effective, and environmentally responsible implementation of the Agreement. In addition, the U.S. government exercises significant control over the terms of production and applicable controls through the approval of the agreements governing the unit. Before any unitization request will be approved, the Unit Agreement will specify provisions to address safety, environmental and other issues to the satisfaction of the U.S. (and Mexico). This is the way to ensure that operations within the unitized area meet robust standards. Existing leases are not covered by the Agreement; however, existing lessees may voluntarily opt-in to the framework if they so choose.

Question 2: How does the Administration currently plan to address the inequities between U.S. laws (i.e. Dodd Frank) and their potential conflict with Mexican laws?

Answer: Nothing in the terms of the U.S.-Mexico Transboundary Agreement conflicts with the provisions of Dodd-Frank Section 1504, and data confidentiality protection in the Transboundary Agreement is not affected by Dodd-Frank section 1504. The Mexico Agreement does not touch on the issue of financial reporting or otherwise impact the reporting required by the SEC's rule implementing Section 1504. The Administration would favor a bill focused exclusively on the language necessary to implement the U.S.-Mexico Agreement, and which does not create a reporting exception under Section 1504 that differs from requirements in the rest to the world.

Question 3: Do you foresee any obstacles to adjudicating disagreements through the joint commission?

Answer: With the Agreement's channels of dispute resolution we do not foresee obstacles to adjudicating disagreements through the joint commission. There are two channels of dispute resolution in the Agreement—one for technical issues for which there must be an outcome for the agreement to work, and one for all others. A third party expert appointed by the governments would resolve disputes over technical issues. In order to access this dispute resolution channel, each side must have invested in a prospective reservoir by drilling a well on its side of the maritime boundary.

Resolution of all other disputes is conducted through mediation or arbitration. The arbitration mechanism has yet to be established, and cannot be established unless both the U.S. and Mexico agrees. During negotiations, the U.S. advised Mexico that it would not agree to a binding arbitration mechanism for such disputes. Indeed, both countries recognize that such a mechanism would not be viable and would interfere with the economic incentives of operators built into the agreement. Though the agreement does not explicitly state that arbitration would be non-binding, this understanding is clear in the text of the Agreement. In particular, Article 14 paragraph 7 of the Agreement notes that the product of any arbitration would be a "recommendation," not a decision, and if an agency-level determination on how to implement the recommendation could not be reached, it would be referred to political consultation.

Mr. LAMBORN. OK. Thank you both for being here and for your testimony. We are now going to begin Members' questions for the witnesses. I would like to begin by asking Assistant Secretary Beaudreau.

As you know, this Committee has wanted this legislation for more than a year. I want to circle back to a hearing that we had here in Committee last year on this very issue. At that time, then-Secretary Salazar had called on this Committee to act on legislation to implement the Transboundary Agreement, even though the Administration had not yet sent any language to us on how they wanted us to go forward.

And at the end of a hearing last May, almost a year ago, Chairman Hastings asked you about this in a hearing, and we are going to watch a short clip, just to refresh everyone's memory of about a minute or so. Please begin the clip.

[Video shown.]

Mr. LAMBORN. OK. And thanks for showing that. You said that a year ago, next month a year ago. I am just concerned on why it took so long to get the language to us. We got it just 5 weeks ago or so. And yet, during this time, the then-Secretary Salazar was harshly criticizing us and, by extension, Congress for just sitting around, doing nothing, when it was the Administration that had failed, until 5 weeks ago, to give us the guidance that we needed to implement the language. And you were going to "send that shortly," according to the clip we just heard. And yet here it is, almost a year later.

Now, we are doing our job. But we don't appreciate harsh criticism that has no basis in fact. And so I would like to get your response to that.

Mr. BEAUDREAU. Yes. Thank you, and I appreciate the question and the playback from the testimony. That was a true statement last year, when I testified that Secretary Salazar was extremely anxious to get moving on legislation to implement the agreement. That was true then, it was true throughout his tenure.

He was not only perhaps impatient with Congress, he was impatient with us, as well, in terms of getting proposed legislation finalized, through review, and to Congress for consideration. Believe me, he is and always was during his tenure, extremely interested in bringing this agreement to life for all the reasons we have talked about, and all the potential benefits to the United States, to industry, and to Mexico, as well.

And so, I think the time it took to get the legislation is a reflection of the care and the legal scrutiny, frankly, that went into crafting the proposed legislation that we submitted to this Committee. We wanted to have, as we did then, a boiled-down piece of proposed legislation that could be easily implemented and a vehicle could be found for. That took some time. It took some time to work through the Interior Department, it took some time to work through the State Department, it took some time to work through the Administration.

I am extremely pleased that we are where we are now, which is actually the most important thing, which is to get the Agreement implemented.

Mr. LAMBORN. OK. Well, we do need to have a good working relationship. And I think you were doing your job. I just am still astounded that the Secretary would say those kinds of harsh things about us, when we didn't even have the language to go by that they knew we wanted, and that we needed as the starting point. And once we got that language, we have acted. Here we are, just weeks after getting the language. We are having an oversight hearing on the issue, we are having a legislative hearing on a very good piece of proposed legislation.

So, I do have trust in our regulatory agencies, and we need to be able to stand on that trust. I know the Ranking Member was saying a few minutes ago that Congress needs to micro-manage every aspect and codify into law every detail of offshore drilling, when I realize it is a fast-moving, technologically advanced area in our economy and we don't want to set into concrete things that may have to change 12 months later.

So, we have to be able to rely on the regulatory agencies to do their oversight job. And so I trust that you can do that. I am not going to criticize your performance on that, as the Ranking Member was, because I think you can do a good job. But we do have to have the timely working together in order to make that happen.

OK. Thank you for that answer. I would now like to recognize Representative Horsford for 5 minutes.

Mr. HORSFORD. Thank you very much, Mr. Chairman. I would note that the Administration did send similar language to what we are considering today to Congress on the Transboundary Agreement last December, and that the Senate sought to pass that legislation at the end of the last Congress, based on that request. So, I think we are here now, and that is probably the most important thing.

It is kind of interesting. On my flight back from the district, Mr. Chairman, Secretary Salazar was on my flight. And I had an opportunity to see him flying through Denver. And I said what a difference a day makes. I guess since he is not the Secretary, I don't think he would have been flying Frontier before.

[Laughter.]

Mr. HORSFORD. But we miss his leadership and wish the best to the new Secretary and to those of you who are here.

Let me ask my question specifically to this panel. In April of this year, the Oil Spill Commission action reported that many improvements by both the government and the oil industry have been made since the BP Deepwater Horizon oil spill 3 years ago. But the same report also states that these risks will continue to increase as drilling moves into deeper water with harsher, less-familiar conditions, and delays in taking the necessary precautions threaten new disasters.

Can you address this assertion and explain what steps the oil industry has taken to address these challenges of drilling safety?

Mr. BEAUDREAU. One of the key aspects of, and one of the key benefits, I believe, of the Transboundary Reservoir Agreement is to allow us to continue our relationship with Mexico's regulators, CNH, which oversees PEMEX, to work together to continue implementing heightened standards, both regulatory standards and practices by industry, and essentially help support CNH and PEMEX in implementing those heightened standards with respect to, as you described, these challenging areas in deep water.

Let me give some examples of that. The Agreement specifically provides for continued work between the United States and Mexico on a common set of drilling practices and standards to be used on both sides of the border. If there is an accident in the vicinity of the transboundary area, that accident is not going to respect the shores of the authorizing nation. It is truly, as Secretary Salazar frequently said, "one pond."

And so, it is in our interest to support CNH and support PEMEX in raising standards. One example of that is following Deepwater Horizon we implemented requirements that every deep water operation be capable of providing access to systems to cap a well, the same type of technology that had to be engineered and brought to bear on the fly during the oil spill. CNH, PEMEX, are working with a U.S. company to bring that same capability to Mexican operations on their side of the maritime boundary, as well.

Mr. PASCUAL. Congressman, if I could add just briefly to that, I was the U.S. Ambassador in Mexico at the time when the National Committee of Hydrocarbons was essentially formed. The Department of the Interior was very fast in there to begin a relationship with them to share best practices to increase their capabilities.

The importance of that investment is only going to become more important in the future. If Mexico does move forward with its energy reform, it will create an environment that will attract more investment, more possibilities for development. The strong kind of communication and cooperation that is being developed with the Department of the Interior is extremely important to actually create the kind of best practices and professional and technical cooperation that is necessary for future safeguards.

I would only finally add that in the kind of contracts and agreements that are envisaged under this Agreement, each of those contracts would have to have safety provisions, and it would give us an opportunity to review and approve those safety provisions to ensure that they meet appropriate safety requirements.

So, I think that this agreement can't fix everything, but it is done in a way that is very sensible and sound and is very attuned to safety requirements.

Mr. GARCIA. Mr. Chairman? If I might, I have to go to another hearing, I just wanted to say something real quick for the record.

Mr. LAMBORN. If there is no objection, you may have a few seconds.

Mr. GARCIA. Thank you, Mr. Chairman. I obviously think that we should move forward on this legislation. I wanted to say hello to my good friend, Ambassador Pascual. We have worked together for years.

And I would also point out to the Chairman that I can understand the Department of the Interior trying to be very careful when they present anything to this Committee, because we tend to bat things out here for a while. So I can understand you wanting to perfect the document before you got it to us, so I appreciate your being careful with it.

Thank you, Mr. Chairman, I yield back the balance of time.

Mr. LAMBORN. OK, thank you. Now I would like to recognize Representative Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. And, first off, I want to thank you for pointing out some of the frustrations we had with Secretary Salazar blaming Congress for its inaction, but yet failing, as an agency, to provide us the implementation language. And so, I think this is the right step.

I want to note that the Obama Administration has decided to enact this Agreement with Mexico as a congressional executive agreement, rather than a treaty, which requires a simple majority in both Houses of Congress, rather than a two-thirds majority in the Senate. This agreement has the same status under international law as Mexico's ratification.

And I am glad to see us moving forward with implementation language, instead of the way it was attempted in the 112th Congress, where the Obama Administration attempted to insert a single paragraph in a last-minute non-germane Senate bill back in December of 2012. That was the wrong way to do it. This is the right way to do it. And I applaud both sides for showing some interest in moving the implementation forward.

I serve on the Natural Resources Committee, but I also serve on the Homeland Security Committee and I serve on the Foreign Affairs Committee, which all have interest in this legislation and interest in the Transboundary Agreement.

In Secretary Beaudreau's comments, he said that, "The DOI's Bureau of Safety and Environmental Enforcement and the United States Coast Guard already maintain a strong working relationship with the Mexican offshore regulatory authority." I don't speak Spanish, but the Commission on National Hydrocarbons is what it stands for, I am assuming "and this Agreement promotes further cooperation between the U.S. and Mexico with respect to drilling safety and oil spill response standards and practices." So we already have an agreement in place where our Coast Guard is doing some inspections, and it seems to be working where there are current overlaps.

So I am going to ask Secretary Beaudreau, if you will just highlight some of the concerns the other side may have about safety in relation to your comments in page three of your testimony.

Mr. BEAUDREAU. Thank you, Congressman. Again, what the Agreement does is provide further opportunity for engagement between U.S. regulators, Mexican regulators, U.S.-qualified companies, and PEMEX around technical issues related to safety and environmental performance. Extremely important issues.

The Agreement does not change in any way the safety or regulatory regime applicable to U.S. operators. Frankly, what it provides for is reinforcement of the engagement that is already occurring to help support CNH and help support PEMEX as they raise their game moving into these areas.

And so, again, it provides for mechanisms as described by the Ambassador and by me to have an opportunity to review what the safety and environmental protections would be in the context of any operation under one of these unitization agreements. It also provides an opportunity, which we currently don't have formally, for joint inspections of operations on the Mexican side of the maritime boundary.

Mr. DUNCAN. Yes. I appreciate that. Ambassador, would you like to chime in on that?

Mr. PASCUAL. I think one of the things that we just have to consistently underscore is that the combination of adding greater security about the safety provisions, addressing the legal certainty, as you and the Chairman provided early on, together begin to give us the potential for this strip in the transboundary area to address one of the most fundamental concerns about production and exploration that has existed in the past. And you have stated that very well.

And when we look at taking away that uncertainty on the legal side, while at the same time providing a mechanism that allows us to ensure that any provisions forward meet our safety requirements, and if we are doing this in a way where we are responding to private-sector proposals and contracts, we have a mechanism that is, I think, one of those win-wins all around, not just between governments, but between government and the private sector.

And so, I just wanted to express my appreciation for your willingness to move the legislation forward at this point of time to underscore that it is the kind of collaboration between public sector and private sector that could produce real benefits and wins, both on commercial development, as well as honoring our commitments to safety and environmental quality.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. LAMBORN. Thank you. Representative Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. Gentlemen, earlier this month the entity that was formed out of the independent BP Oil Spill Commission issued a report on, "The Progress on Responding to the Spill: Three Years Later." The report found—well, gave Congress a D+ in response, and found that Congress did nothing about the many other critical issues the Commission identified to improve safety and environmental protection beyond the RESTORE Act, which was to have civil and administrative penalties directed toward restoration issues on the coast.

The report found that Congress had not acted on any of the recommendations made to ensure there are adequate resources for offshore drilling, drilling regulators, and to respond to any spill. Ranking Member and other House Democrats introduced legislation on the last Congress to implement the Commission's recommendations.

Secretary, Ambassador, do you agree with the Commission's recommendations that Congress should take action to provide additional direct funding to offshore regulators as we move into this part of the legislation to authorize the transboundary?

Mr. BEAUDREAU. The Administration has, ever since the spill, has supported a number of legislative initiatives with respect to improving safety and oversight offshore. A couple of those were mentioned by Ranking Member Holt, including raising liability limit and codifying many of the reforms that we have implemented, administratively.

One of the central lessons coming out of Deepwater Horizon was that the Minerals Management Service, MMS, was woefully underresourced. I actually think Congress has taken a number of very positive steps in that regard. BSEE, in particular, has received a substantial influx of resources, which they are putting to good use.

Mr. GRIJALVA. Ambassador, any comment on that?

Mr. PASCUAL. It would probably be inappropriate for me to comment on U.S. domestic legislation. So I will pass on the opportunity.

Mr. GRIJALVA. Thank you. Mr. Beaudreau, Secretary, this legislation includes a rather curious provision that would exempt oil companies operating in the area under discussion from the extraction reporting requirements of Section 13(g) of the Securities Exchange Act. The Dodd-Frank Act mandated a rule under that law to require disclosure of certain payments to foreign nations. Do you believe that exception from the requirement is necessary or good?

Mr. BEAUDREAU. We received the proposed bill late last week. I think there are a number of positive aspects to it, including implementation language that is very similar to what the Administration has proposed. There are also a number of provisions, including that one, that I look forward to engaging with this Committee on to better understand the intention behind the proposal, and work with the Committee on that language.

And so, I don't have a view at this point. I am looking forward, however, to engaging on those issues.

Mr. GRIJALVA. Thank you. Again, Mr. Secretary, the Interior Department has said the delays in offshore oil and gas permitting in the Gulf of Mexico from the sequester could affect more than 500 exploration plans and development documents that are anticipated for review this year. You think the sequester would slow energy development offshore, and potentially making offshore drilling less safe and longer delays in the area that we are talking about right now?

Mr. BEAUDREAU. I am concerned about the potential impacts of sequester. I will say that none of the budget constraints will affect our approach on safety and on applying the heightened standards.

I am concerned, however, that the budgetary constraints imposed by sequester may affect timelines. We have been extremely success-

ful, in my view, on not only requiring compliance with heightened standards——

Mr. GRIJALVA. OK.

Mr. BEAUDREAU [continuing]. But making our process more efficient. I am concerned that there may be some back——

Mr. GRIJALVA. Given that timeline response, Secretary, and the budget concerns that you mention, will your agency have the resources to inspect PEMEX operations in this transboundary zone the way that has been required up to this point?

Mr. BEAUDREAU. Yes. We——

Mr. GRIJALVA. Are we talking about delays again?

Mr. BEAUDREAU. We intend to fully implement the agreement and to apply our resources as they are available at that time in order to implement the agreement. We are always concerned about resources, but safety is our highest priority. And so, if we have——

Mr. GRIJALVA. It is the highest priority. Do you anticipate delays because it is the highest priority and that must be given the focus, and there are fewer resources than you had prior to that?

Mr. BEAUDREAU. It is hard to say without a specific operation in front of us. But safety is the highest priority. If delay is a consequence, so be it.

Mr. LAMBORN. OK, thank you. And I would like to——

Mr. DUNCAN. Mr. Chairman, the gentleman mentioned a report at the beginning of his statement. Could he repeat who issued that report, the gentleman from Arizona?

Mr. GRIJALVA. The entity of the committee of the Commission, and we would be glad to provide that information to you.

Mr. DUNCAN. Could we get a copy of that for——

Mr. GRIJALVA. Be glad to.

Mr. LAMBORN. Thank you. Thank you. OK, Representative Thompson.

Mr. THOMPSON. Chairman, thank you. Assistant Secretary, Ambassador, welcome. Thank you for your service. and thank you for being here today to talk about something I think that is important. As we look forward, we are talking about this piece of legislation, which would codify basically a collaborative approach. It provides certainty, I think, involving the public-private sectors. And so it has got all the right elements, it seems, in place.

And a lot of it, as you reflected in your testimonies, was about encouraging Mexican production of hydrocarbon resources. I personally see that as a good thing. My perception is that as we do that, and that progresses, I look at North America as a whole in terms of energy production. That is good for security for all of us. It is good for the economies. And I have to assume it is good for jobs on both sides of the international border.

And so, Mr. Ambassador, I was kind of curious. It may or may not be an unintended consequence of this, of what we are talking about today, but I wanted to get your opinion, given the fact you have been Ambassador to Mexico. Thank you for your current role within the State Department, specifically on energy. I think that is important.

Has the State Department, I have to assume you have, but you get in trouble when you assume in this town, examined how this might deter motivations for illegal immigration to the United

States as greater opportunities, all those things we talked about, security, stronger economy, and jobs, do the citizens of Mexico benefit in whatever big way or small way from this? Has the State Department examined that? It seems like it could be a consequence.

Mr. PASCUAL. I am sorry, Congressman. I missed the key word, "examined." What, specifically?

Mr. THOMPSON. I am sorry. The motivation to come here illegally. And, obviously, on the other side of the Capitol, in particular, illegal immigration is a huge discussion right now.

And we have to look at ways, reasons why folks choose to put their life at risk and go through breaking our laws and coming here. And one of the things it seems to be that I believe is they come here in search of greater opportunity. Will this grow greater opportunity for our Mexican neighbors that could reduce, perhaps in some small way, part of the illegal immigration that we experience every day?

Mr. PASCUAL. Congressman, thank you. I think that what you point at is a very important and central question, and the discussions that arise on the debate about migration, and it has to do with economic growth and job opportunity. And I think there is no doubt that the Mexican political leadership has consistently looked at the importance of creating greater job opportunities internally within their country, and stimulating economic growth.

The energy sector is one of those areas where growth is certainly a potential. If one looks at a map of the Gulf of Mexico, one will see on the U.S. side of the border a consistent pattern of development and virtually a blank on the Mexican side on the Gulf of Mexico, and that has essentially been because of the provisions that exist currently right now that do not effectively track private investment.

On other parts of the border, the land border between Mexico and the United States, there is huge potential that exists, particularly with the development of shale gas and unconventional gas, where essentially the Eagle Ford shale play extends into the Mexican side of the border. The Mexican leadership is aware of that, and it is one of the reasons why they have come to recognize that they need to consider what kind of legislation they need to put in place in order to attract private investment.

Mr. THOMPSON. Can you——

Mr. PASCUAL. Specifically on this question of the Transboundary Agreement, one of the issues that they raised with me from the very first discussions we had about it in September of 2009 was the importance of creating an environment where both Mexico and the United States can understand the legal foundation for cooperation with one another, something which previously has not existed between our two countries in the energy sector. And in that sense, it is quite a landmark movement.

Mr. THOMPSON. Now, and I am familiar that the State Department has been involved in the export of hydrofracking technology, I had the pleasure of having a State Department-sponsored forum in Washington. They brought them by bus up to my congressional district in Lycoming County to visit some of our Marcellus shale. Briefly, is that effort still continuing to push out that state-of-the-art technology, in terms of hydrofracking, to other countries?

Mr. PASCUAL. Sir, indeed. What we have consistently tried to do is to share best practices with other countries around the world. We have learned a lot in the United States about our experience on everything from dealing with gas issues, water issues, hydraulic fracking fluids, how to monitor seismic activity, how to maintain baseline data, how to do this in a way that consults with local communities and balances their interest and the private sector interests at the same time.

And so, we continue programs that have brought representatives from, to name a few, Poland, Ukraine, Jordan, China, Colombia, Chile, to the United States, where we have had an opportunity to share both our government experience at a Federal level, at a State level, and with private companies, the kind of best practices that have been used so that if others decide to go ahead with the development of their——

Mr. LAMBORN. Mr. Ambassador, I am going to have to ask you to——

Mr. PASCUAL [continuing]. They can do it in the best way.

Mr. THOMPSON. Thank you. Thank you, Mr. Chairman.

Mr. LAMBORN. Thank you. Representative Wittman.

Dr. WITTMAN. Thank you, Mr. Chairman. I want to thank the witnesses for joining us today. I appreciate the efforts that you are putting forth to get our energy policy on track, especially as it relates to the Outer Continental Shelf. And I know the Transboundary Agreement is critical for that.

One of the things that I am concerned about, though, is looking at not just the Transboundary Agreement, but also the development or expansion and opening areas in the Atlantic. As you know, the Virginia Lease 220 has a significant amount of potential energy to be developed there, about 130 billion barrels of oil, and 1.14 trillion cubic feet of natural gas. So it is significant. There is agreement across Virginia, across our congressional delegation and within the State, to make sure that this happens.

The Virginia lease sale was part of the Department's 5-year plan from 2007 through 2012. However, on May 27th the President and Secretary Salazar canceled the Virginia scheduled lease sale. And I am just wondering why the Administration continues to oppose efforts to move forward with an oil and gas lease sale off of Virginia?

I think we have understood what happened with the accident down there in the Gulf, and currently no lease sale could take place off of Virginia until 2017. So in canceling this lease sale, the Administration has cited safety concerns. And, as I said, if it is truly safety concerns, I think we have certainly learned from the accident in the Gulf and can apply those lessons learned to any permits that would be issued there in Lease 220.

So, I just wanted to know why should it take nearly a decade, if we are going to wait until 2017, why should it take over a decade for us to learn the lessons from the Gulf, many of which have already been pointed out to us in the issuance of a permit or going forward with putting Lease 220 into the Department of the Interior's plan? And I just want to know, bottom line, what is the cause for delay on allowing Virginia to go forward?

As I said, the State is in full agreement with this. We want to do it. Our legislature, our entire congressional delegation. So we are awaiting the opportunity to be able to do that. And, as you know, for Virginia and for the East Coast, this means jobs, it means energy independence, and especially with the potential opportunities there for natural gas and oil.

And, by the way, I do know there is a provision in there to say that the exploration can begin. But, as you know, there is not going to be a company that is going to invest in going out there and doing seismic studies and the significant money that it takes to do that without the opportunity to say that they could apply to actually develop those resources.

Mr. BEAUDREAU. The Administration under our 5-year plan has a very specific strategy with respect to the Mid- and South Atlantic, and that does involve acquiring modern geologic information through seismic study. I am actually quite confident that we will be able to acquire that information.

I am also confident that, as we collect, again, modern seismic information about the resource potential along the Atlantic, that we will have a substantial basis to make informed decisions about potential leasing in the future in that area.

With respect to this Sale 220 area, as I think you are aware, that triangle area presented substantial concern and conflicts with the Defense Department. And I believe they made a submission to us that essentially redacted out over 80 percent of that area as posing significant concerns for their operations. The military is obviously extremely important to our national defense, as well as the economy of the Tidewater Area in Virginia.

Dr. WITTMAN. Yes.

Mr. BEAUDREAU. We are taking the time to engage with DOD and others to get it right as we consider future leasing on the East Coast.

Dr. WITTMAN. Well, and before my time expires, let me ask you. How do you believe that the seismic information is going to be gathered? Do you believe that there is going to be an energy company out there that is going to invest in gathering that seismic data without the possibility of actually developing the energy there? Is it the Department of the Interior that is going to pursue getting that data? Tell me how that data is going to be collected.

Mr. BEAUDREAU. I have actually engaged very specifically, both with the G&G contracting industry through the IAGC and individuals companies, as well as with individual oil and gas companies who are interested in that area. Given the potential here, and the seriousness with which we are moving forward with this strategy, I am actually quite confident that seismic studies, assuming our EIS process completes and those studies are able to go forward in a responsible way, I am actually quite confident that industry will be interested in doing so.

Dr. WITTMAN. Well, I hope your confidence is the reality. The conversations I have had with energy companies have been the opposite. They are a little reticent to say that they are going to make those kinds of investments without knowing with any certainty that they will be able to develop. Because, as you know, there is nothing in the plan that said that would ever develop, only the op-

portunity to say in 2017 that the Department of the Interior would consider at that particular point leasing those areas in Lease 220 going forward. So, I hope that your optimism is realistic.

Thanks again, Mr. Chairman. I yield back.

Mr. LAMBORN. OK. And I want to thank the witnesses for appearing today, and for your testimony. Members of the Committee may have additional questions for the record, and I would ask that you respond to those in writing if you are given those questions.

I would like to now invite the second panel to come forward: Mr. Erik Milito, Group Director, Upstream and Industry Operations for the American Petroleum Institute; Mr. Daniel Simmons, Director of Regulatory and State Affairs for the Institute of Energy Research; Mr. Steven Groves; and Mr. Athan Manuel, Director of Lands Protection Program for the Sierra Club.

Like all our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to 5 minutes, as outlined in our invitation letter to you.

Our microphones are not automatic, so you have to press the button to begin. After 4 minutes the yellow light comes on. After 5 minutes the red light comes on.

We thank you for being here. And we will start with Mr. Milito. Thank you for your testimony.

STATEMENT OF ERIK MILITO, GROUP DIRECTOR, UPSTREAM AND INDUSTRY OPERATIONS, AMERICAN PETROLEUM INSTITUTE

Mr. MILITO. Thank you, Chairman. Good morning, Chairman Lamborn, Ranking Member Holt, and members of the Committee. I am Erik Milito, Upstream Director at the American Petroleum Institute. API has more than 500 member companies which represent all sectors of America's oil and natural gas industry. Our industry supports 9.2 million American jobs, and 7.7 percent of the U.S. economy. The industry also provides most of the energy we need to power our economy and way of life, and delivers more than $85 million a day in revenue to the Federal Government.

Our Nation can and should be producing more of the oil and natural gas Americans need here at home. This would strengthen our energy security, and help put downward pressure on prices, while also providing many thousands of new jobs for Americans and billions of dollars in additional revenue for our government.

According to Energy Information Administration statistics, we produced a little more than 5 million barrels of oil a day in 2009, and we are now projected to produce 8 million barrels a day by the end of 2014. But we can and should do more.

The Transboundary Hydrocarbon Agreement with Mexico is important, as it could help create additional resource opportunities for U.S. oil and natural gas companies in the Gulf of Mexico and, in turn, create more jobs and enhance our energy security. The Agreement establishes a cooperative process for managing oil and gas reservoirs along the boundary region in the Gulf of Mexico, and encourages cooperative agreements between U.S. independent oil companies, and Mexico's state-owned company, PEMEX, to jointly develop energy resources along boundary areas in the Gulf of Mexico.

Importantly, this Agreement will provided legal certainty to U.S. companies, which will encourage them to invest in new energy development, creating jobs and spurring economic growth. The importance of this Agreement is magnified by the fact that the Administration has chosen a status quo approach to offshore oil and natural gas development that restricts oil and gas development to the Gulf of Mexico and Alaska, and leaves more than 85 percent of OCS areas off limits.

We continue to hear about an all-of-the-above energy approach, and the Administration's own projections show that oil and natural gas will supply most of the Nation's energy for decades to come. Yet we continue to see proposals to increase taxes on the industry, decisions to reduce opportunities for leasing and resource development, processes that string out permitting decisions, and continued regulatory uncertainty.

Implementing legislation authorizing this important Agreement should be approved as quickly as possible. And House Bill 1613 takes that pivotal step. Swift implementation of the Transboundary Hydrocarbon Agreement is important to providing regulatory certainty, will allow companies to make investments in these boundary areas with the knowledge that there is a framework in place to allow for orderly extraction of these resources.

Given that industry investments in the offshore are largely limited to the Gulf of Mexico, this will serve to enhance our Nation's energy security and long-term economic growth, and highlight the importance of national leadership in promoting a positive, forward-looking energy policy.

In addition, this legislation would also exempt any related oil and gas developmental activities from resource extraction reporting requirements of Section 13(q) of the Exchange Act. Section 13(q) requires SEC-listed companies to report payments to foreign governments, sub-national governments, and the Federal Government, on a project-by-project basis. Instead of including common sense exemptions for public disclosure and conflicts of law, the SEC pushed through the most costly rule in the Commission's nearly 80-year history. API continues to litigate Section 13(q) with the SEC, and believes the rule should be vacated to avoid competitive disadvantage of U.S. companies around the world.

I would like to also add that the industry fully supports transparency and disclosure, and the EITI efforts that we are currently involved with, and that a reasonable 1504 rule would be modeled—it would follow along those types of lines, rather than what we now have as the final rule.

I would like to thank again the Chairman and the Committee, and I look forward to your questions. Thank you.

[The prepared statement of Mr. Milito follows:]

Statement of Erik Milito, Group Director, Upstream and Industry Operations, API

Good morning Chairman Lamborn, Ranking Member Holt, and members of the committee. I am Erik Milito, Upstream Director at the American Petroleum Institute.

API has more than 500 member companies, which represent all sectors of America's oil and natural gas industry. Our industry supports 9.2 million American jobs and 7.7 percent of the U.S. economy. The industry also provides most of the energy

we need to power our economy and way of life and delivers more than $85 million a day in revenue to the federal government.

Our nation can and should be producing more of the oil and natural gas Americans need here at home. This would strengthen our energy security and help put downward pressure on prices while also providing many thousands of new jobs for Americans and billions of dollars in additional revenue for our government. According to Energy Information Administration statistics, we produced a little more than 5 million barrels of oil a day in 2009 and are projected to produce 8 million barrels a day by the end of 2014. But we can and should do more.

The Transboundary Hydrocarbon Agreement with Mexico is important as it could help create additional resource opportunities for U.S. oil and natural gas companies in the Gulf of Mexico and in turn create more jobs and enhance our energy security. The agreement establishes a cooperative process for managing oil and gas reservoirs along the boundary region in the Gulf of Mexico and encourages cooperative agreements between U.S. independent oil companies (IOCs) and Mexico's state-owned oil company (Pemex) to jointly develop energy resources along boundary areas in the Gulf of Mexico. Importantly, this agreement will provide legal certainty to U.S. companies, which will encourage them to invest in new energy development, creating jobs and spurring economic growth.

The importance of this agreement is magnified by the fact that the administration has chosen a status quo approach to offshore oil and natural gas development that restricts oil and gas development to the Gulf of Mexico and Alaska and leaves more than 85 percent of OCS areas off limits. We continue to hear about an "all-of-the above" energy approach and the administration's projections show that oil and natural gas will supply most of the nation's energy for decades to come. Yet we continue to see proposals to increase taxes on the industry, decisions to reduce opportunities for leasing and resource development, processes that string out permitting decisions, and continued regulatory uncertainty.

Implementing legislation authorizing this important agreement should be approved as quickly as possible, and H.R. 1613 takes that pivotal step. Swift implementation of the Transboundary Hydrocarbon Agreement is important to providing regulatory certainty and will allow companies to make investments in these boundary areas with the knowledge that there is a framework in place to allow for orderly extraction of these resources. Given that industry investments in the offshore are largely limited to the Gulf of Mexico, this will serve to enhance our nation's energy security and long-term economic growth and highlight the importance of national leadership in promoting a positive, forward-looking energy policy.

In addition, this legislation would also exempt any related oil and gas developmental activities from resource extraction reporting requirements of section 13(q) of the Exchange Act. Section 13(q) requires SEC-listed companies to report payments to foreign governments, subnational governments, and the Federal Government on a project-by-project basis.

Instead of including common senses exemptions for public disclosure and conflicts of law, the SEC pushed through the most costly rule in the Commission's nearly 80 year history. API continues to litigate section 13(q) with the SEC and believes the rule should be vacated to avoid a competitive disadvantage of U.S. companies around the world.

Thank you again to the Chairman and the Committee and I look forward to your questions.

Mr. LAMBORN. Thank you, Mr. Milito.

Mr. Simmons, go ahead and proceed with your five minutes.

STATEMENT OF DANIEL R. SIMMONS, DIRECTOR OF REGULATORY AND STATE AFFAIRS, INSTITUTE FOR ENERGY RESEARCH

Mr. SIMMONS. Mr. Chairman, Ranking Member Holt, and members of the Subcommittee, thank you for the opportunity to talk today about the Transboundary Hydrocarbon Agreement.

First of all, some context. The United States and Mexico are energy-rich countries. Total recoverable oil in North America exceeds 1.7 trillion barrels. To put that in perspective, at the U.S. current rate of use, that is enough oil for 242 years. Total recoverable natural gas is approximately 4.2 quadrillion cubic feet, enough for 176

years at the U.S.'s current rate of use, and North America has nearly 500 billion short-tons of coal, enough coal for nearly 500 years at our current rate of use.

North America is not limited by our energy resources. Instead, we are limited by access to these vast energy resources. Trade between the United States and Mexico, especially in energy, not only makes our Nation stronger, but it raises our combined economic welfare. In 2011, Mexico was the second-largest source of oil exports to the United States behind only Canada, and Mexico was the largest recipient of U.S. gasoline exports.

Mexico's heavy oil production is falling. But hopefully, the Transboundary Hydrocarbon Agreement will help turn around Mexico's oil production. The Transboundary Agreement could lead to oil and natural gas production on 1.5 million acres in the Gulf of Mexico that was previously off limits, due to border issues. This production alone will not lead to a revolution in hydrocarbon production in the United States or Mexico. But more important than the oil and natural gas resources along the border is the potential for greater cooperation between the U.S. and Mexico.

Mexico has long been a leading oil producer, but oil production in Mexico is falling. This is not, again, from a lack of resources. Mexico has an estimated 10.5 billion barrels of proven oil reserves. But that amount could double when unconventional and deep water resources become proven reserves. The United States is the leader in accessing unconventional and deep water resources, as seen by huge new oil discoveries in places like offshore Brazil, that were made using technologies developed in the U.S. Working together, we can increase Mexico's oil production to reverse their oil production decline.

This is especially true if U.S. hydraulic fracturing technologies are used to access Mexico's shale, oil, and gas resources. For example, one of America's most prolific shale fields, the Eagle Ford, extends into Mexico. But all of the activity is on the U.S. side of the border.

The Obama Administration finalized negotiations on the Transboundary Hydrocarbon Agreement last year. Hopefully Congress will now be able to act to finalize this Agreement.

But one important note. While the Transboundary Hydrocarbon Agreement is a good agreement that will aid both the U.S. and Mexico, one potential problem is the conflict between Article 20 in the Agreement and the SEC's rule 13(q) regarding disclosure for resource extraction payments. A possible conflict between rule 13(q) and Article 20 of the Transboundary Agreement at the very least creates some uncertainty about compliance with both Mexican and American disclosure laws. This uncertainty and potential disclosure conflict could place foreign state-owned oil companies who are not regulated by the SEC at a competitive advantage to companies which operate in the United States and are regulated by the SEC.

Also much of the transboundary area in the Gulf is deep water, and would require multi-billion-dollar investments to produce these hydrocarbon resources. Any additional uncertainty makes these large investments harder and helps to impede additional exploration and production. Therefore, the authors of H.R. 1613 are to be commended for recognizing this uncertainty and taking the

proper steps to isolate this unique agreement from the uncertainty surrounding rule 13(q).

There is much more that can be done to benefit our continent, which happens to sit on the largest sources of hydrocarbons in the world. Affordable, reliable, and secure energy is our common bond, and the U.S. and Mexico can both benefit from its development. Positive movement on the Transboundary Hydrocarbon Agreement will help other energy projects move forward to the benefit of our people.

Thank you for your time, and I will gladly answer any questions.

[The prepared statement of Mr. Simmons follows:]

Statement of Daniel R. Simmons, The Institute for Energy Research

The Institute for Energy Research (IER) is a non-profit organization that conducts intensive research and analysis on the functions, operations, and government regulation of global energy markets. IER articulates free market positions that respect private property rights and promote efficient outcomes for energy consumers and producers. IER staff and scholars educate policymakers and the general public on the economic and environmental benefits of free market energy. The organization was founded in 1989 as a public foundation under Section 501(c)(3) of the Internal Revenue Code. Funding for the institute comes from tax-deductible contributions of individuals, foundations, and corporations.

Introduction

Discussion of the Transboundary Agreement requires some background on the relative energy positions of the countries of North America, and therefore, I will include today a discussion of the situation we find ourselves in. It is in fact a great situation, if government policies adjust to allow the benefits to flow. The United States and Mexico are energy rich countries, especially when the combined oil, natural gas, and coal endowments are considered together. There is no reason why North America's energy resources cannot meet the needs of our nations for generations to come, except government policies. That is why the Committee's focus on ensuring the Transboundary Agreement works to benefit all of our citizens is welcome.

Total recoverable oil in North America exceeds 1.7 trillion barrels. The total recoverable North American natural gas is approximately 4.2 quadrillion (4,244 trillion) cubic feet and North America has over 497 billion short tons of recoverable coal. For comparison's sake, the U.S. uses roughly 7 billion barrels of oil, 24 trillion cubic feet and 1 billion short tons of coal annually. North America is not limited by energy resources, but instead by access to these vast energy resources. Trade between the United States and Mexico only makes our nations stronger and raises our combined economic welfare.

Mexico is America's third largest trading partner [1] and has been one of the largest sources of oil exports to the United States.[2] Mexico is the largest recipient of U.S. gasoline exports [3] and the second largest recipient of our natural gas exports.[4]

The energy trade between the United States and Mexico is growing, especially for America's finished petroleum and natural gas exports. Mexico's heavy oil production is falling, but that means more spare refining capacity on the Gulf Coast if Canadian oil sands can be transported to the Gulf Coast.

The energy and economic welfare of the United States and Mexico are intertwined by our shared geography, geology, and peoples. The Transboundary Hydrocarbon Agreement will help to tie our countries together and grow our economies. North America does not lack energy resources, but what we do lack, at times, is the necessary political will that could lead to greater economic growth and prosperity.

---

[1] U.S. Census, *Top Trading Partners—Total Trade, Exports, Imports,* http://www.census.gov/foreign-trade/statistics/highlights/toppartners.html.

[2] Energy Information Administration, *U.S. Total Crude Oil and Products Imports,* http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_ep00_im0_mbblpd_a.htm.

[3] Energy Information Administration, *Finished Motor Gasoline Exports by Destination,* http://www.eia.gov/dnav/pet/pet_move_expc_a_epm0f_eex_mbbl_a.htm.

[4] Energy Information Administration, *U.S. Natural Gas Exports by Country,* http://www.eia.gov/dnav/ng/ng_move_expc_s1_a.htm; Energy Information Administration, *U.S. Natural Gas Imports by Country,* http://www.eia.gov/dnav/ng/ng_move_impc_s1_a.htm.

North American Energy Inventory

North America has vast energy resources and more discoveries continue to be made. The United States alone has the world's largest combined oil, natural gas, and coal resources,[5] and both Canada and Mexico have large oil and natural gas resources. To better understand the North America's energy potential, The Institute for Energy Research compiled the North American Energy Inventory[6] in which we catalogued the known oil, coal, and natural gas resources in Canada, the United States, and Mexico using government reports. In the report we found that:

- North America is blessed with enough energy supplies to promote and sustain economic growth for many generations. The government's own reports detail this, and Congress was advised of our energy wealth when the Congressional Research Service of the Library of Congress released a report showing that the United States' combined recoverable oil, natural gas, and coal endowment is the largest on Earth.
- The amount of oil that is technically recoverable in the United States is more than 1.4 trillion barrels, with the largest deposits located offshore, in portions of Alaska, and in shale in the Rocky Mountain West. When combined with resources from Canada and Mexico, total recoverable oil in North America exceeds 1.7 trillion barrels.
- That is more than the world has used since the first oil well was drilled over 150 years ago in Titusville, Pennsylvania. To put this in context, Saudi Arabia has about 260 billion barrels of oil in proved reserves. For comparative purposes, the technically recoverable oil in North America could fuel the present needs in the United States of about seven billion barrels per year for around 250 years.
- Moreover, it is important to note that that "reserves" estimates are constantly in flux. For example, in 1980, the U.S. had oil reserves of roughly 30 billion barrels. Yet from 1980 through 2010, we produced over 77 billion barrels of oil. In other words, over the last 30 years, we produced over 150 percent of our proved reserves and still had over 20 billion barrels of oil reserves.
- Restrictions in the form of federal bans and leasing combined with declining offerings of lease acreage mean only about 2.2 percent of America's offshore acreage is currently leased for production.
- Proved reserves of natural gas in the United States and throughout North America are enormous, and the total amount of recoverable natural gas is even more impressive. The EIA estimates that the United States has 304.6 trillion cubic feet of proved reserves of natural gas.[7] The total amount of natural gas that is recoverable in North America is approximately 4.2 quadrillion (4,244 trillion) cubic feet.
- Given that U.S. consumption is currently [as of December 2011] about 24 trillion cubic feet per year, there is enough natural gas in North America to last the United States for over 175 years at current rates of consumption.
- Total supplies of natural gas in North America dwarf those of other countries. The United States, Canada, and Mexico have more technically recoverable natural gas resources than the combined total proved natural gas reserves found in Russia, Iran, Qatar, Saudi Arabia, and Turkmenistan.
- With respect to total recoverable resources, however, North America's combined coal supplies are even more staggering. The United States, Canada, and Mexico have over 497 billion short tons of recoverable coal, or nearly three times as much as Russia, which has the world's second largest reserves. North America's recoverable coal resources are bigger than the five largest non-North American countries' reserves combined (Russia, China, Australia, India, Ukraine).
- North American recoverable coal could provide enough electricity for the United States for about 500 years at current levels of consumption.
- While the United States and North America contain enormous energy wealth, U.S. policies have increasingly made exploration, development, production and consumption of that energy more difficult.
- Therefore, a scarcity of good policies, not a scarcity of energy, is responsible for U.S. energy insecurity.

---

[5] Gene Whitney et. al., *U.S. Fossil Fuel Resources: Terminology, Reporting, and Summary,* Congressional Research Service, Nov. 30, 2010, http://epw.senate.gov/public/index.cfm?FuseAction=Files.view&FileStore_id=04212e22-c1b3-41f2-b0ba-0da5eaead952.

[6] Institute for Energy Research, *North American Energy Inventory,* Dec. 2011, http://www.energyforamerica.org/wp-content/uploads/2012/06/Energy-InventoryFINAL.pdf.

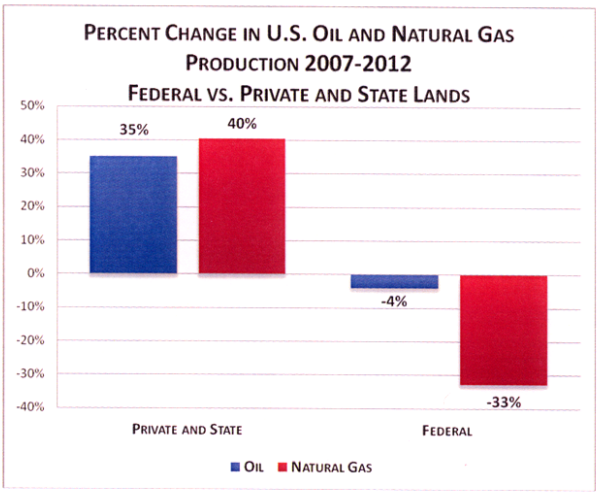
[7] Energy Information Administration, *Natural Gas Reserves Summary as of Dec. 31,* http://www.eia.gov/dnav/ng/ng_enr_sum_a_EPG0_R11_BCF_a.htm.

U.S. Oil and Natural Gas Production Trends

The federal estate contains vast energy resources, but the federal government allows energy production on a very small percentage of taxpayer-owned federal lands. The Interior Department has leased just 2 percent of federal offshore areas and less than 6 percent of federal onshore lands for oil and gas development.[8] This is particularly important because, while the entire U.S. including Alaska and Hawaii is 2.271 billion acres, the government owns mineral access to 2.4 billion acres because of the Outer Continental Shelf.

Despite a large endowment of oil and natural gas resources on federal lands, which include offshore resources, oil and natural gas production is declining on federal lands in the United States. According to a recent report from the Congressional Research Service, from 2007 through 2012, oil production fell 4 percent and natural gas production fell 33 percent on federal lands.[9]

The falling production on federal lands is in stark contrast to the dramatically increasing production on private and state lands. Over the same time period, oil production grew by 35 percent and natural gas production grew by 40 percent.



The historic increase in oil and gas production from non-federal lands is the reason President Obama could say in his State of the Union address, "We produce more oil at home than we have in 15 years." We produce more natural gas than ever before—and nearly everyone's energy bill is lower because of it."

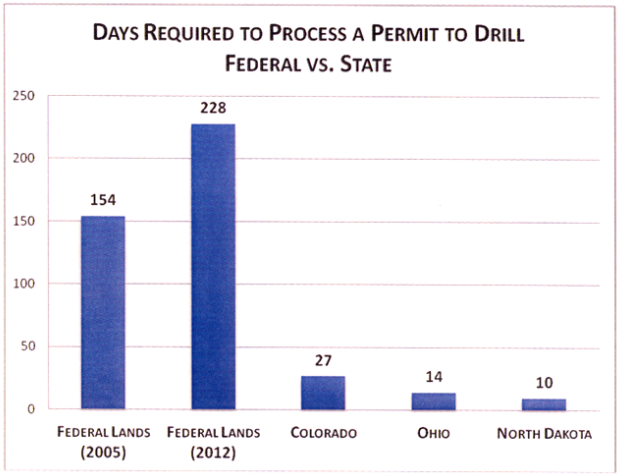
The President is right, but the federal government has had nothing to do with that success. The reason that oil and natural gas is increasing on private and state

[8] *See* Bureau of Ocean Energy Management, Regulation and Enforcement, *Offshore Energy and Minerals Management,* http://www.boemre.gov/offshore/. According to the administration's website, the outer continental shelf is 1.76 billion acres (http://www.boemre.gov/ld/PDFs/GreenBook-LeasingDocument.pdf page 1) and only 38 million acres are leased *(Department of Interior, Oil and Gas Lease Utilization—Onshore and Offshore,* http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&pageid=239255 *page 4*). That is a mere 2.16% of the entire Outer Continental Shelf. According to the Department of Interior, 38 million acres of onshore lands are leased for oil and natural gas production. See Table 3 in Department of Interior, *Oil and Gas Lease Utilization—Onshore and Offshore,* http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&pageid=239255. According to the Congressional Research Service, the federal government owns just over 650 million acres of land. See Appendix A. Congressional Research Service, *Major Federal Land Management Agencies: Management of Our Nation's Lands and Resources,* May 15, 1995, http://www.ncseonline.org/nle/crsreports/natural/nrgen-3.cfm. The federal government also controls an additional 58 million acres of federal mineral estate below privately owned surface estate. *See* Bureau of Land Management, *Split Estate,* http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS_REALTY_AND_RESOURCE_PROTECTION /bmps.Par.98100.File.dat/SplitEstate08finalWeb.pdf.

[9] Marc Humphries, U.S. Crude Oil and Natural Gas Production in Federal and Non-Federal Areas, Feb. 28, 2013, http://www.instituteforenergyresearch.org/wp-content/uploads/2013/03/CRS-report-on-oil-and-nat-gas-on-federal-lands.pdf.

lands while falling on federal lands is because of a major difference in policies. The states understand that it is possible to protect the environment and produce oil and natural gas, while red tape on federal lands continues to increase.

Consider one example of the time required to get a permit to drill on federal land versus some energy producing states. It takes an average of 228 days for the Bureau of Land Management to process a permit to drill, up from 154 days in 2005,[10] but only 27 days for Colorado,[11] 14 days for Ohio,[12] and 10 days in North Dakota. It should come as no surprise why oil and natural gas production is rapidly increasing even while energy production on federal lands is declining. The federal government has vast energy resources, but the federal government's current energy plans result in limiting energy production on federal lands.



The federal government's land use policies have reduced oil and natural gas production on federal lands because federal regulations make it much more difficult to work on federal lands. Instead of following the example of the states, the federal government continues to slow down energy production.

Some argue that the reason oil and natural production is increasing on federal lands is because shale resources are located on private lands.[13] There are a few problems with this argument. First, it overlooks that the fact that it is more expensive to produce oil and natural gas from unconventional resources like shale. Because it is less expensive to produce oil and natural gas from conventional resources, undoubtedly conventional oil production would be occurring in the Pacific, the Atlantic, parts of the Gulf of Mexico, offshore Alaska, in ANWR, in the National Petroleum Reserve-Alaska if the federal government had allowed access to these conventional resources.

Second, oil and natural gas producers go to where there is access to the resources. With the federal government restricting access, oil production is increasingly occurring on private and state lands where access is permitted and delays allow investment dollars to be spent. This is why the shale revolution is occurring in the North Dakota, Texas, Arkansas, Louisiana, and Pennsylvania—and not on federal lands or in states like California. The Monterrey shale in California is larger than the Bakken and the Eagle Ford combined, but production is occurring elsewhere.

---

[10] Bureau of Land Management, *Average Application for Permit to Drill (APD) Approval Timeframes: FY2005–FY2012,* http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics/apd_chart.html.

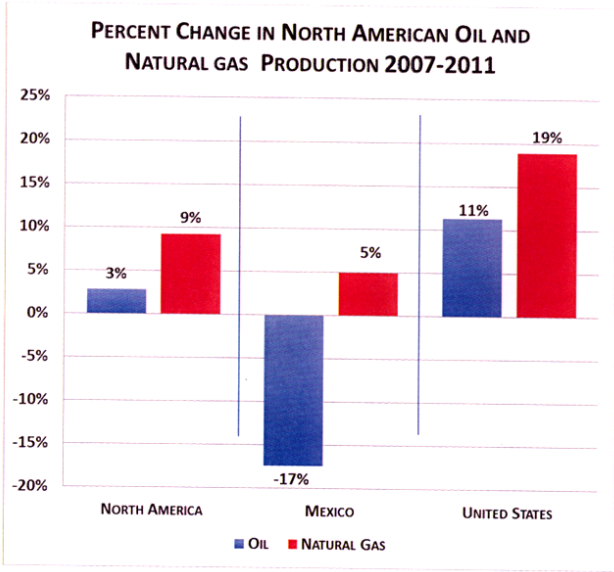
[11] Dave Neslin to Colorado Oil and Gas Conservation Commission, Apr. 25, 2011, http://cogcc.state.co.us/announcements/CommissionLtr4_25_11.pdf.

[12] Ohio Division of Oil and Gas Resources Management, *2011 Ohio Oil and Gas Summary,* http://ohiodnr.com/portals/11/publications/pdf/oilgas11.pdf.

[13] *See e.g.* The Checks and Balances Project, *Senators get it wrong on oil & gas production at Jewell nomination hearing; Industry is following the oil to nonfederal lands,* Mar. 8, 2013, http://checksandbalancesproject.org/2013/03/08/senators-get-it-wrong-on-oil-gas-production-at-jewell-nomination-hearing-industry-is-following-the-oil-to-nonfederal-lands/.

Third, with 982 billion barrels of recoverable oil shale, if R&D is successful, what matters is a path to commercial production because there is no guarantee the federal government will permit commercial leasing if R&D does indeed go well. Companies will not be willing to invest the hundreds of millions and billions of dollars necessary to make production economical if they are not able to reap the rewards from production. The government's approach is akin to inviting pharmaceutical companies to invent new drugs without a patenting system. Few believe companies would invest if there was no potential for a reward after all one's risk.

This example of potential resources in the United States shows that the regulatory environment is critical to exploration, and oil production increases can occur if people have access to resources. We know it can happen because it is happening.



Mexican Oil and Natural Gas Production Trends

In Mexico, oil and natural gas production is controlled by Petróleos Mexicanos or Pemex—the state-owned oil company. According to the Energy Information Administration, over the past 5 years, oil production in Mexico has fallen by 17 percent,[14] while natural gas production has increased by 5 percent.[15]

According to Mexican Finance Minister Luis Videgaray, there is no plan to privatize Pemex, but the company's performance shows that it "cannot do everything itself."[16] Videgaray continued, explaining "private participation—particularly in those fields where there is opportunity because of nature and geology but where Pemex clearly doesn't have either the capital or the expertise."[17]

One example of where there is great potential, but where Pemex does not have expertise is in shale plays. The Eagle Ford shale extends into Mexico, but all of the production is on the U.S. side of the border.

---

[14] Energy Information Administration, *International Energy Statistics: Petroleum,* http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=57&aid=1&cid=regions&syid=1980&eyid=2011&unit=TBPD.

[15] Energy Information Administration, *International Energy Statistics: Natural Gas,* http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=3&pid=26&aid=1&cid=regions&syid=1980&eyid=2011&unit=BCF.

[16] Mary Antastasia O'Grady, *O'Grady: Will Mexico Welcome Wildcatters?,* Wall Street Journal, Feb. 24, 2013, http://professional.wsj.com/article/SB10001424127887324503204578321901174967104.html?mod=WSJ_Opinion_BelowLEFTSecond&mg=reno64-wsj%5C.

[17] *Id.*

Source: U.S. Energy Information Administration based on data from various published studies. Canada and Mexico plays from ARI.
Updated: May 9, 2011

In a way, Mexico has privatized their refining sector. Mexico exports crude oil to the United States and imports gasoline and refined products from Gulf coast refineries. Mexican oil imports to the United States peaked in 2006 and have since decreased by 30 percent.[18] Despite the decrease in Mexican oil imports to the U.S., American gasoline exports have dramatically increased in recent years. From 2007 through 2011, U.S. gasoline exports to Mexico have more than tripled.[19]

Despite the rise in Mexico's natural gas production, Mexico is a net natural gas importer.[20] U.S. natural gas exports by pipeline have increased by 86 percent from 2010–2012.[21]

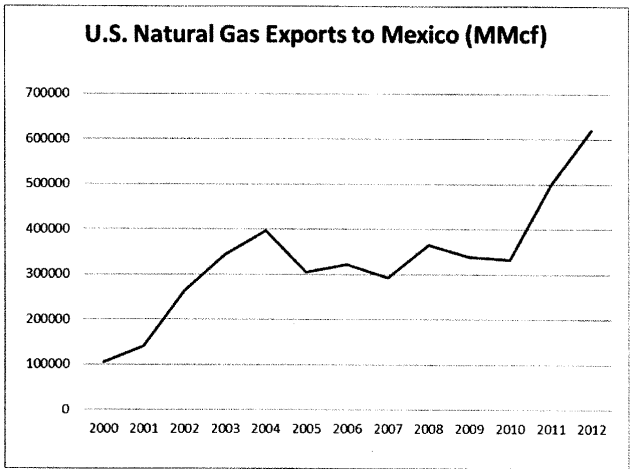
---

[18] Energy Information Administration, *U.S. Imports by Country of Origin,* http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_ep00_im0_mbblpd_a.htm.

[19] Energy Information Administration, *Finished Motor Gasoline Exports by Destination,* http://www.eia.gov/dnav/pet/pet_move_expc_a_epm0f_eex_mbbl_a.htm.

[20] *See* Mary Antastasia O'Grady, *O'Grady: Will Mexico Welcome Wildcatters?,* Wall Street Journal, Feb. 24, 2013, http://professional.wsj.com/article/SB10001424127887324503204578320191174967104.html?mod=WSJ_Opinion_BelowLEFTSecond&mg=reno64-wsj%5C.

[21] Energy Information Administration, *U.S. Natural Gas Exports by Country,* http://www.eia.gov/dnav/ng/ng_move_expc_s1_a.htm.



The Transboundary Hydrocarbons Agreement

The Gulf of Mexico is one of the most prolific hydrocarbon-producing areas for both the United States and Mexico. Oil production, especially in deepwater on the U.S. side of the border, has moved closer to the U.S.-Mexico maritime border in recent years. Until last year, however, there was no agreement on how to divide resources between the United States and Mexico for resources that straddle the border.

The Transboundary Hydrocarbon Agreement comes after decades of indecision between Mexico and the United States. This decision allows oil and natural gas production on 1.5 million acres in the Gulf of Mexico that was previously off-limits because of border issues.

The Transboundary Hydrocarbon Agreement itself will not lead to a revolution in hydrocarbon production for the United States and Mexico. This is not to say that the hydrocarbon resources are not important—they are. But more important than the oil and natural gas resources along the border is greater cooperation between the United States and Mexico and American companies and PEMEX.

Mexico has long been a leading oil producer, but as explained above, oil production in Mexico is falling. This is not from a lack of resources. Mexico has an estimated 10.5 billion barrels of proven oil reserves, but that amount could double when unconventional and deepwater resources become proven reserves.[22] And if the private sector is allowed to become more involved in Mexico, their resources could expand greatly, as our own have. The Transboundary Hydrocarbon Agreement is important for the production of some of these deepwater resources.

Not only can the Transboundary Hydrocarbon Agreement lead to greater production in the Gulf of Mexico, it will foster greater cooperation between Mexico and American companies. This is critical because the United States is the leader in accessing unconventional and deepwater resources. Working together, we can increase Mexico's oil production and reverse their oil production decline. This is especially true if U.S. hydraulic fracturing technologies are used to access Mexico's shale oil and gas resources. For example, one of America's most prolific shale fields, the Eagle Ford, extends into Mexico, but all of the activity is on the U.S. side of the border. This is similar to areas throughout the U.S. where production is skyrocketing on private and state lands but remaining dormant on federal government lands.

After the Obama administration did the important work of negotiating the Transboundary Hydrocarbon Agreement, they took over a year to decide whether the agreement was a treaty or an Executive Agreement. The United States needs secure energy supplies from its neighbors and allies. It should not take over a year for the administration to decide whether an agreement is a treaty or an executive

[22] Minority Staff Report, United States Senate Committee on Foreign Relations, *Oil, Mexico, and the Transboundary Agreement,* Dec. 21, 2012, http://www.foreign.senate.gov/publications/download/oil-mexico-and-the-transboundary-agreement.

agreement, and therefore it is good that the Committee is providing oversight and direction consistent with its enumerated powers under the Constitution.

Concerns about a Potential Conflict Between the Transboundary Hydrocarbon Agreement and Section 1504 of Dodd-Frank

While the Transboundary Hydrocarbon Agreement is a good agreement that will aid both the United States and Mexico, one potential problem is a conflict between Article 20 of the agreement and the Security and Exchange Commission's Rule 13q-1 regarding Resource Extraction Payments.

Article 20 states:

> To the extent consistent with their national laws, the Parties shall maintain confidential, and obligate their Licensees to maintain confidential, all Confidential Data and other information obtained from the other Party or its Licensees in accordance with this Agreement.

Together with Rule 13q-1, requiring "resource extraction issuers" to disclose payments made to foreign governments, Article 20 can create an impossible situation for American companies operating on transboundary hydrocarbon resources. For example, Mexican confidentiality requirements may forbid the disclosure of the very information that Rule 13q-1 requires American companies[23] to disclose. This would lead to a situation where companies regulated by the SEC have, at very least, uncertainty about compliance with both Mexican and American disclosure laws. This uncertainty and potential disclosure conflict would place foreign state-owned oil companies, who are not regulated by the SEC, at a competitive advantage to the companies which operate in the United States are regulated by the SEC.

Because much of the transboundary area is deepwater, it would require multi-billion dollar investments to produce the hydrocarbon resources. Any legal uncertainty brought about by disclosure law could easily dissuade American companies from undertaking what is already an expensive decision, in turn reducing opportunities for new jobs for Americans.

Rule 13q-1 also creates a different type of competitive disadvantage for American companies operating in in the Gulf of Mexico Transboundary area. The rule would allow foreign state-owned oil companies with a competitive advantage to consider business-sensitive information about American companies' operations. If Mexico were to allow foreign-owned companies to extract oil along the deepwater transboundary area, there could very well be competition between U.S. private companies and foreign-state owned companies. Even though the deepwater technology was developed in the U.S. deepwater, the U.S. companies would be at a disadvantage. This is like playing poker but being required to show your cards to your fellow card-players.

Therefore, the authors of H.R. 1613 are to be commended for recognizing this and taking proper steps to isolate this unique agreement from the uncertainties surrounding 13q.

Conclusion

North America is an energy rich continent. Our energy issues are not issues of a lack of supply, but a lack of access to energy resources. The Transboundary Hydrocarbon Agreement is one way the federal government should be moving forward to grant more access to taxpayer-owned energy resources. The agreement is a good agreement and should expeditiously move forward, but it should not have taken more than a year for the Administration to submit Transboundary Hydrocarbon Agreement to Congress.

Affordable, reliable energy is critical for the welfare of all Americans and Mexicans. Hopefully our countries will work better together in the future to enhance our energy security and our economic welfare as well.

Mr. LAMBORN. Thank you for your testimony.

Mr. Groves.

STATEMENT OF STEVEN GROVES, SENIOR RESEARCH FELLOW, HERITAGE FOUNDATION

Mr. GROVES. Thank you, Mr. Chairman, for inviting me to testify this morning regarding the U.S.-Mexico Transboundary Hydro-

[23] I'm using the term "American companies" as shorthand for companies regulated by the SEC.

carbon Agreement and H.R. 1613, the authorizing legislation that was introduced on April 18th by Congressman Duncan. My name is Steven Groves, and I am a Senior Research Fellow at the Heritage Foundation.

The Transboundary Agreement is the latest treaty between the United States and Mexico regarding the Gulf. Between 1970 and 2000 the U.S. and Mexico completed a series of treaties delimiting their maritime and continental shelf boundaries. The Transboundary Agreement builds on those treaties, and represents an effort to preempt disputes regarding the development of hydrocarbon deposits that straddle the international maritime boundary.

Congress must closely examine the Agreement to determine whether it will advance our national interests and will do so without compromising American sovereignty. Congress is obligated to assess the terms of the Agreement and approve it only if its benefits outweigh its costs, hopefully by a significant margin. The terms of the Transboundary Agreement, if they are interpreted and implemented as currently understood, would benefit the United States.

Although congressional approval of the agreement is unlikely to result in a meaningful increase in U.S. oil production in the near term, there are broader interests that may be advanced through the agreement, such as boosting U.S.-Mexico relations on energy issues and facilitating working partnerships between U.S. companies and PEMEX.

There is hope within the petroleum industry that the Agreement could lead to needed reforms in Mexico's energy governance. And while the development of transboundary reservoirs may be some time in coming, the Agreement is designed to provide the necessary certainty to U.S. companies that desire to lease blocks that abut the international boundary in the western and central planning areas.

Now, in contrast to other international agreements such as the United Nations Convention on the Law of the Sea, the Agreement strikes the necessary balance between the U.S. interest in establishing a framework for the development of hydrocarbon resources, and preserving freedom of action by the United States and its companies.

Unlike the Law of the Sea Treaty, the Agreement does not expose the United States to frivolous international lawsuits, nor does the agreement require the United States to transfer hydrocarbon royalties to an international organization for redistribution to the developing world. The Agreement is designed to promote, rather than compel, cooperation between the United States and Mexico, and to foster collaboration between U.S. oil companies and PEMEX. And the difference between promotion and compulsion is a key element that differentiates the Agreement from the Law of the Sea Treaty.

For example, under Article 7 of the Agreement, if a U.S. company is unable to successfully negotiate a unitization agreement with PEMEX, it may still be authorized to develop a transboundary reservoir, subject to determination regarding the equitable allocation of production for the reservoir.

Moreover, unlike the Law of the Sea Treaty, the Agreement does not create dispute resolution mechanisms that possess broad jurisdiction and enforcement authority. Rather, disputes under the Agreement are referred to a two-person joint commission composed of a U.S. and Mexican representative appointed by the parties. In limited instances, disputes that cannot be resolved by the joint commission are referred to a special expert.

The Agreement's dispute resolution procedures are designed to stimulate, rather than stymie, the development of transboundary reservoirs. For example, in the event that there is a dispute regarding the existence of a transboundary reservoir, both countries must provide the joint commission with well data to support a claim that the reservoir, in fact, extends across the delimitation line. In other words, neither the U.S. nor Mexico may make an unsubstantiated unilateral claim that a transboundary reservoir exists in an effort to hinder the other country's development activities.

In conclusion, the Transboundary Agreement advances U.S. national interests by promoting cooperation between the relevant governmental and private-sector entities, by avoiding the pitfalls of the Law of the Sea Treaty, by providing certainty to U.S. companies, and by doing so without compromising American sovereignty.

Again, I appreciate the opportunity to provide my views on this issue this morning, and I look forward to any questions you may have.

[The prepared statement of Mr. Groves follows:]

Statement of Steven Groves, Bernard and Barbara Lomas Senior Research Fellow, Margaret Thatcher Center for Freedom, The Heritage Foundation

Mr. Chairman and members of the Committee:

Thank you for inviting me to testify before you today regarding the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico (the "Transboundary Agreement") and H.R. 1613, the legislation that has been introduced to implement the Agreement.

Developing hydrocarbon resources in the Gulf of Mexico along the international boundary with Mexico, including along the boundary within the "Western Gap" area on the extended continental shelf, is in the national interest of the United States. A successful implementation of the Transboundary Agreement advances that interest, and does so without entangling the United States in a deeply-flawed international convention adopted more than 30 years ago—the United Nations Convention on the Law of the Sea (UNCLOS).

Proponents of U.S. ratification of UNCLOS claim that unless the United States joins the convention, it will be unable to develop the hydrocarbon resources in the Western Gap, including presumably any transboundary reservoirs. They claim that international recognition of the U.S. extended continental shelf (ECS), which is the continental shelf that extends beyond 200 nautical miles from the coast, is absolutely conditional upon U.S. accession.

However, that claim lacks basis in fact or law. The United States regularly demarcates the limits of its continental shelf and declares the extent of its maritime boundaries with presidential proclamations, acts of Congress, and bilateral treaties with neighboring countries. As a result of bilateral treaties between the United States and Mexico, the Department of the Interior's Bureau of Ocean Energy Management (BOEM) currently leases areas of the U.S. ECS in the Western Gap to American and foreign oil and gas companies for exploration and development. Indeed, BOEM has leased an area that sits directly on the international boundary within the Western Gap to Eni Petroleum, an Italian multinational oil and gas company.

The United States should take every action necessary—including the implementation of the Transboundary Agreement—to develop its hydrocarbon resources located on its ECS in the Gulf of Mexico. The United States can accomplish this end while acting as a sovereign nation rather than by joining UNCLOS and seeking the ap-

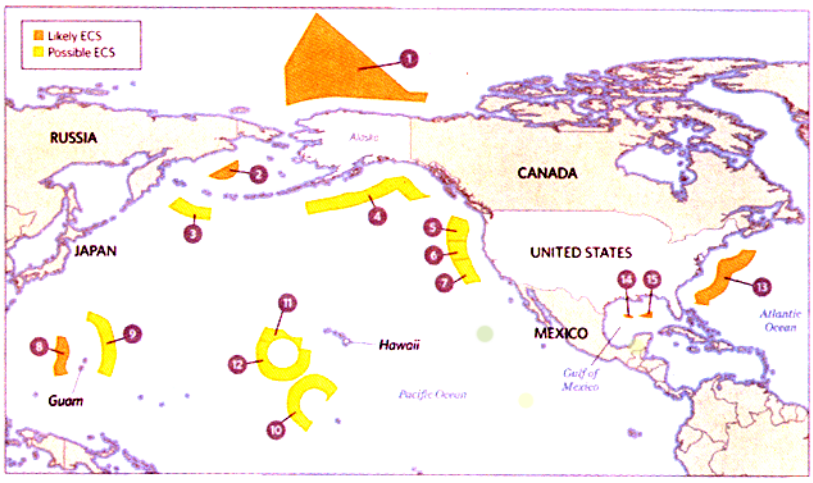
proval of the Commission on the Limits of the Continental Shelf (CLCS), an international committee of geologists and hydrographers located at U.N. headquarters in New York City.

The U.S. Extended Continental Shelf

Since 2003, in an effort to define the outer limit of the U.S. continental shelf, the United States has collected bathymetric and seismic mapping data on the outer margins of its continental shelf in the Arctic Ocean, Gulf of Alaska, Gulf of Mexico, and Bering Sea; along the Atlantic and Pacific Coasts; and off the Northern Mariana Islands, Kingman Reef, Palmyra Atoll, Guam, and Hawaii. The U.S. Extended Continental Shelf Task Force, an interagency project, is conducting this data collection.[1] To date, the ECS Task Force has identified six areas that "likely" contain submerged continental shelf and qualify as ECS and nine areas that "possibly" qualify. One area that likely contains ECS is the Western Gap, designated in Map 1 (below) as area #14.

MAP 1

U.S. Extended Continental Shelf (ECS)



Source: U.S. Extended Continental Shelf Project, "Establishing the Full Extent of the Continental Shelf of the United States," http://continentalshelf.gov/media/ECSposterDec2010.pdf (accessed May 8, 2012).

B 2688 heritage.org

The value of the hydrocarbon deposits lying beneath the entirety of the U.S. ECS is difficult to estimate, but it is likely substantial. According to the ECS Task Force, "Given the size of the U.S. continental shelf, the resources we might find there may be worth many billions if not trillions of dollars."[2]

"International Recognition" of the U.S. ECS

Historical experience has repeatedly debunked the notion that achieving "international recognition" of U.S. maritime boundary and continental shelf claims requires UNCLOS membership. The United States has had no difficulty whatsoever

[1] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, "Extended Continental Shelf Project," revised August 25, 2011, http://continentalshelf.gov (accessed April 17, 2012).

[2] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, "About the Extended Continental Shelf Project," http://continentalshelf.gov/about.html (accessed April 17, 2012).

in achieving recognition of such claims in the past. Since 1945, U.S. Presidents have issued proclamations and Congress has enacted laws on U.S. maritime claims and boundaries. None of these have been challenged by any nation, any group of nations, or the "international community" as a whole.

Proponents of UNCLOS offer no evidence that any foreign nation has not recognized or will not recognize the unilateral proclamations made by the United States. Yet the same proponents contend that the United States cannot hope to gain recognition of its ECS or assert jurisdiction and control over it unless and until it joins the convention. Law of the sea experts such as Ted McDorman at the University of Victoria disagree with that position:

> It can be asked whether a non-party to the LOS Convention can legally exercise jurisdiction over its adjacent continental margin beyond 200 nautical miles or whether this entitlement is only available to parties to the LOS Convention. The answer is that there appears to exist sufficient state practice . . . to support the view that, as a matter of customary international law, states can legally exercise jurisdiction over the continental margin beyond 200 nautical miles *irrespective of the State's status as a LOS Convention ratifier.*[3]

No evidence suggests that membership in UNCLOS is necessary, much less essential, either to gain international recognition of the U.S.'s ECS boundaries or to claim, legally and legitimately, jurisdiction and control over its ECS resources. It is telling that proponents of U.S. accession to UNCLOS do *not* claim that international recognition of the U.S. territorial sea, contiguous zone, or exclusive economic zone (EEZ) is contingent upon U.S. accession to the convention, yet they assert that accession is the *sine qua non* for international recognition of the U.S. ECS.[4]

There is no magic ritual for achieving international recognition of maritime and continental shelf boundaries. Foreign nations recognize and respect U.S. maritime claims and boundaries, and vice versa, as long as those claims and boundaries conform to widely accepted international law, including the various provisions of customary international law that are reflected in UNCLOS.

Like its other maritime claims, the United States will demarcate the limits of its ECS in a manner that conforms to international law. In November 1987, a U.S. government interagency group issued a policy statement declaring its intent to delimit the U.S. ECS in conformity with Article 76 of UNCLOS, which provides a formula for measuring the extent of a coastal state's ECS. The pertinent part of the policy statement reads:

> [T]he Interagency Group on Ocean Policy and Law of the Sea has determined that the proper definition and means of delimitation in international law are reflected in Article 76 of [UNCLOS]. *The United States has exercised and shall continue to exercise jurisdiction over its continental shelf in accordance with and to the full extent permitted by international law as reflected in Article 76,* paragraphs (1), (2) and (3). At such time in the future that it is determined desirable to delimit the outer limit of the continental shelf of the United States beyond two hundred nautical miles . . . such delimitation shall be carried out in accordance with paragraphs (4), (5), (6) and (7).[5]

Despite the claims of UNCLOS proponents, the United States can successfully pursue its national interests regarding its ECS—particularly hydrocarbon exploitation—without first gaining universal international recognition of its outer limits. While such recognition may be a worthy achievement, it is of no consequence to U.S. national interests whether the 195 nations of the world affirmatively recognize America's jurisdiction over its ECS in the Gulf of Mexico.

---

[3] Ted L. McDorman, "The Entry into Force of the 1982 LOS Convention and the Article 76 Outer Continental Shelf Regime," *The International Journal of Marine and Coastal Law,* Vol. 10, No. 2 (1995), p. 167 (emphasis added). McDorman cites evidence of actual state practice under the 1958 Convention on the Continental Shelf and UNCLOS Article 76 to support his conclusion.

[4] Besides the United States, other UNCLOS non-parties, including Cambodia, Colombia, El Salvador, Syria, Turkey, the United Arab Emirates, and Venezuela, delimit their maritime boundaries (e.g., 12 nm territorial sea, 24 nm contiguous zone, and/or 200 nm EEZ) in conformity with the convention without objection from other nations. See U.S. Department of Defense, Under Secretary of Defense for Policy, *Maritime Claims Reference Manual,* June 23, 2005, http://www.jag.navy.mil/organization/code_10_mcrm.htm (accessed April 17, 2012).

[5] "United States Policy Governing the Continental Shelf of the United States of America," November 17, 1987, reprinted in J. Ashley Roach and Robert W. Smith, *U.S. Responses to Excessive Maritime Claims,* 2nd ed. (The Hague: Martinus Nijhoff Publishers, 1996), pp. 201–202 (emphasis added).

U.S. ECS in the Gulf of Mexico

International cooperation on the delimitation of maritime boundaries is necessary in resource-rich areas such as the Gulf of Mexico. Since the 1970s, the United States and Mexico have negotiated a series of bilateral treaties to delimit their maritime and continental shelf boundaries, including areas of their abutting ECS in the Western Gap:

- In November 1970, the U.S. and Mexico signed a treaty to maintain the Rio Grande and Colorado River as the agreed international boundary between the two nations. As part of the treaty, the two nations demarcated their maritime boundaries in the Gulf of Mexico and the Pacific Ocean out to 12 nm.[6] The treaty entered into force on April 18, 1972.
- In May 1978, building on the 1970 treaty, the two nations signed a treaty delimiting their maritime boundaries in the Gulf and in the Pacific out to 200 nm.[7] The treaty demarcated boundary lines in the Gulf where their respective 200 nm EEZ abutted, leaving a "doughnut hole" of approximately 5,092 square nm (the Western Gap) where their 200 nm boundary lines did not meet. A second doughnut hole was created in the eastern Gulf where the EEZs of the U.S., Mexico, and Cuba fail to intersect (the "Eastern Gap"). The treaty entered into force on November 13, 1997.
- In June 2000, the U.S. and Mexico signed a treaty dividing the area of ECS within the Western Gap. Of the 5,092 square nm of ECS in the Western Gap, 1,913 (38 percent) went to the United States and 3,179 (62 percent) went to Mexico.[8] The treaty established a drilling moratorium over a narrow strip along the international boundary within the Western Gap due to the possibility that transboundary hydrocarbon reservoirs are located along the boundary. The treaty entered into force on January 17, 2001.

Collectively, these treaties between the United States and Mexico, particularly the June 2000 ECS delimitation treaty, demarcated an area of U.S. ECS—the 1,913 square nm of submerged continental shelf in the northern portion of the Western Gap. There is no evidence that any nation, any group of nations, or the international community as a whole does not or will not recognize the ECS in the northern portion of the Western Gap as subject to the jurisdiction and control of the United States.

---

[6] "Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary," November 23, 1970, http://faolex.fao.org/docs/pdf/bi-51757.pdf (accessed April 17, 2012).

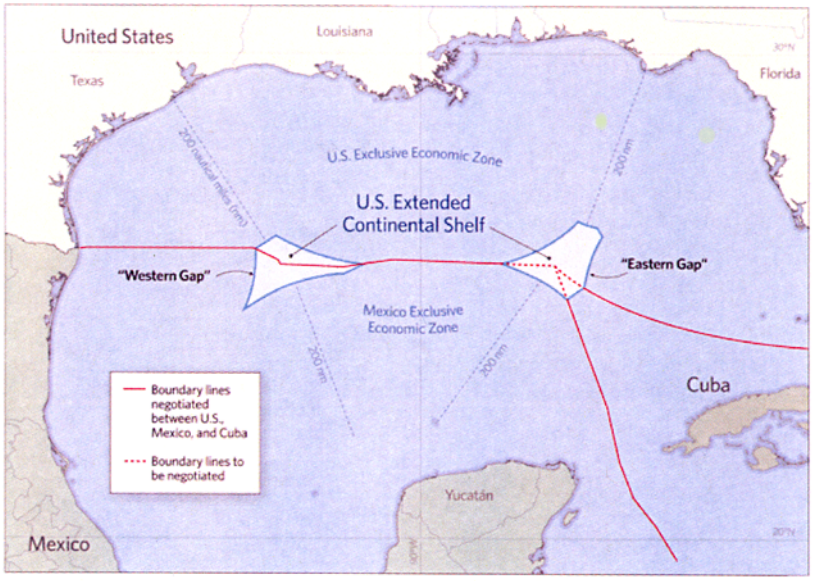
[7] "Treaty on Maritime Boundaries Between the United Mexican States and the United States of America," May 4, 1978, http://www.boem.gov/uploadedFiles/BOEM/Regulations/Treaties/1978_0504-Treaty-MaritimeBoundariesMexicoandUS.pdf (accessed April 17, 2012).

[8] "Treaty Between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico Beyond 200 Nautical Miles," June 9, 2000, http://www.boem.gov/uploadedFiles/BOEM/Regulations/Treaties/2000_0609-Treaty-OCSinWGOMbeyond200nm.pdf (accessed April 17, 2012), and news release, "MMS Lauds U.S. and Mexico Continental Shelf Boundary Treaty Agreement," U.S. Department of the Interior, Minerals Management Service, June 13, 2000, http://www.gomr.boemre.gov/homepg/whatsnew/newsreal/2000/000713.html (accessed April 17, 2012).

MAP 2

U.S. Extended Continental Shelf in Gulf of Mexico

The Gulf of Mexico contains two areas of submerged continental shelf that extend beyond the 200-nautical-mile exclusive economic zones (EEZ) of Mexico and the United States—the "western gap" and the "eastern gap." The U.S. and Mexico signed a treaty in June 2000 that divides the area of extended continental shelf within the "western gap" between the two nations.



Sources: U.S. Department of the Interior, Bureau of Ocean Energy Management, "Treaty on Maritime Boundaries Between the United Mexican States and the United States of America," May 4, 1978, http://www.boem.gov/uploadedFiles/BOEM/Regulations/Treaties/1978_0504-Treaty-MaritimeBoundariesMexicoandUS.pdf (accessed April 17, 2012); U.S. State Department, "Maritime Boundary Agreement Between the United States of America and the Republic of Cuba," December 16, 1977, http://www.state.gov/documents/organization/125389.pdf (accessed May 8, 2012); and United Nations, "Executive Summary: A Partial Submission of Data and Information on the Outer Limits of the Continental Shelf of the United Mexican States Pursuant to Part VI of and Annex II to the United Nations Convention on the Law of the Sea," December 2007, http://www.un.org/depts/los/clcs_new/submissions_files/mex07/part_i_executive_summary.pdf (accessed May 8, 2012).

B 2688 heritage.org

Yet UNCLOS proponents commonly claim that U.S. companies will lack the "certainty" they require to develop the hydrocarbon resources located on the ECS unless the United States accedes to UNCLOS and receives the approval of the Commission on the Limits of the Continental Shelf (CLCS). For example, in 2007, former Deputy Secretary of State John Negroponte stated, "In the absence of such international recognition and legal certainty, U.S. companies are unlikely to secure the necessary financing and insurance to exploit energy resources on the extended shelf." Another prominent advocate of U.S. accession has argued that U.S. failure to join the convention "could result in a loss of thousands of square kilometers of resource-rich . . . continental shelf."[9]

Reality tells a different story. The ECS area on the U.S. portion of the Western Gap has been available for development since August 2001. Specifically, BOEM offered the northern portion of the Western Gap for lease almost immediately after the 2000 U.S.-Mexico ECS delimitation treaty was ratified. That treaty entered into force on January 17, 2001. Seven months later, on August 22, BOEM offered the area of U.S. ECS in the Western Gap in Lease Sale 180. In that lease sale, three U.S. companies (Texaco, Hess, and Burlington Resources Offshore) and one foreign

[9] John Norton Moore, written testimony, in hearings, *The U.N. Convention on the Law of the Sea (Treaty Doc. 103–39),* Committee on Foreign Relations, U.S. Senate, 108th Cong., 2nd Sess., October 14, 2003, p. 56, http://www.foreign.senate.gov/download/?id=564DC8D7-F536-4CCB-B0CE-3FD8A1C7CC6C (accessed April 17, 2012).

company (Brazil's Petrobras) submitted successful bids totaling more than $2 million for seven lease blocks in the Western Gap.[10]

U.S. Leasing Activity in the Western Gap

BOEM has offered the ECS blocks in the Western Gap in more than 20 lease sales between August 2001 (Lease Sale 180) and March 2013 (Lease Sale 227). In connection with those sales, seven U.S. companies (Burlington, Chevron, Devon Energy, Hess, Mariner Energy, NARCA Corporation, and Texaco) submitted bids to lease blocks in the Western Gap. Five foreign companies—BP, Eni Petroleum (Italy), Maersk Oil (Denmark), Petrobras, and Total (France)—also bid on Western Gap ECS blocks during those sales. BOEM collected more than $50 million in bonus bids in connection with lease sales on those blocks.

Of the approximate 320 blocks located in whole or in part on the Western Gap ECS, 67 (approximately 20 percent) are currently held under active leases by nine U.S. and foreign oil exploration companies.[11]

The successful delimitation and subsequent leasing of areas in the Western Gap demonstrate that the United States does not need to achieve universal international recognition of its ECS. The United States identified and demarcated areas of ECS in the Western Gap in cooperation with the only other relevant nation, Mexico, and that area was subsequently offered for development to U.S. and foreign oil and gas companies. All of this was achieved without U.S. accession to UNCLOS or CLCS approval.

Even though approximately 20 percent of the U.S. ECS that has been made available for lease by BOEM is currently under an active lease, the U.S. oil and gas industry has supported and will likely continue to support U.S. accession to UNCLOS in order to achieve even greater "certainty."[12] That is their prerogative, of course, and achieving a maximum amount of certainty is a legitimate and desirable goal for a capital-intensive commercial enterprise. However, the successful delimitation of the ECS in the Western Gap would appear to have provided the certainty necessary for several major U.S. and foreign oil companies to contemplate the development hydrocarbon resources on the Gulf ECS, including along the international boundary in the Western Gap.

---

[10] U.S. Department of the Interior, Bureau of Ocean Energy Management, Regulation and Enforcement, "Western Gulf of Mexico Lease Sale 180 Information," updated August 30, 2010, http://www.gomr.boemre.gov/homepg/lsesale/180/wgom180.html (accessed April 17, 2012).

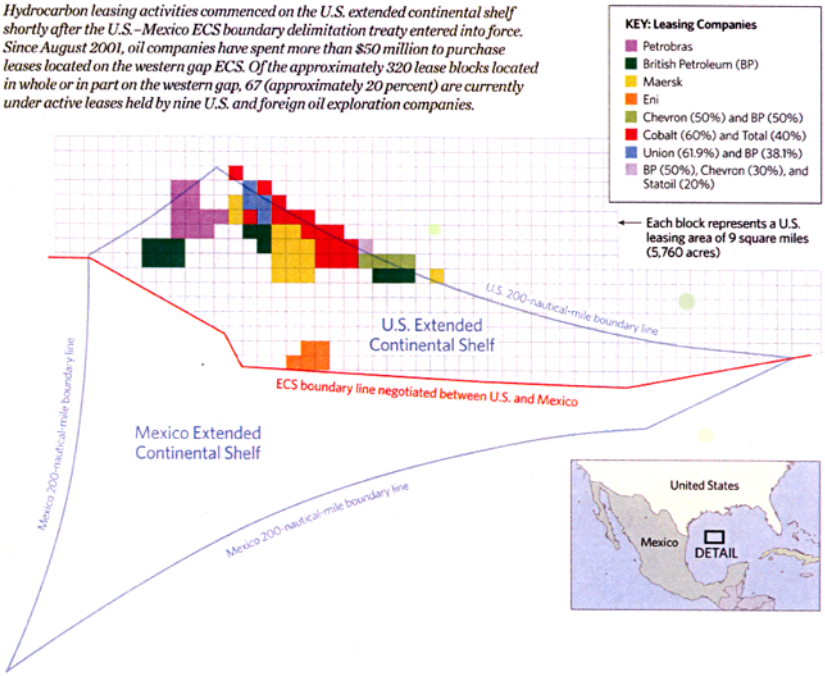
[11] U.S. Department of the Interior, Bureau of Ocean Energy Management, "Lease Sale Information," http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/GOMR-Historical-Lease-Sale-Information.aspx (accessed April 17, 2012).

[12] Paul Kelly, statement, in hearings, *The U.N. Convention on the Law of the Sea (Treaty Doc. 103–39),* pp. 113–116.

MAP 3

Active Hydrocarbon Leases on U.S. Extended Continental Shelf in the "Western Gap"

Hydrocarbon leasing activities commenced on the U.S. extended continental shelf shortly after the U.S.–Mexico ECS boundary delimitation treaty entered into force. Since August 2001, oil companies have spent more than $50 million to purchase leases located on the western gap ECS. Of the approximately 320 lease blocks located in whole or in part on the western gap, 67 (approximately 20 percent) are currently under active leases held by nine U.S. and foreign oil exploration companies.



Sources: U.S. Department of the Interior, Bureau of Ocean Energy Management, "Lease Sale Information," http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/GOMR-Historical-Lease-Sale-Information.aspx (accessed April 18, 2013), and "Treaty Between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico Beyond 200 Nautical Miles," June 9, 2000, http://www.boem.gov/uploadedFiles/BOEM/Regulations/Treaties/2000_0609-Treaty-OCSinWGOMbeyond200nm.pdf (accessed April 18, 2013).

heritage.org

The United States is unlikely to accede to UNCLOS in the near term, or perhaps ever. However, this does not mean that the United States should not take every action necessary—including implementation of the Transboundary Agreement—to secure oil and gas resources on its ECS in the Gulf of Mexico. The United States can accomplish this end while acting as a sovereign nation, continuing the tradition of American Presidents in proclaiming the nation's maritime and resource rights, and without acceding to a deeply flawed treaty or seeking the approval of an international commission of experts housed at the United Nations.

—Steven Groves is the Bernard and Barbara Lomas Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation.

The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work.

The Heritage Foundation is the most broadly supported think tank in the United States. During 2012, it had nearly 700,000 individual, foundation, and corporate supporters representing every state in the U.S. Its 2012 income came from the following sources:

Individuals	81%
Foundations	14%
Corporations	5%

The top five corporate givers provided The Heritage Foundation with 2% of its 2012 income. The Heritage Foundation's books are audited annually by the national accounting firm of McGladrey & Pullen. A list of major donors is available from The Heritage Foundation upon request.

Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own and do not reflect an institutional position for The Heritage Foundation or its board of trustees.

Mr. LAMBORN. Thank you for your testimony.

Mr. Manuel.

STATEMENT OF ATHAN MANUEL, DIRECTOR, LANDS PROTECTION PROGRAM, SIERRA CLUB

Mr. MANUEL. Thank you, Mr. Chairman, and good morning. And good morning to all the members of the Committee. My name is Athan Manuel, I work with the Sierra Club as our Director of Lands Protection. And I think most folks know Sierra Club as the Nation's largest grass roots environmental organization with over 2 million members and supporters around the country in every congressional district, and I appreciate the opportunity to testify this morning on H.R. 1613 and the U.S.-Mexico Transboundary Hydrocarbon Agreement.

Again, as most of you know, the Sierra Club has always been a strong champion of protecting America's special places and protecting our planet. But also we have been strong champions of worker safety. And we saw those two issues intersect 3 years ago last week in the explosion and the spill from the Deepwater Horizon that killed 11 workers and caused the largest oil spill in U.S. history. So in that context, I think we see H.R. 1613 as kind of a mixed bag.

We are generally supportive of the changes that have been made to the oversight of offshore drilling in the wake of the spill that happened 3 years ago, but we do not support any expansion of new offshore oil and gas drilling anywhere, in part in terms of having a cleaner energy policy, but also, if we are serious about fighting climate change, we think one of the issues that the U.S. needs to struggle with and triumph over is we need to keep the oil and gas and coal that is in the ground now in the ground, if we are serious about fighting climate change.

As I mentioned, the inspections part of the bill we like, we are generally supportive of what the Obama Administration and the Department of the Interior and BOEM and BSEE have done, in terms of increasing inspections of our offshore rigs. We would like to see more money allocated for more inspections.

If you look at the way the U.S. inspects our rigs compared to other countries that have a lot of offshore drilling, in Norway there is one inspector for every 1.3 rigs. In Britain, the rate is almost 1 to 1. But here in the U.S., the ratio is still now 1 to 29. So we would love to see more money allocated to allow our Federal agencies to do more inspections of existing rigs, but also, obviously, the rigs that will be put in place as a result of the Transboundary Agreement.

As Mr. Holt and others have mentioned earlier in this hearing, we do support an increase in BSEE's jurisdiction to increase civil penalties for companies that break U.S. laws whether, again, they

are operating in areas that are currently opened or the areas that will be opened up by the Transboundary Agreement. We are also supportive of increasing the liability cap, which again, hasn't been updated since the Exxon Valdez oil spill happened, and should be increased in light of what we have seen with the Deepwater Horizon, where we see now spills from rigs, not just spills from tankers.

And finally, one of the provisions that we hope will not be neglected is that the Fish and Wildlife Service and the National Marine Fisheries Service will be consulted before drilling commences in these areas that are opened up by the Transboundary Agreement. But bottom line for us, obviously, the issue comes down to how do we get our energy. The Sierra Club thinks it is time for us to start getting off of oil and gas and, therefore, don't support new drilling in any areas off the Outer Continental Shelf or special places in Alaska or the Arctic Refuge.

We think that all companies right now are doing very well. Quarterly profits have come out this week and you see Conoco and ExxonMobil are doing very, very well. The U.S. is producing more oil than they have in years and years. The amount of rigs have tripled since the Obama Administration has come in office, so this energy industry is doing very, very well, without opening up new areas to drilling and to open them up to the possibility of the spills and pollution that could damage coastal economies.

And I think the coastal economies sector of this debate is often overlooked. But our coastlines, whether you are talking about Florida's coast or North Carolina's coast or New Jersey's coast or California's coast, or South Carolina's coast, generates billions of dollars a year and supports hundreds of thousands of jobs. And we don't think those jobs and those kind of ecosystems should be at risk from new oil and gas drilling.

And just to kind of wrap up, obviously, from the Club's perspective, we are much more supportive of domestic energy policies that are focused on renewables and energy efficiency. Those jobs can't be moved from the United States. They help us create jobs domestically, and they help us fight climate change. So we think that is the way our Nation should pursue an energy policy, moving forward.

Again, I appreciate the opportunity to testify this morning. We do like the inspection regime here, and having U.S. laws be applied to these new areas, but we are not supportive of expanding new drilling into new areas. But thanks for the time, and I appreciate the opportunity.

[The prepared statement of Mr. Manuel follows:]

Statement of Athan Manuel, Director,
Lands Protection Program, Sierra Club

Mr. Chairman and members of the Committee, good morning. My name is Athan Manuel, and I am the Director of Lands Protection for the Sierra Club. I am here representing more than 2.1 million Sierra Club members and supporters who belong to more than 65 chapters and 450 groups nationwide. We are the largest environmental grassroots organization in the country. I am very appreciative of the opportunity to testify this morning regarding H.R. 1613, the *"U.S.-Mexico Transboundary Hydrocarbon Agreement and Steps Needed for Implementation."*

The Sierra Club has always been a strong champion of protecting our special places and enjoying and exploring our planet, but we are equally concerned with issues of worker safety. We saw those two issues intersect 3 years ago last week

when the explosion of the Deepwater Horizon off shore rig killed 11 workers and caused the largest oil spill in United States history.

We see H.R. 1613 and the U.S. Mexico Transboundary Hyrdrocarbon agreement as a mixed bag. We support the idea of increased inspection of rigs operating in U.S. waters. However, we do not support the expansion of drilling into new areas.

We certainly agree with one of the goals of H.R. 1613, to promote domestic job creation, but think the best way to do that is by promoting domestic clean and renewable energy and energy efficiency.

I. Inspections

One goal of the Transboundary Hydrocarbon Agreement is to hold joint inspections of off shore drilling regulations.

The Sierra Club supports the reforms and regulations put in place by the Obama Administration, the Department of the Interior, the Bureau of Safety and Environmental Enforcement, and the Bureau of Ocean Energy Management in the wake of the BP Deepwater Horizon spill. Regulations that require operators to demonstrate that they are prepared to deal with the potential for a blowout and worst-case discharge, and mandating that permit applications for drilling projects must meet new standards for well-design, casing, and cementing, and be independently certified by a professional engineer per BOEM's Drilling Safety Rule.

We also support the guidance requiring a corporate compliance statement and review of subsea blowout containment resources for deep-water drilling. We hope all these standards will be applied to the nearly 1.5 million acres of the U.S. Outer Continental Shelf that could be leased as part of the Transboundary Agreement.

However, while these reforms have strengthened BSEE's inspection and oversight capabilities, funding levels remain far below what would be needed for frequent and thorough inspections. Low inspection rates not only undermine regulatory compliance by reducing the odds that violations will be observed, but also limit real-time monitoring of operations by inspectors. The explosion at the West, Texas fertilizer plant, which as last expected by OSHA in 1985, is one recent and vivid example. The best way to avoid another Deepwater Horizon spill is to increase monitoring and inspections, whether in areas currently open for drilling or the areas to be opened by the Transboundary Agreement.

Despite these tough new regulations, the U.S. lags behind the rest of the developed world when it comes to inspectors available and trained to inspect the oil and gas rigs off our coasts. The number of inspectors per offshore oil rig in other developed countries is as follows:

In the U.K., the inspector to rig ratio is 1: 2.78

In Norway, the inspector to rig ratio is 1:1.05

In the U.S., the inspector to rig ratio is ***1: 29*** [1]

We urge Congress to increase funding for BSEE's inspection program, and thus increase the inspection rate of our off shore rigs. Doing so would make these rigs safer and create jobs. The Sierra Club would support such an amendment to H.R. 1613.

II. Civil Penalties Need to be Increased

The Sierra Club also feels that BSEE's civil penalties are too small to ensure compliance and deter risk taking by the oil and gas industry. The penalty for violating regulations is only $40,000 per day, per incident. Considering that the daily operating costs of a drilling rig can range up to $1 million, a $40,000 a day fine is not an adequate disincentive.

We feel that raising the maximum fine BSEE can assess for civil penalties to a level comparable with operational costs is warranted, and should be added to H.R. 1613 and applied to the area opened for drilling in the Transboundary Agreement.

III. Applying the Final Drilling Safety Rule

The regulations in the Final Drilling Safety represent positive reforms that are an improvement from the pre-Deepwater Horizon statutes. However, we feel that some improvement is needed, and that these improvements should be amended to H.R. 1613.

Improved maintenance and training are both positive reforms that can reduce chances of equipment failure and operator error and thus increase safety. Yet of all the provisions in the Final Drilling Safety Rule, training and maintenance regulations are the most dependent on the robustness of BSEE's oversight and inspection

[1] "A review of the U.K. Safety Case Approach & Norway's Offshore Regulations" conducted by LCDR Marc Montemerlo, 2012.

capabilities. Maintenance is an ongoing concern that necessitates being frequently checked and inspected and training is only valuable if it translates into appropriate actions, which also requires continuous oversight to ensure.

The Final Drilling Safety Rule requires drilling wells to be equipped with two independent barriers to flow. If correctly installed, these barriers could in fact protect against blowouts. However, the requirements for two barriers to flow can easily be undermined by operator error. This problem is illustrated by the Deepwater Horizon disaster, where a cement job, a common barrier to flow, was compromised by numerous operator errors. With limited funds for inspection and oversight, and perverse economics that incentivize project speed over safety, it is likely that not all barriers will be properly installed.

The Sierra Club hopes that the Fish and Wildlife Service and the National Marine Fisheries Service will be consulted before drilling activity begins in the areas opened by the Transboundary Agreement to review the potential impacts to endangered species.

IV. No New Drilling

The government's most recent Five-Year Plan allows access to more than seventy-five percent of the estimated undiscovered, technically recoverable oil and gas resources on the U.S. Outer Continental Shelf, including in fragile ecosystems like the Arctic.[2] That is clearly enough to keep the industry busy given that the oil and gas industry is sitting on a large number of inactive leases in federal waters, proving H.R. 1613 to be unnecessary.

According to a March 2011, U.S. Department of the Interior report, oil and gas companies hold more than 4,000 leases for which exploration or development plans have not been submitted or approved.[3]

V. Domestic Energy Jobs: Clean energy versus oil and gas drilling

The Sierra Club strongly feels that the best place to create domestic energy jobs is by focusing on renewable energy and energy efficiency. The renewable energy industry is providing clean, affordable, and reliable electricity across the United States. To support this industry, good green jobs are being created and they're overwhelmingly based here in the U.S. The sectors that heave demonstrated the most dramatic job growth are the wind, solar, and energy efficiency. In fact, every dollar invested in clean energy creates three times as many jobs as every dollar invested in oil and gas.[4]

Wind Industry:

The security of federal tax incentives such as the Production Tax Credit (PTC) has brought wind manufacturing facilities to the United States, creating jobs and fostering economic development across the country. Today, the wind industry employs 80,700 Americans and there are over 400 facilities, in 43 states, which create parts for wind turbines.[5] These jobs are directly associated with wind energy project planning, siting, development, construction, manufacturing and supply chain, and operations. Of the 80,700 jobs at the end of 2012, approximately 25,500 were in the manufacturing sector. Texas led the nation in wind jobs with over 10,000 employed in the wind industry followed by California, Iowa, Illinois, and Kansas.

The wind industry estimates that if the PTC remains in place, they will create 54,000 additional American jobs in the next four years, including 46,000 manufacturing jobs. This rate of growth would keep the industry on track to support 500,000 jobs by 2030.[6]

Solar Industry:

For the third consecutive year, the U.S. solar industry continued its growth in 2012 and created jobs at a faster rate than the overall economy. As of September 2012, the solar industry employed 119,016 solar workers, a 13.2% growth in the solar workforce from revised figures for 2011. Of the nearly 14,000 jobs created in

---

[2] U.S. Department of the Interior. "Secretary Salazar announces 2012–2017 offshore oil and gas development program." 8 Nov. 2011. http://www.doi.gov/news/pressreleases/Secretary-Salazar-Announces-2012-2017-Offshore-Oil-and-Gas-Development-Program.cfm.

[3] U.S. Department of the Interior. "Oil and gas lease utilization—onshore and offshore." Mar. 2011.

[4] http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/green_economics/economic_benefits/economic_benefits.PDF.

[5] http://www.awea.org/suite/upload/AWEA_USWindIndustryAnnualMarketReport2012_ExecutiveSummary.pdf.

[6] http://www.awea.org/newsroom/pressreleases/Navigant_study.cfm.

2012, 86% of them are new jobs, rather than existing positions that have added solar responsibilities.[7]

The solar industry's growth is especially impressive given that the 12-month growth rate for the entire U.S. economy was only about 2.3%, which suggests that 1 out of every 230 new jobs in the U.S. economy was created in the solar industry this past year. During the same period, the fossil fuel electric generation industry shed 3,857 jobs, a decline of 3.77%.

Energy Efficiency:

The effects of energy efficiency job growth are powerful and multi-faceted. Earlier this year, the Alliance Commission on National Energy Efficiency Policy (ACNEEP) unveiled its policy recommendations that were based on the bold yet achievable goal of doubling U.S. energy productivity.

An independent analysis of this proposal by the Rhodium Group found that doubling our nation's energy productivity by 2030 could:[8]

- Cut average household energy costs by more than $1,000 a year;
- Save American businesses $169 billion annually;
- Reduce government agency spending by $13 billion a year;
- Create 1.3 million jobs and increase GDP by up to 2%;
- Decrease energy imports by more than $100 billion annually; and,
- Reduce CO_2 emissions by 33 percent below 2005 levels.

Conversely, the Deepwater Horizon spill dramatically demonstrated how drilling can hurt coastal economies, cost rather than create jobs, AND reduce receipts to state and local governments and businesses. Pollution and spills from off shore drilling will damage booming and economically vital coastal tourism economies. According to the World Tourism & Travel Council, tourism in America employs over 14.7 million people, 10 percent of the American workforce, and accounts for 8.8 percent of the national GDP, bringing in $1.3 trillion. This makes America's coastal recreation and tourism industry the second largest employer in the nation. Our coast serves over 180 million Americans who make more than 2 billion trips to these areas every year. American tourism is a trillion dollar industry, and of that coastal communities alone contribute over $700 billion annually to our economy. Oil spills and pollution from rigs, whether they occur in the central and western Gulf, or in the areas opened by the Transboundary Hydrocarbon Agreement, are not compatible with our nation's tourism and recreation economies, our oceans and waters, or our coastlines.

Mr. LAMBORN. All right. Thank you, all of you, for testifying today. We will now begin a round of Member questions. And I will begin. And first I would like to ask a question of Mr. Milito.

Last year, the American Petroleum Institute submitted comments to the Security and Exchange Commission regarding implementation issues with Section 1504 of Dodd-Frank, which requires energy companies to disclose payments made to foreign countries. Specifically, API cited that there are currently four countries which prohibit disclosure of such payments. These are Angola, Cameroon, China, and Qatar.

This forces companies to essentially choose between violating foreign laws or shutting down substantial operations in foreign countries. The Agreement under consideration today has outlined several areas where confidentiality is required by lease holders.

Should Mexico choose to prohibit the disclosure of payments made to their government, can you tell me what would happen to one of your U.S. member companies who seeks to develop a transboundary hydrocarbon reservoir with Mexico, and could they potentially be prevented from developing this resource as a result of this stringent Dodd-Frank regulation, Section 1504?

---

[7] http://thesolarfoundation.org/sites/thesolarfoundation.org/files/NSJC%202012%20Factsheet%20FINAL.pdf.

[8] http://www.ase.org/resources/energy-2030-impact-modeling.

Mr. MILITO. Thank you, Mr. Chairman. That is an excellent question. And I would say absolutely. The way that we see this 1504 legislation applying, and the rule that has been created, it would put companies in that specific dilemma.

And I think you highlighted a very important point, that the parties to this agreement, this Transboundary Agreement, and the resulting agreement itself, put a significant emphasis on a confidentiality of information. And the reason why that is so important is it allows U.S. companies to be able to move forward on a competitive level.

So you have the competition issue, but then you also have the issue that could arise where a country like Mexico could prohibit the disclosure and our companies are committed to following U.S. laws, and it could put them in a situation that prevents them from developing the resources. So this is precisely the type of situation that we were complaining about in our comments, and that we are trying to overturn through our litigation. So I appreciate the question, and I would agree with that concern.

Mr. LAMBORN. Well, thank you for that answer. And I am concerned about Dodd-Frank. It has a lot of regulations yet to be written. Obamacare has 1,700 more regulations to be written. But Dodd-Frank, which has been in force longer, still has many, many regulations to be written. And those that are written, such as this one, I will give a charitable interpretation and say it was an unintended consequence, not an intended consequence. But this puts companies in a real dilemma. These are American companies. And so I am really concerned about Section 1504.

As a follow-up to that, does the language in H.R. 1613 help to provide certainty when it comes to this potential conflict between confidentiality and required disclosure?

Mr. MILITO. Yes, it does. It provides a full exemption and would allow companies to move forward with those investments.

And the thing I would like to add is the Department of the Interior does collect this information and they report it. And so we see the money that the United States is getting from oil and gas distribution. So that money is coming in, that is being disclosed.

And the other thing I would also add is that the industry fully supports transparency and payments to governments, and we are fully participating in the extractive industry's transparency initiative, which allows both companies and countries to participate, so that there is a bit of a back-and-forth, and you could actually see if the countries are being honest. That is a good model to follow, because you are not requiring project-by-project disclosures, which puts everything out there and creates that competitive disadvantage.

So, this provision in House Bill 1613 would provide the solution to that problem that we see with 1504.

Mr. LAMBORN. Well, I am glad to hear that, and hopefully that will be a model for going forward.

And also, I would like to ask you about a different subject. My colleague from Nevada asked the Assistant Secretary what industry has done to improve safety, especially as we will need that for deep water drilling in the transboundary area. Can you speak

about what industry has done to increase safety since the Gulf disaster 3 years ago?

Mr. MILITO. The industry has taken significant proactive and positive steps, and I have about 30 seconds left, but I think it could take actually a couple of weeks to go through them.

At the outset, on May 17th, within a month after the tragic incident, the industry provided its recommendations to Interior for improving and making the regulations more effective. Since then, the industry has created the Marine Well Containment Company and the Helix Well Containment Group, which both provide containment caps on the ready in the event that there is an incident.

We have also created the Center for Offshore Safety, which helps create a culture of safety, and enforces safety as a core value, not just as a priority, but as a core value. And what we are doing is working on a systems-based approach to safety.

API has developed various standards that are now in the regulations and incorporated by reference. One of the key issues coming out of Macondo was cementing. We have a document called Standard 65 Part 2, "Isolating Potential Flow Zones During Well Construction," which is the global standard for cementing wells.

I can go on and on. There is a two-day forum next week in Houston on offshore safety being hosted by the Center for Offshore Safety. We are committed to safety. And every day the experts in the industry are developing the standards and we are working with the government to make sure we have a robust regime in place. We are also working on spill response so we have a system in place that has the plans that can be followed most effectively and also has the communication mechanisms in place so that government and the public are completely aware of what is happening in the event of a response to a spill.

So, we are doing all we can, and I would welcome the opportunity to be able to brief this Committee, any offices, on everything we have done, because there is a lot going on that I think would be good for this Committee to be aware of.

Mr. LAMBORN. OK, thank you for that answer. Thank you all again for being here. I have a lot more questions I would love to ask, but my time is up. So I will now turn to Representative Grijalva.

Mr. GRIJALVA. Thank you again, Mr. Chairman. Mr. Milito, I wanted to ask you to go back to the SEC resource extraction payments rule. Authorized under Dodd-Frank Section 1504, I think the accurate statement is that rule was fully mandated by Dodd-Frank and the SEC was obligated by law to release the rule in its current form. And I think the rule goes to the core of SEC's mission of investor protection. That was the intent of the rule. Secret payments can be easily demanded by corrupt governments. They can also be a signal that maybe a company is involved in risky business overseas or risky decisions, risks that I think the investor needs to know about when making investments.

So, my question remains, why would you believe or API take the position that oil companies shouldn't release this information when it is clearly, I think, critical for the investment community and part of, I think, a legal fiduciary responsibility on the part of companies to release that? And that is my question.

Mr. MILITO. Yes, our concern is the way the rule was finally put into its current form. And there is two main areas I would like to point out. One is the requirement to report payments on a project-by-project basis. When you are working with nations around the world, and you are engaging in contracts that are for multi-billion-dollar projects, you are putting out, through this mechanism, all your financials for the world to see, including other nations, which we may not want to gain competitive advantages over our own U.S.-based companies and put U.S. shareholders in a position where they could potentially have a negative impact on their own performance of retirement funds, IRAs, 401k's, and things like that.

The second issue concerns the conflict of law issue, where we have Section 1504, but those specific countries that the Chairman described prohibit those types of disclosures. And it is our position that the SEC has the ability to provide exemptions for conflict of law issues, as well as——

Mr. GRIJALVA. OK.

Mr. MILITO [continuing]. Being able to——

Mr. GRIJALVA. Yes.

Mr. MILITO [continuing]. Put a rule in place that doesn't require these disclosures on a project-by-project basis.

Mr. GRIJALVA. The EU just released a rule that also has this budget project-by-project release requirement of information. So would there still be competitive disadvantage, as you are stating?

Mr. MILITO. There would be. We are concerned about the EU rule, as well. We support the extractive industry's transparency initiative, which is really a solid model, because when a country is reporting under EITI——

Mr. GRIJALVA. OK, but——

Mr. MILITO [continuing]. They are providing all the payments being brought in, and then you can match it up with what the countries are actually providing, to see if those countries are being honest. So we actually have a system under——

Mr. GRIJALVA. Thank you.

Mr. MILITO [continuing]. EITI that provides a better system——

Mr. GRIJALVA. Thank. Mr. Manuel—I only have a few minutes. Mr. Manuel, do you agree with the statement of your panelist, Mr. Milito, regarding this SEC rule, the disclosure rule that we have been talking about?

Mr. MANUEL. Well, I would have to get back to you on the details, but I think I generally support your position on this, that disclosure is the best policy on these issues and that the industry shouldn't have anything to fear from disclosure and transparency.

Mr. GRIJALVA. Liability caps—$75 million, I think, is set right now. Let me ask you. Do you think Congress should raise that cap to ensure that oil companies are held accountable for their spills, rather than what occurred with BP, where the taxpayers ended up with the brunt of that responsibility?

Mr. MANUEL. No, we certainly do. I mean we are open to any amount. But certainly $75 million is an outdated one that was based on the assumption that we would know that that would be a finite amount of oil, that this was based on tankers that obviously have a finite amount of oil they can carry. But it was inad-

equate for a spill like this one that came from a well that was not capped for months.

So, I think it is appropriate to raise it dramatically, if not even have an unlimited cap. But whatever could politically pass we would support. But certainly $75 million, as it stands now, is completely inadequate and bad for the area that it operates in, but bad for——

Mr. GRIJALVA. Yes.

Mr. MANUEL [continuing]. Bad for taxpayers.

Mr. GRIJALVA. Mr. Chairman, if we can't have transparency disclosure, perhaps another mechanism for assuring the taxpayers are somewhat protected is to deal with that liability cap. But I am sure there is opposition to that as well. With that, I yield back.

Mr. LAMBORN. Thank you. Representative Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. And thank you to the panel for being here to talk about the Transboundary Agreement. I think it is very, very important.

I think you all would agree with me that unemployment in the United States is north of 7 percent. But unemployment in North Dakota is 3 percent or less. Unemployment in Texas, Louisiana, and Oklahoma, the oil-producing, energy-driven economies, is relatively low, compared with the U.S. unemployment rate north of 7 percent. And so, we talk about jobs. I think that is important.

Mr. Simmons, you note in page two of your testimony in the written section, second paragraph, it says, "Energy trade between the United States and Mexico is growing, especially for America's finished petroleum and natural gas exports. Mexico's heavy oil production is falling, but that means more spare refining capacity on the Gulf Coast."

We talk about the spare refining capacity a lot of times when we are talking about the Keystone Pipeline, that we have the refining capacity to refine that Canadian oil into the petroleum products. And the other side of the argument says, "Well, that is not going to be used in the United States, and it is not going to do anything to lower the price at the pump for Americans, it is just going to pass right through." And I say, "So what?" Because global demand is high, that is the reason prices are high. But if we can increase supply globally, that is going to lower the price for everyone, including here at home.

I would argue that a lot of those contracts being negotiated and those products refined at American refineries will be used here. But beside that, we are creating American jobs. The capacity is there, the refineries are built, Americans are trained. If they had the raw oil product in order to refine, that we would be continuing to put Americans to work and producing energy resources. We would be trading with a friendly neighbor to our north, in Canada.

But we are talking about Mexico and the Transboundary Agreement here. So I would ask—well, first off, let me just say when I am talking about jobs that drilling equals jobs, refining equals jobs, Keystone equals jobs, transboundary equals jobs, and jobs equal the American way of life. Just wanted to say that.

So, what I want to ask is, by what means are we transporting oil from Mexico to the Gulf Coast? Do we see any changes with the

Transboundary Agreement on the amount of Mexican oil that may be coming to the U.S. for refining? And I ask that to Mr. Simmons.

Mr. SIMMONS. The vast majority of oil is transported by tanker, as I understand it, between Mexico and U.S. refineries. Much of Mexico's oil, they are the number one recipient of our finished gasoline products. Much of their oil comes to the United States because they don't have enough refining capacity in Mexico. Much of the oil comes to the United States, is refined, is then shipped back to Mexico as finished gasoline products, finished petroleum products.

Mr. DUNCAN. So those are American jobs that——

Mr. SIMMONS. Those are American jobs that happened because of Mexican oil production. Transboundary will help that, and especially if the Transboundary Agreement could lead to greater Mexican production overall. That means more American jobs, because we could have more refining in the U.S. plus the additional production in the Gulf, because all of those companies that operate, not all of them, but a vast majority of those companies that operate in the Gulf, all have U.S. businesses that will increase the number of jobs.

Mr. DUNCAN. OK. Well, thanks for that. And I want to shift gears a little bit for Mr. Groves, because I am a Co-Chair of the Sovereignty Caucus here in Congress, along with the Chairman, who is the Chairman of the Sovereignty Caucus. So you have both of us here.

You mention the sovereignty of the United States with regard to transboundary, and in your written testimony, I don't think you mentioned this in your verbal testimony, you referred to the U.N. Law of the Sea Treaty and the United Nations Convention on the Law of the Sea. Can you talk a little bit more about how transboundary is much better than the U.S. entering into any kind of treaty with the U.N.?

Mr. GROVES. Well, sure. I mean the Transboundary Agreement is everything that the Law of the Sea Treaty is not, in terms of advancing our interests while protecting our sovereignty.

First of all, it is a bilateral agreement which, by its nature, is much easier to manage. You don't have 190 other countries in the mix, pulling their interests one way or the other.

Mr. DUNCAN. By bilateral you mean both countries are all in, they are in agreement to do this.

Mr. GROVES. Right, and they were closely involved in negotiating the Agreement, just those two parties.

Mr. DUNCAN. It wasn't forced upon them.

Mr. GROVES. It wasn't forced upon them. This is something that they both see as in their national interests on both sides of the international border. They both want to engage these transboundary reservoirs in a business-like way that doesn't infringe on one another's rights.

The reciprocal obligations and risks are there, rather than them being unbalanced between developed and developing countries. And there aren't any complex dispute resolution mechanisms that would turn over the interpretation of the agreement to a court sitting over in Hamburg, Germany, or elsewhere. They have narrowly crafted those issues that could go for dispute resolution, and they have de-

cided that it is going to be U.S. and Mexican representatives deciding those issues.

So, everything that is wrong about the Law of the Sea Treaty is corrected and is done in the correct way in the Transboundary Agreement.

Mr. DUNCAN. Thank you for that. I am out of time. So, Mr. Chairman, I yield back.

Mr. LAMBORN. Thank you. Representative Costa?

Mr. COSTA. Thank you very much, Chairman. I want to thank the Ranking Member for holding this hearing, and appreciate the last witness's clarification on the impacts of the transboundary legislation that we are talking about here this morning. I, too, support it, not only the additional millions of barrels of additional oil that would be produced, but over 300 billion cubic feet of natural gas. I think we need to come together on a bipartisan effort on this legislation for all the right reasons that have been stated already.

Mr. Chairman, I want to follow up on your last line of questioning with regard to safety. And the API witness, I think, did a good job in touching on that. It would be helpful, I think, if we could request an update under the category of lessons learned after the BP spill on what the current best management practices are, and have that information provided to the Subcommittee.

And I know that the Department of the Interior has also worked with the American Petroleum Institute as well to ensure that we have learned those lessons and we are applying them today, both in offshore and deep water exploration. We want to continue it.

[NOTE: Documents submitted for the record by the American Petroleum Institute in response to Mr. Costa's request have been retained in the Committee's official files.]

I think the President's announcement yesterday, an additional 21,000—or 21 million, I guess it was—acres of lease is under the good news category. But, obviously, we don't ever want to repeat the horrific spill that occurred 2 years ago.

I have a question to Mr. Manuel. I am one here that has, I think, been very clear about my support of using all the energy tools in our energy toolbox, having both an interim and a long-term energy policy. I have not only been on record here and have voted for, but when I was in California, a robust renewable portfolio. We are going to be, by the year 2020, in California have over 30 percent of our energy will be renewable. And we have looked at all-of-the-above conservation. I have supported CAFE standards, because I think you have to use all of the above. There aren't any silver bullets in it.

But Mr. Manuel, I would like to know, in your opinion, with the efforts that we pursue in renewable technologies, are they developed fully enough to provide the energy necessary in the United States that won't hamper our economy, either today, tomorrow, or in the near term? Because there are some that suggest, i.e. the XL Pipeline, that we ought to make a statement that we are going to change overnight. What is your view?

Mr. MANUEL. Well, we support all of the above, as long as all of the above is clean energy. We think that we are optimistic——

Mr. COSTA. Coal?

Mr. MANUEL. No. We want to start——

Mr. COSTA. Oil?

Mr. MANUEL. No. All the fossil fuels—I will save you some time. All the fossil fuels——

Mr. COSTA. OK. So you think we could convert, without hampering the American economy, and do away with all the fossil fuels, as you just stated? When?

Mr. MANUEL. Well, we want to try and reduce our use of fossil fuels by 80 percent. We think we can do that.

Mr. COSTA. By what?

Mr. MANUEL. By 80 percent.

Mr. COSTA. Eighty——

Mr. MANUEL. I will get back to you on the date for that. But we are optimistic of that——

Mr. COSTA. Well, no, the date is important.

Mr. MANUEL. Well, I will get back to you on that. Well, I do our lands policy for us. I will get back to you on the specifics—I am happy to get back to you today on the date.

Mr. COSTA. Well, see, I guess that is where we differ. Because, I mean, I don't think that is realistic.

Mr. MANUEL. Well, we are——

Mr. COSTA. I think perhaps in the next—I don't know what the time period is, I am not an expert in this. But whether it is 20 years plus, or less than 20, we will continue to build up, as we are doing in California, a more robust renewable portfolio. But all of the above doesn't mean that you eliminate fossil fuel, as you just stated. I mean maybe in the middle of this century we will have new technologies, and new developments in the ability in which fossil fuels are the minority of the energy usage in America and around the world.

But I don't think the position you just stated is any more reflective of reality than the people that believe that we can drill our way out of all of our energy problems. We can't do either of the above. We have to use all the energy tools in the energy toolbox.

Mr. MANUEL. Well——

Mr. COSTA. And I think what is lacking is a plan to get there.

Mr. MANUEL. I could follow up with you and your office on that, but we are optimistic that, through innovation, through energy efficiency, we can dramatically reduce the amount of fossil fuels we use in powering the United States without seeing impact, a negative impact, on the U.S.——

Mr. COSTA. What about nuclear?

Mr. MANUEL. Pardon me?

Mr. COSTA. What about nuclear?

Mr. MANUEL. No, we are not fans of nuclear, either. I am from the Sierra Club, so——

Mr. COSTA. All right. Give me the year. Get back to me on that year.

Mr. MANUEL. I will.

Mr. LAMBORN. Thank you. Thank you. But there is nothing left. OK, let's have a second round of questions. There is a—oh, excuse me. First we will hear from Representative Thompson.

Mr. THOMPSON. Thank you, Chairman. Thank you, gentlemen, for your testimony. I mean I wasn't going down that path, but Mr. Manuel, I have to ask. It doesn't sound like you support "not all

of the above," you support "none of the below." And "some of the above" you don't support, either.

I just have to ask—and you probably have a handle on this, how much does the production tax credit cost? Do you know what we invest, as taxpayers, and a production tax cost?

Mr. MANUEL. For clean—I would have to get back to you on the specifics on the——

Mr. THOMPSON. It is a significant amount of money. Do you know how long it has been in effect?

Mr. MANUEL. No, I will have to get back to you on that, too.

Mr. THOMPSON. A very long time. The question is, what will happen to the wind industry if that credit is not extended?

Mr. MANUEL. No, I know they need that now to——

Mr. THOMPSON. Despite the fact we have had that tax credit in place, spending a lot of taxpayer-invested monies for a very long time.

Mr. Simmons, the Assistant Secretary stated that the Department of the Interior estimates that the transboundary area currently contains as much as 172 million barrels of oil and 304 billion cubic feet of natural gas. Do you agree with those estimates?

Mr. SIMMONS. Until we can look further, yes.

Mr. THOMPSON. Oh.

Mr. SIMMONS. If I just might add, one of the interesting things, and one of the great things that has happened in the Gulf over the past 20 years is that the amount of resources that they thought were available 20 years ago, it turns out that there is more than double, and up to triple and quadruple as many oil and gas resources in the Gulf, once we were able to look. And that is really the message.

Once we can go look, once we can use modern technologies, there is more hydrocarbon resources than we ever thought there was, previously.

Mr. THOMPSON. Can you follow up on that? You mentioned in your testimony estimated and proven reserves, and some opponents of production like confusing those two terms. Can you follow up on your previous statement and explain for us the difference between estimated reserves and proven ones? And why is it that actual reserves tend to be higher than the initial guesstimates of reserves?

Mr. SIMMONS. Well, frequently what people talk about is proven reserves, proven oil reserves. And that is the oil that is in the ground that we have a very good idea of how much, because oil companies have drilled, they have started producing, they know. I mean they report to the SEC that, "This is how much oil we have." They know with very reasonable certainty.

But they know that there is more oil in the ground, but they haven't drilled yet in other areas. But because of the geology, they believe that there is much more oil. And I am spacing on the exact term, but those are defined as other types of reserves, not proven reserves. Proven reserves are ones that oil companies are very certain about the amount of oil. We have much more oil than what are the proven reserves.

And before I forget, since you asked about the wind production tax credit, according to the Joint Tax Committee, the wind production tax credit will cost $12.1 billion for the extension for this year

alone, regardless of the past billions of dollars since it has been in effect since about 1992.

Mr. THOMPSON. Thank you. Mr. Milito, if opened up for production, what specific impacts would the transboundary area have on jobs? Any projections?

Mr. MILITO. Well, it would be difficult to project the actual jobs that could be created. We are looking at direct employment in the tens of thousands, because of the Gulf of Mexico. But we have seen recently various companies paying millions and millions of dollars for leases in the vicinity of that area. I think 852 is where the Perdido production platform is. There are four fields that feed into that. It is very close to the boundary there.

One thing I would mention is that these aren't just Gulf jobs. If you look at the indirect jobs, you are looking at support jobs. We have a report from Quest Offshore we could provide to the Committee that shows in New Jersey there are 40 companies that provide services and supplies to Gulf operations; Massachusetts, 30 companies; you have steel production plants in Ohio. So it really has tentacles that feed throughout the whole country. But it just would continue to drive economic growth.

And what I mentioned before is that we are limited to developing in the Gulf of Mexico. So if that is going to be the case, we have to open up new areas in the Gulf of Mexico and provide them for development so we can maintain that employment, as well as try to increase it, although we support opening up other areas, as well. So it is hard to project, but it is of tremendous economic benefit to this country in many respects.

And the other thing we have to realize is that the revenues from this type of production go to the Federal Government. So we are averaging about $4 billion, some years $20 billion, from offshore production. That is all going to the treasury. So it is a good step in making sure we are addressing our budget.

Mr. THOMPSON. Yes. Thank you, Mr. Chairman.

Mr. LAMBORN. Thank you. Representative Holt.

Dr. HOLT. Thank you. Before I begin my questions, Mr. Simmons, I would like to ask you to go back and check with your tax experts and provide for the record the actual cost of the wind production tax credit.

Mr. SIMMONS. Sure thing.

Dr. HOLT. Per year. It was actually a 2½ year extension.

Now, I believe Mr. Grijalva asked about the liability cap. But he only asked one of the witnesses. I would like to ask the other three: Mr. Milito, and Mr. Simmons, and Mr. Groves. The liability cap for offshore oil spills is set, it is a cap set at $75 million. Do you think Congress should raise the cap to ensure that oil companies would be accountable for the cost of cleaning up the spills?

Mr. MILITO. I think you have to look at the system as a whole, because there is no cap on environmental clean-up costs.

Dr. HOLT. And should the oil liability cap be left at $75 million? Yes or no?

Mr. MILITO. Well, I think you can't just make a yes or no answer, because there is more to the——

Dr. HOLT. We have to vote up or down. Yes or no?

Mr. MILITO. Well, there is a whole system in place, Congressman, that we have to look at, including the fact that there is no cap on environmental clean-up costs, and that the cap is lifted in the event that there is——

Dr. HOLT. Are you familiar with the $75 million cap?

Mr. MILITO. I am.

Dr. HOLT. OK. That is the cap I am talking about. Should it be left at $75 million?

Mr. MILITO. I think it depends as to what the overall legislative package looks like.

Dr. HOLT. Yes or no?

Mr. MILITO. I——

Dr. HOLT. You just can't——

Mr. MILITO. You can't look at this in a vacuum. That is——

Dr. HOLT. Mr. Simmons?

Mr. MILITO. Respectfully, Congressman——

Dr. HOLT. Mr. Simmons, should it be left at $75 million?

Mr. SIMMONS. I don't know, because it is not the only way that oil companies are held accountable——

Dr. HOLT. So, then, let me see if maybe somebody here knows. Mr. Groves?

Mr. GROVES. You are barking up the wrong tree, Mr. Holt. I am expert in treaty and international law.

Dr. HOLT. So, let me ask you as somebody who works in the field, should the taxpayer be on the hook for any expenses above $75 million? Even if it is the result of malfeasance, or whatever it is, by the drilling company?

Mr. GROVES. Well, I am all for protecting the taxpayers——

Dr. HOLT. OK. So let me try something else, then, thanks.

The maximum fine that the Department of the Interior could levy against BP for one of the worst oil spills in history was $21 million. That is the maximum fine for something that has cost into the billions. And we have all read, we all know, we have had some testimony—although not from the CEOs—we have had some testimony about how it came to pass. A fine is relevant and warranted.

But let me ask the panel, each of you, please, all four of you, do you think Congress should increase the fines that the Department of the Interior could levy in the case of such a spill to deter—well, to enforce good behavior, let's say? Mr. Milito?

Mr. MILITO. Well, my understanding is that BP has already paid $4 billion in criminal fines, and——

Dr. HOLT. No, that is—no, no. There is a fine. There is a penalty. And again, I would like you to answer the question that I am asking, because we have to decide whether that is sufficient, or whether we need to change the law to provide some sanction.

Mr. MILITO. And with all due respect, Congressman——

Dr. HOLT. Yes.

Mr. MILITO [continuing]. I think you can't look at these in a vacuum.

Dr. HOLT. OK.

Mr. MILITO. I think you have to look at the system as a whole, and look at——

Dr. HOLT. So on that particular—the ability to levy a fine, should it be raised?

Mr. MILITO. Well, the litigation right now is likely to be in the billions. That is what——

Dr. HOLT. OK.

Mr. MILITO. All indications are the fines and penalties are going to be in the billions in the ongoing litigation. That is what all appearances are, that it will be in the billions.

Dr. HOLT. Yes. I mean the Department of the Interior is the regulator.

Mr. MILITO. Correct.

Dr. HOLT. They can levy fines.

Mr. MILITO. Yes.

Dr. HOLT. Should that be raised?

Mr. MILITO. Like—I will repeat myself.

Dr. HOLT. OK, Mr. Simmons?

Mr. MILITO. We have to look at the whole system, because we can't look at these in a vacuum.

Dr. HOLT. I am glad you are not running any of the companies in my district.

Mr. Simmons?

Mr. SIMMONS. Well, I mean, I would like to see the actual legislation, because otherwise it is a hypothetical, and I really can't——

Dr. HOLT. No, it is not hypothetical.

Mr. SIMMONS. I cannot—it——

Dr. HOLT. You know, on the books there exist penalties that may be levied for malfeasance, for damages, to enforce good behavior. Should that fine, the amount that might be levied, be increased?

Mr. SIMMONS. Well BP already paid $40 billion.

Dr. HOLT. That is not what I am asking.

Mr. SIMMONS. But it matters critically to what you are asking, because what you are asking is what will enforce good behavior. What enforces good behavior is not just the fines and not just——

Dr. HOLT. OK, so——

Mr. SIMMONS [continuing]. Not just this one liability, but it is the entire system.

Dr. HOLT. So—OK. You are saying that fines have no effect on behavior. And, in fact, when——

Mr. SIMMONS. No——

Dr. HOLT [continuing]. The fine is only $21 million, you can bet it has no effect on behavior.

Yes, Mr. Groves?

Mr. SIMMONS. That is not what I am saying.

Mr. GROVES. Again, Mr. Holt, I would defer to industry experts on this. But I figure in legislation like this, when you are putting maximum limits on fines or liability caps, that there is a balance between what type of certainty you are going to be giving to the industry, whether they are going to——

Dr. HOLT. OK.

Mr. GROVES [continuing]. Engage in the behavior——

Dr. HOLT. Dodging again. Mr. Manuel?

Mr. MANUEL. No, we do support raising the civil penalties, and think that should be amended as part of this bill. That would be a great amendment to 1613.

Dr. HOLT. Thank you. Finally, an answer.

Mr. LAMBORN. Let's have a second round. There is only a handful of us here. This will go relatively quickly. But there are certainly some follow-up questions I would like to ask. One second here.

Mr. Groves, we were talking earlier about the Law of the Sea Treaty.

Mr. GROVES. Yes, sir.

Mr. LAMBORN. And what would be the revenue impact if the Law of the Sea Treaty were in effect for the Gulf of Mexico, as opposed to the transboundary type of agreement that we are looking at in this legislation? You said that one is a good approach, the Law of the Sea Treaty is not the good approach. What is the difference?

Mr. GROVES. Well, the good approach is when companies are exploiting the resources in the Western Gap, for example, and the Gulf of Mexico, that all 18¾ percent of the royalties that are generated from production there are transmitted to the U.S. Treasury for the benefit of the American people.

If you join the Law of the Sea Treaty, then a portion of those revenues are siphoned off, and don't go to the treasury for the American people, but are instead sent down to the International Seabed Authority in Kingston, Jamaica, to be redistributed to the developing countries of the world. So I don't consider that to be a provision that is in the best interests of the United States.

Mr. LAMBORN. And would the proportions and the amounts of that distribution to other countries, is that even known in the Law of the Sea Treaty language?

Mr. GROVES. No, they just know that they are going to get their cut of any of the royalties generated. We had a discussion here about proven reserves. I think some of those are going to become better known in the Western Gap, where leasing activity has been active since 2001.

I say that any dollars that are siphoned off from the U.S. Continental Shelf——

Mr. LAMBORN. OK.

Mr. GROVES [continuing]. That don't go to the American people is a bad idea.

Mr. LAMBORN. Thank you. And, Mr. Simmons, to finish up with, seeing this as a good model for going forward, should the U.S. also be negotiating agreements with countries like Canada and Russia to clarify some of the boundary issues that might be out there that would allow for further U.S. development of our resources?

Mr. SIMMONS. Definitely. I mean, greater clarity and resolving uncertainty is always valuable, especially when it comes to areas such as along the Canadian border and also along the border with Russia, where we have very large hydrocarbon resources that we are not currently using.

Mr. LAMBORN. Are there any issues with Cuba and the Gulf of Mexico that should be resolved, or hanging?

Mr. SIMMONS. I don't know on that one.

Mr. LAMBORN. OK. Mr. Groves?

Mr. GROVES. Yes, just like we have the Western Gap in the western Gulf of Mexico, there is an Eastern Gap, an area of extended continental shelf where the U.S., Mexico, and Cuban international waters intersect. And there will need to be another treaty to de-

limit those lines before production or exploration can begin in the Eastern Gap.

Mr. LAMBORN. Well, I would certainly hope that our Administration is taking note of this, and begins some of these important discussions.

Thank you all for your testimony. I would now turn to Representative Holt.

Dr. HOLT. Thanks. I won't go back to the liability and the sanctions. I think we have established that the Institute for Energy Research, which advocates massive increase in offshore drilling, and the American Petroleum Institute, thinks that the taxpayers should be on the hook for anything over $75 million in damages, and that——

Mr. LAMBORN. I am not sure they said that.

Dr. HOLT. They sure did. And that the sanctions are useless—sanctions in the form of fines levied by the Department of the Interior, so let me ask something else. Let me ask Mr. Milito, the American Petroleum Institute representative. Do we have too many safety inspectors on the offshore rigs?

Mr. MILITO. No, we do not.

Dr. HOLT. Do we need more?

Mr. MILITO. I think we have to take a look and see, and work with BSEE to determine where the gaps might be. But I think that is——

Dr. HOLT. Do you think one inspector for every 29 rigs is——

Mr. MILITO. Absolutely not.

Dr. HOLT. Absolutely not.

Mr. MILITO. No. But what I would say is——

Dr. HOLT. Has the API made a recommendation to Congress for an increase in the budget to get maybe 1 for every 10 rigs?

Mr. MILITO. We have sent a letter to Congress——

Dr. HOLT. You have?

Mr. MILITO [continuing]. Requesting additional funding for the agencies for——

Dr. HOLT. Good.

Mr. MILITO [continuing]. Inspection, permitting, and everything else.

I would like to say that the public should not foot the bill for any costs related to an oil spill. In terms of the way that is done, you have to look at a system as a whole, and the public should not foot the bill for any effects of a spill.

Dr. HOLT. Well, this is with regard to the other point that I was making.

Mr. MILITO. Exactly. But I want to be on the record and clarify what my response was——

Dr. HOLT. So you think the public should not be on the hook?

Mr. MILITO. Absolutely not.

Dr. HOLT. You would not say that we should raise the liability limit. You would like it to be voluntary, and the industries will pay for it——

Mr. MILITO. I would not even say that I am opposed to it, but I can't say I support it without looking at the system as a whole.

Dr. HOLT. OK. Mr. Simmons, let me ask you the question about—do we have too many inspectors?

Mr. SIMMONS. I don't know. It does not appear——

Dr. HOLT. So 1 per 29 rigs might be about right, then?

Mr. SIMMONS. No, that is not what I am saying. I am saying that I don't know, and it is not an issue——

Dr. HOLT. So it could be less. I mean you don't know. It might be more, it might be less. Maybe 1 per 50 would be OK, or 1 per 10 might be OK. You just can't tell. Is that right?

Mr. SIMMONS. It is not an issue that I am an expert in and, therefore, cannot give you a good answer.

Dr. HOLT. Well, let me ask this. If our fatality rate, as we have seen from the investigative commission, is about four times the world average, does that suggest that our inspections are adequate?

Mr. SIMMONS. It may, it may not.

Dr. HOLT. It may not. I see.

Mr. SIMMONS. It all depends on what the context is.

Dr. HOLT. OK. Well, as I said before, I am sure glad that you are not running any companies in my district. If you are that little in touch with what is going on in the industry and how many workers are dying and how much dollars in damage are done, God help us.

Mr. SIMMONS. No, and that is—and I am sorry, sir, but you just can't look at one aspect of it, and then try to put words in my mouth. I mean that is——

Dr. HOLT. I yield back the balance of my time. I thank you.

Mr. LAMBORN. Finish your statement, please.

Mr. SIMMONS. Just that, we have to look at the entire system. We have to look at the entire legal framework. We have to look at the entire safety framework. By pulling a few numbers and saying that this means—X means Y, that is not a valid form of reasoning, and it is a bit offensive.

Mr. LAMBORN. OK. I want to thank you all for being here. As the diplomats would say, maybe Ambassador Manuel, we have had a frank and candid discussion.

[Laughter.]

Mr. LAMBORN. Thank you for your testimony, for offering your views, all four of you, and for being here today, and for having that second abbreviated round of questions.

Members of the Committee may have additional questions as a follow-up for the record, and I would ask that you respond to those in writing if you are submitted those questions. And if there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 12:03 p.m., the Subcommittee was adjourned.]

○