

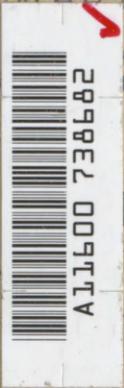
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O.C.S. AMENDMENTS OF 1978—OVERSIGHT

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HEARINGS

BEFORE THE

AD HOC SELECT COMMITTEE ON  
OUTER CONTINENTAL SHELF  
USE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

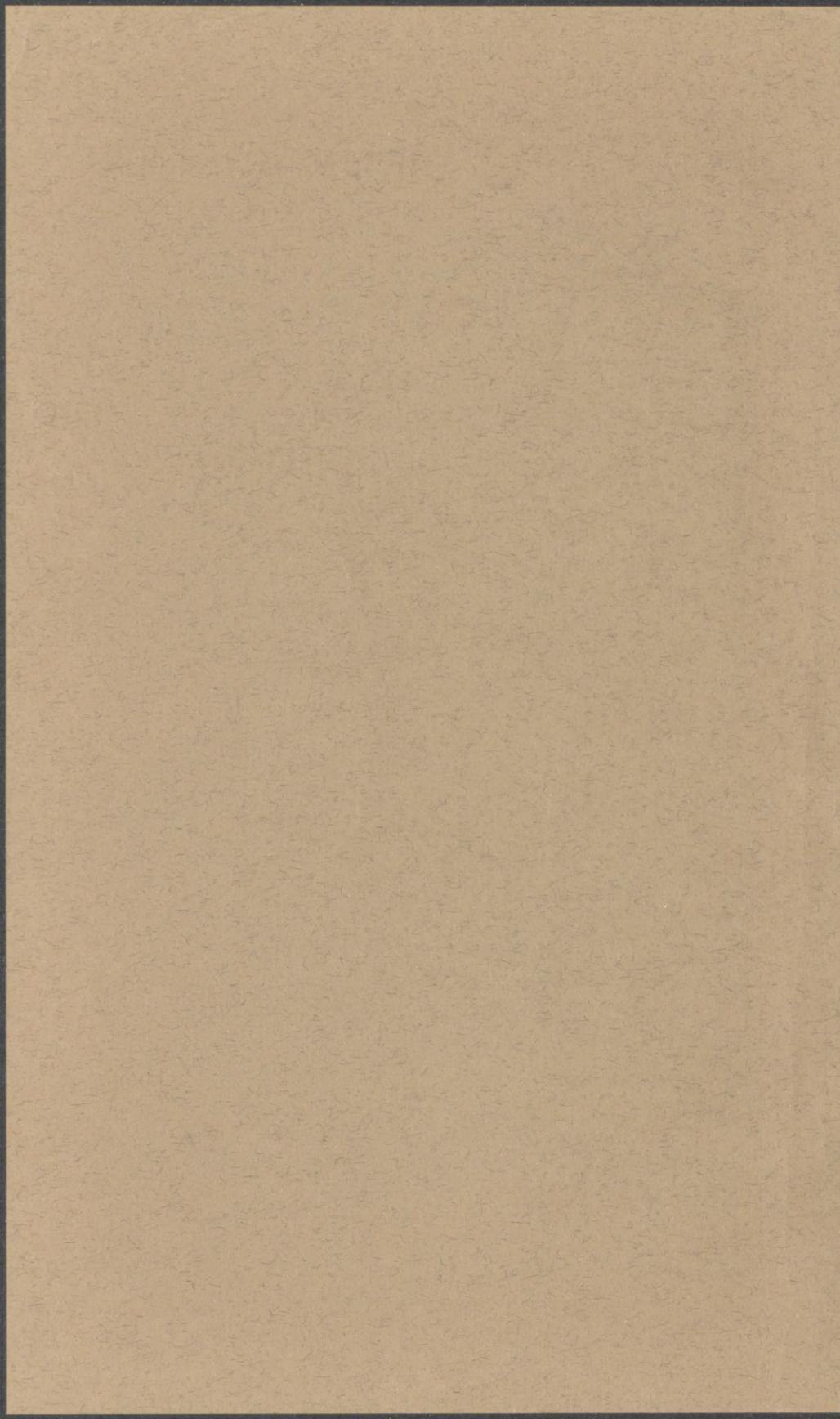
ON

OVERSIGHT ON THE  
OUTER CONTINENTAL SHELF LANDS ACT  
AMENDMENTS OF 1978

DECEMBER 6, 7, 1978

Printed for the use of the Ad Hoc Select Committee on  
Outer Continental Shelf





# O.C.S. AMENDMENTS OF 1978—OVERSIGHT

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BEFORE THE  
AD HOC SELECT COMMITTEE ON  
OUTER CONTINENTAL SHELF  
HOUSE OF REPRESENTATIVES  
NINETY-FIFTH CONGRESS  
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DECEMBER 6, 7, 1978

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Outer Continental Shelf



U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1979

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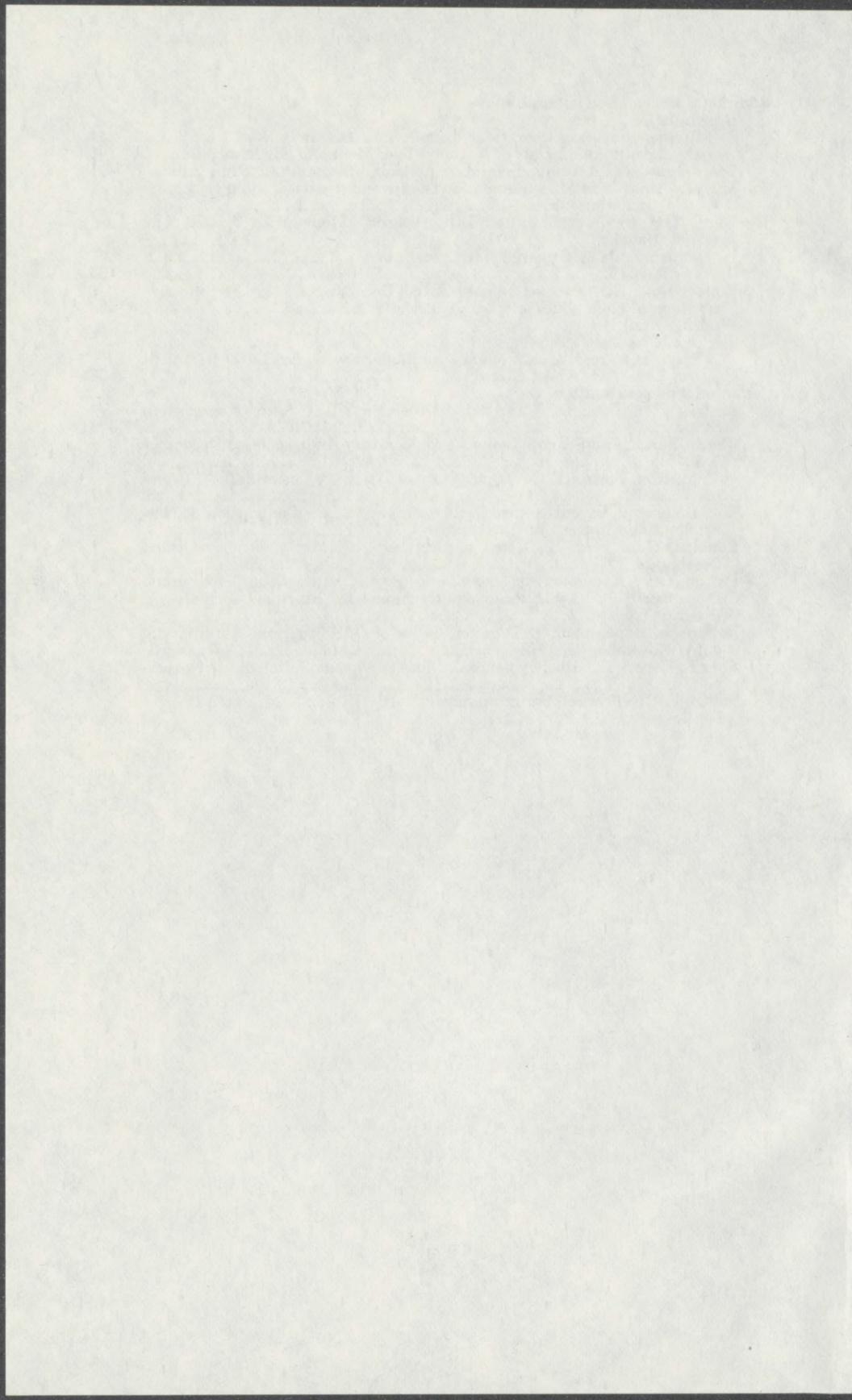
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# OVERSIGHT HEARINGS ON THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

WEDNESDAY, DECEMBER 6, 1978

HOUSE OF REPRESENTATIVES,  
AD HOC SELECT COMMITTEE ON THE  
OUTER CONTINENTAL SHELF,  
*Washington, D.C.*

The select committee met, pursuant to notice, at 10:10 a.m., in room 1334, Longworth House Office Building, Hon. John B. Breaux, presiding.

Mr. BREAUX. The committee will please be in order.

The chairman of the Select Committee on the Outer Continental Shelf, the Honorable John Murphy, is en route and delayed because he is on the shuttle coming from New York. In the interest of the witnesses and the committee, because of the large number of witnesses that we do have, we are going to go ahead and start. Congressman Murphy will be here as soon as circumstances permit.

I would like to go ahead and read the statement of the chairman in the record. I will preface the remarks that it is the statement of the chairman and not necessarily but probably the statement from the gentleman from Louisiana as well.

## STATEMENT OF CHAIRMAN JOHN M. MURPHY

This morning we begin a task as important as our legislative activities of the last 4 years—oversight hearings on the Outer Continental Shelf Lands Act Amendments of 1978 which were signed into law on September 18, 1978.

I think everyone here is familiar with the legislative history of the 1978 Outer Continental Shelf Amendments. All present know that the Congress, and especially the members of the committee, have worked long and hard for over 4 years to perfect OCS reforms.

Together, we have hammered out a comprehensive and balanced piece of legislation to expedite Outer Continental Shelf exploration and development in an orderly and environmentally sound manner. Congratulations are in order for everyone that participated in that process, no matter what their views were, and we should be proud of our achievements.

However, the work has only begun. Now we must proceed with the arduous task of assuring proper implementation of the 1978 Outer Continental Shelf Amendments.

The Department of the Interior and other affected Federal agencies have indicated their interest in having congressional input into the development of regulations to implement the act. Oversight and monitoring of the rules and regulations to implement the 1978 Outer Continental Shelf Amendments can best be accomplished with the input and assistance of affected industries, State and local officials, environmental groups and interested citizens.

Today we will be hearing testimony from industry and a number of environmental organizations. Tomorrow we will hear from agencies of the Federal Government which have Outer Continental Shelf-related responsibilities and from State governments.

One of the major criticisms voiced by opponents of the Outer Continental Shelf bill was that it would cause delays in Outer Continental Shelf development. We believe that the benefits of the comprehensive and credible Outer Continental Shelf program established by the act far outweigh any negligible delays that may be suffered. However, one of the purposes of these oversight hearings is to insure that the implementation of the act is being carried out as swiftly as possible.

As in the House of Representatives, prior to the establishment of the Ad Hoc Select Committee on the Outer Continental Shelf, the responsibility for administering the Nation's Outer Continental Shelf program is fragmented throughout the Federal bureaucracy.

Although the Department of the Interior must be seen as the lead agency for the leasing of our Outer Continental Shelf resources, a myriad of Federal agencies maintain Outer Continental Shelf-related responsibilities, including among others, the Department of Energy, the Department of Commerce, the Environmental Protection Agency, the Council on Environmental Quality, the Department of Transportation, and the Federal Maritime Commission.

In order to strengthen the coordination of Outer Continental Shelf policy, the Congress included in the 1978 Outer Continental Shelf Act, a subsection 204(H), which mandates that the head of any Federal department or agency who takes any action which has a direct and significant effect on Outer Continental Shelf development, shall promptly notify the Secretary of the Interior of such action; and the Secretary shall, thereafter, notify the Governor of any affected State; and the Secretary may then recommend any changes in such action.

Expressing the intent of the provision further, the Conference Report on S. 9 states:

The head of the Federal departments or agencies which are to submit notification of an action to the Secretary can be compelled by the Secretary to comply with this coordination mandate.

The Secretary of the Interior, by receiving notice and information on all actions affecting the Outer Continental Shelf, will be able to evaluate the overall effect of any particular Federal decision on Outer Continental Shelf policy.

In addition, the Governors of affected States will be able to look to one person, the Secretary, to receive information concerning any Federal Government action affecting Outer Continental Shelf areas under their jurisdiction. In its oversight capacity, the committee

will exercise strong vigilance to insure that the coordination mandate is carried out.

For instance, the legislation provides that the Secretary of the Interior shall request and give due consideration to the views of the Attorney General with respect to matters which may affect Outer Continental Shelf competition. In turn, the Attorney General is to consult with the Federal Trade Commission regarding such matters.

In addition, the Outer Continental Shelf Act demands close cooperation by the Department of the Interior with the Department of Energy, for example, to secure competition, to provide for use of alternative bidding systems, to establish due diligence requirements, to set rates of production, and to dispose of royalty oil and gas.

Another example of necessary interagency coordination relates to compliance with the National Ambient Air Quality Standards pursuant to the Clean Air Act where the air quality of a State is significantly affected. The Secretary of the Interior is to be guided by the Clean Air Act, in consultation with the Environmental Protection Agency.

Furthermore, the committee intends to follow the cooperative efforts of the Coast Guard and OSHA concerning diving safety regulations and other Outer Continental Shelf health and safety hazards. In that respect, we understand that the Coast Guard plans to promulgate final diving safety regulations shortly.

These are only a few areas where interagency coordination must be effected.

Since the Santa Barbara oil spill and the announcement of an accelerated Outer Continental Shelf leasing program in response to the Arab oil embargo, there had been much public and congressional debate and concern regarding Outer Continental Shelf activities. During the Nixon-Ford administrations, as a direct result of the activities of this committee and its counterpart in the Senate, and in direct response to proposals included in legislation passed by both Houses, many necessary reforms were adopted by the Interior Department through regulations. Those actions, some of which may now require modification in accordance with the new Act, are as follows:

1. The establishment of Outer Continental Shelf advisory boards;
2. Increased testing of alternative bidding systems;
3. New and more strict safety regulations;
4. Limitations on joint bidding among major oil companies;
5. Increased environmental baseline studies and monitoring;
6. Temporary emergency divers safety standards;
7. Requirements for the submission of exploration and later development plans;
8. Forwarding of information to affected States, and an opportunity for such States to make comments and suggestions;
9. Submission of data on resources by Outer Continental Shelf permittees and lessees;
10. Increased collection and distribution of royalty oil and gas; and
11. A new, more paced, leasing program.

In anticipation of passage of the Outer Continental Shelf reform legislation, the present Secretary of the Interior has continued to modernize the administration of Outer Continental Shelf leasing through a policy of continued coordination and cooperation with affected coastal States; a campaign to insure due diligence on Outer Continental Shelf leases; the introduction and use of a new alternative bidding system, the sliding scale royalty, cash bonus system; revised regulations that authorize the suspension of any Outer Continental Shelf oil and gas operations that threaten immediate, significant damage to life, property and the environment; and finally, preparation for application of the oil spill liability fund and the fishermen's contingency fund contemplated by the 1978 Outer Continental Shelf Act to existing leases.

After the enactment of the 1978 Outer Continental Shelf Amendments, the Department of the Interior has begun to implement the law. A new lease form has been prepared to include the requirements of the new act; procedures for the formulation of a new 5-year leasing program have been established, and the sliding scale royalty alternate bidding system has been employed for the first time under the new act in lease sale No. 65 in the Gulf of Mexico.

We hope and expect that the Department of the Interior will continue to review its regulations to conform present regulations to the requirements of the 1978 Outer Continental Shelf Act and to develop new regulations to implement explicit requirements of the act—and to do so expeditiously.

The 1978 Outer Continental Shelf Amendments have left at least three vitally important and controversial questions unanswered.

First, on the question of Federal exploration, the act simply retains the controversial language of the original 1953 act which all but guarantees that the issue of Federal exploration will be decided in the courts.

Second, the provision specifically authorizing the issuance of on-structure drilling permits was deleted. This is another issue that well may be decided in court.

Finally, dual leasing was stricken from the bill. However, a study on the subject was requested to determine the system's prospects.

The committee intends to follow these matters closely in its oversight capacity.

In addition to these unanswered questions, there are also certain areas where the legislative language might be open to interpretation and congressional intent is vital if the program is to be operated and implemented properly.

For example, some have raised concerns about requirements for clean air standards. As outlined in the conference report, the provisions of the 1978 amendments would be subject to any court decisions that result from the pending suit by Exxon against EPA. EPA claims that the National Ambient Clean Air Standards apply now to the air over the Outer Continental Shelf, while provisions of the Outer Continental Shelf legislation only provide ambient air quality standards must apply if the air over a State is significantly affected.

Second, although the safety standards and enforcement portions of the Outer Continental Shelf legislation, sections 21 and 22, are very comprehensive, the actual development of standards and their

enforcement must follow the congressional intent. How will this intent be applied, and how will interagency cooperation be secured?

My next point regards penalties for enforcement of the Outer Continental Shelf Amendments. For example, while the Coast Guard has been given specific and detailed responsibilities and authority under the new Outer Continental Shelf Amendments, the specific penalties for infractions are not spelled out, and penalties are to be imposed by the Interior Department.

Will the Coast Guard apply penalties already available to them under other laws or will they utilize provisions of the remedy and penalties section 24 of the legislation, and how will Interior respond to Coast Guard enforcement requests?

Fourth, the documentation and manning provisions of the legislation require a judgment on the part of the administration as to when retaliatory action will be taken as pertains to hiring foreigners. Oversight will be required to insure that congressional intent is complied with and that reciprocity is achieved.

Fifth, coastal States have been given a direct and greatly expanded role in Outer Continental Shelf policymaking and Outer Continental Shelf activities. How will the States set up programs to handle these new responsibilities and opportunities to affect Outer Continental Shelf activities?

In addition, the 1978 Outer Continental Shelf Amendments direct that local governments are to be given due consideration in any State actions, review, or consideration of Outer Continental Shelf activities that affect them. How will States apply these provisions, and will they do so within the intent of Congress to give local governments a voice in Outer Continental Shelf decisionmaking?

Next, the definition of "mineral" has been altered to include "geopressed and geothermal and associated resources" in addition to oil, gas, and sulphur. Can the provisions of the 1978 Outer Continental Shelf amendments be applied practically to new technologies to develop these resources?

Finally, provisions dealing with small and independent oil and gas firms have been greatly expanded and rewritten. The purpose was to provide additional equity for small and independent firms.

However, the Department of Energy states that over 50 percent of all royalty oil currently goes to small and independent firms. Will the provisions of the new act continue this level of activity?

There is no question that offshore oil and gas development is needed direly by this Nation, and that such development will proceed within the context of the safeguards provided by the 1978 Outer Continental Shelf Amendments. We feel that we have developed, with the assistance of outside input, a balanced and credible Outer Continental Shelf program. We must now seize this golden opportunity to make sure that the program works in a harmonious fashion so as to eliminate unjustified delays while requiring full compliance with the safeguards provided by the act.

In light of the fact that the 1978 Outer Continental Shelf Amendments cover the jurisdictions of roughly 9 standing committees of the House and about 11 Federal departments and agencies, this committee is committed to insure, as far as possible, that the implementation of the 1978 Outer Continental Shelf Amendments

is carried out smoothly and with dispatch. To achieve this purpose, it is my intention to work for the reestablishment of the House Outer Continental Shelf Committee, to follow through on a job that has really only just begun.

We will call on minority member, Mr. Forsythe. I think the ranking minority, Mr. Fish, is unable to be with us this morning so we would like Mr. Forsythe to assume that duty.

Mr. FORSYTHE. I would like to first make a very few remarks and ask unanimous consent for a statement by Mr. Fish to be entered in the record.

Mr. BREAUX. Without objection.

Mr. FORSYTHE. I applaud our chairman for calling these early oversight hearings on this very important legislation. It is now nearly 3 months since the amendments were enacted into law and I believe that we have seen somewhat less movement than we hoped for in terms of implementing the legislation and promulgating the regulations that are required. Every day we lose may add to the time it will take to find new resources.

I hope that as the chairman has said in his statement, we can find a truly harmonious way to implement this Act, so that the industry can efficiently and swiftly recover these resources while maintaining the high standards of safety that I am sure we all desire.

With that, Mr. Chairman, and with the unanimous consent, I would offer the statement by Mr. Fish for the record as the opening remarks of our ranking minority member.

Mr. BREAUX. Thank you, Mr. Forsythe. The statement will be made a part of the record.

[The statement follows:]

STATEMENT OF HON. HAMILTON FISH, JR., A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF NEW YORK

In April 1974, the House created the Ad Hoc Select Committee on the Outer Continental Shelf to bring together in one central body the expertise and resources necessary to properly solve these problems, and to establish a program that would accelerate development and production of OCS energy resources, while, at the same time, increasing competition, and protecting the marine, human and coastal environment.

It took over 4 years for this bill to be signed into law (Public Law 95-372) after numerous hours of hearings, testimony, and investigation; and two attempts of passage, once in the 94th and once in the 95th Congresses.

The need for this new legislation, amending the 1953 OCSLA has previously been outlined. Shortly after the committee began investigations, however, it became obvious that the scope of the committee's work would have to be broadened beyond what was expected if all of the existing and potential problems inherent in OCS activities were to be solved.

As a result, the legislation that was signed into law in September 1978 covered subjects and issues that are the jurisdiction of approximately nine standing committees of the House and 10 Federal departments and agencies.

During the 4 years of consideration of the Amendments of the 1953 OCSLA, the committee was careful in drafting programs that would provide protection against, and insurances for; accelerated production of OCS energy resources; increased competition by small and independent firms for OCS energy resources; increased involvement of State and local governments in OCS policy decisions; increased participation by Congress and the public in OCS policy and planning; increased protection for workers' health and safety; assurances that there would be a fair return for leasing public energy resources; assurances against damage to the marine and coastal environments as well as protecting fishermen against loss due to OCS activities; increased knowledge of offshore energy resources; and provisions designed to accelerate legal actions resulting from OCS activities, to name a few.

Many of these provisions were controversial, as witnessed by the fact that it took two different Floor actions to get the bill passed, as well as active debate during the joint House/Senate conference. Many of these provisions, in addition to being controversial, are very technical in nature, and, for this reason, it was difficult to arrive at acceptable compromises on the various provisions of the bill.

Due to these vastly conflicting views of the House and Senate conferees, three vitally important questions remain unsettled.

These are:

1. Federal exploration.
2. On-structure drilling.
3. Dual leasing.

In addition to these unsettled issues, many questions now remain to be answered since the provisions of Public Law 95-372 are heavily reliant upon congressional intent. Some of these questions are:

1. Implementation of clean air standards.
2. Application of sections 21 and 22, safety standards and enforcement.
3. Penalties available to the Coast Guard for lack of compliance with their standards.
4. Implementation of the provisions expanding the role of States and local governments in policy decisions.
5. Applicability of the provisions of Public Law 95-372 as pertains to the new definitions of minerals.
6. Implementation of provisions to maintain and increase participation of small and independent firms in OCS activities.
7. Pipeline pricing and competition and others.

I should also point out that the Department of Interior has detailed at least 26 sets of new or revised regulations that will be required to implement Public Law 95-372.

During consideration of the OCS legislation, I was one of many that claimed that the new legislation would require the drafting of some 25 to 40 sets of new regulations. This was denied. I certainly hope that my concern that this many new regulations would delay the implementation of the program does not prove to be true.

When the 1953 OCSLA was enacted, our nation was an exporter of energy. In 1974, when this Committee was established, we were importing approximately 30 percent of our total oil needs. Today we import approximately 50 percent of our oil needs.

While the doomsday report by the CIA in 1977 that we were going to run out of oil by 1985 has been discredited, it still behooves us to drastically decrease our dependence on the future good will of foreign nations for our Nation's energy supplies.

As the chairman has pointed out, the administration has said that they want to work closely with Congress implementing the provisions of Public Law 95-372. For this, and the reasons I have previously pointed out, we are glad to oblige. It is vitally important that this new program be implemented correctly and with a minimum of delay, and it is with this spirit that these hearings are being held.

Mr. BREAUX. We would like to invite our first panel of witnesses, Ms. Frances Beinecke, testifying for Natural Resources Defense Council and Conservation Foundation; Milton Oliver, chairman, National Oil and Gas Subcommittee, Committee on National Energy Policy, Sierra Club, Boston; Ms. Hope Robertson, Environmental Policy Institute; Dr. Ruth Corwin, Scenic Shoreline Preservation Conference, Inc.; and, I understand, Mr. Flug, director, Energy Action Committee, will testify also.

We welcome you and we are pleased to receive your testimony.

MS. FRANCES BEINECKE, ON BEHALF OF THE NATURAL RESOURCES DEFENSE COUNCIL AND CONSERVATION FOUNDATION; MILTON OLIVER, CHAIRMAN, NATIONAL OIL AND GAS SUBCOMMITTEE, COMMITTEE ON NATIONAL ENERGY POLICY, SIERRA CLUB, BOSTON; MS. HOPE ROBERTSON, ENVIRONMENTAL POLICY INSTITUTE; DR. RUTH CORWIN, SCENIC SHORELINE PRESERVATION CONFERENCE, INC., AND JIM FLUG, DIRECTOR, ENERGY ACTION COMMITTEE

Ms. ROBERTSON. Thank you, Mr. Chairman.

My name is Hope Robertson. Before I begin my discussion of the status of implementation, I would like to make a few general comments.

As you know, the environmental community has worked very hard over the past 4 years in support of a new OCS law. Needless to say, we were pleased and relieved when the bill was signed into law on September 18 of this year. But as difficult as it was to pass the law, its implementation will probably require a lot of attention.

My first reaction when it passed was, terrific, let's get these regulations into effect as soon as possible. However, when it became obvious that immediate implementation was not possible, my reaction was to be very critical and impatient in dealing with the implementation process.

Needless to say, there will be many critical comments made by others testifying before this committee on the problems so far in OCS implementation. Although I, too, have a few complaints to voice, I would like to make several points which I feel give some perspective to comments about the implementation process.

It took Congress more than 4 years to pass these amendments to the OCS Lands Act. During this time, the legislation went through an endless series of changes, as you well know, which made it very difficult for the administration to plan ahead on many parts of the bill.

The law became effective September 18 which means the administration has had a grand total of 54 working days to implement an extraordinarily complex law.

OCS activities have been regulated by the same law for 25 years. As this committee recognized, a change was long overdue. Depending upon how much oil and gas is found in frontier areas, we can probably expect OCS activity to continue for another 25 to 50 years. Therefore, in light of the time period and resources we are potentially dealing with, it seems only sensible to spend the time necessary for establishing well thought out programs under the new law. If it takes as long to change the law again as it did this time, we might be spending 25 years with this law.

Therefore, I feel that if the Department of Interior rushes through the implementation process in an effort to avoid criticism from all fronts, we will only have ourselves to thank if a few years down the road, many of the programs are a failure or have to be reworked. This is not to say that I condone an inefficient or slow implementation process, but rather that if it appears that delays are a result of careful consideration of the final product, we should all be patient and encouraging. This is particularly important as some members of the oil industry would love any opportunity to criticize and undermine the new law.

Therefore, I hope that this committee's efforts are directed at not only keeping implementation on track, but also supporting the administration's efforts if delays occur, which in the long run will benefit the quality of the OCS program.

I would also like to point out that some of the program implementation is hampered by the Federal hiring freeze or delayed while waiting for Congress to appropriate the necessary funds.

The rest of my comments will focus on six provisions of the new OCS law: Sec. 205—Revision of the Bidding Administration; Sec. 18—The Leasing Program; Sec. 19—Coordination with State and Local Governments; Title III—Oil Spill Liability; Title IV—Fishermen's Contingency Fund; Sec. 606, Investigation of Availability of Oil and Natural Gas from the OCS.

Before I start, let me make a final comment.

In the effort of tracking down who is doing what with each of these provisions, as well as other parts of the bill, I have witnessed a recurring problem which, as I say, is my only major criticism of the implementation efforts to date. That problem is that there is a total lack of organization in the bill implementation process.

Understandably, the bill has countless provisions with many different departments involved. However, I hold the Department of the Interior responsible, as lead agency, for at least knowing who is doing what for every section of the bill. I hope the committee will attempt to put some pressure on the administration to create one central place where we can turn to for information.

Not only have I had to shuffle from BLM, USGS, the Office of OCS Coordination—which one would theoretically believe would know who is doing what—but the maze at DOE is hopeless, not to mention DOT, FMC, Commerce, et cetera. Very few people had any idea of what anyone else was doing, even on some of the same programs. But as I go into specific provisions, this problem will be illustrated.

In the interest of time, because you have so many witnesses, I would like to summarize the status of the six provisions. If you have any questions, I will be glad to answer them or refer to the more detailed statement.

First of all is section 205 which is the revision of the bidding system.

In my estimation, setting up the system for use of new bidding systems is probably the most difficult task facing the administration under this new law. It is certainly the most critical as far as what industry's view of the success or failure of this program.

Theoretically, the Department of Energy has the lead on this, although I find some confusion in talking to people in Interior and Energy as to who will make the final decisions.

But at the moment, no one has issued any regulations setting up any bidding system. The only system being worked on currently is the profit-sharing system. Nothing else is being done because the administration felt profit sharing held the most potential and they wanted to investigate that first. Supposedly, the Department of Energy will issue regulations this month for internal review and publish them potentially in February.

According to my estimates, with the usual 4 to 6 months roughly, for the rulemaking process, and giving industry a 3 to 4 month

lead to set up their accounting systems—and that will vary depending on how many changes there are between the proposed regulations and the final regulations—at best we could expect to see profit sharing used in sale 62 in the gulf next August. At worst we might not see it until next February which is sale 53 in northern California.

As I say, no other bidding systems are currently being developed such as the work commitment, et cetera. I think the committee should urge the Department of Energy to start work on these other systems as soon as possible. Needless to say, there are those of us in the environmental and public interest community who feel that sales, particularly in frontier areas, should be delayed until we can use the new bidding systems.

That summarizes the current status of the bidding systems implementation.

Next is section 18 on the leasing program, and I have submitted an attachment to my testimony which are comments pertaining to the recent Federal Register notice about the leasing program.

[The information follows:]

ENVIRONMENTAL POLICY INSTITUTE,  
Washington, D.C., November 28, 1978.

Re Comments on 5 year leasing program of the Outer Continental Shelf—Pursuant to the notice in October 26, 1978 Federal Register.

To: Director, Office of OCS Program Coordination.

From: Hope Robertson, project director, Coastal and Oceans Protection Project.

In response to the notice in the Federal Register, Oct. 26, 1978 concerning the development of a 5 year leasing program for the OCS, the Environmental Policy Institute would like to submit the following comments. Our remarks will cover the timing of the information request, the information collection process, the use of the data and finally some general comments about the leasing program.

1. Although we appreciate that the Department of Interior must meet certain deadlines in the development of a leasing program, we would like to voice a complaint with regard to the extremely short notice period given for the information request. The notice concerning the need to collect all relevant data on geographical, geological, ecological, other uses of the sea and seabed, identification of areas of environmental sensitivity and marine productivity, including a ranking by area of the level of environmental sensitivity, and so forth for the entire OCS, came out on October 26, 1978. All of this information is supposed to be sent into the Department by December 1, 1978.

In light of the enormous amount of material that could and should be collected before the leasing program is developed and finalized, one month for a complete survey of all available information is hardly adequate. We trust that this short time period is not an indication that the Department of Interior does not intend to take the mandate in the new OCS law of balancing the potential for environmental damage against the potential for hydrocarbon discovery during the preparation of a leasing program seriously.

In order to clear up any possible misunderstandings on this point, we recommend Interior clarifies that the time period for receipt of information extends well beyond December 1, 1978 and in fact, continues throughout the entire development of a 5 year leasing program. This does not mean that Interior will not be able to submit proposed leasing schedules to the states according to the tentative schedule outlined in the Oct. 26, 1978 Federal Register. But the states and other affected parties are going to be able to comment on the proposed schedules which may include submitting information asking for significant changes if necessary. Therefore, it is only logical at this early stage that Interior should openly encourage the submittal of additional resource information from any interested party during all of the comment periods while the development of the leasing program. The announcement in the Oct. 26, 1978 Federal Register seemed to indicate that this is our only chance to send Interior information on the OCS.

2. In addition to the information collection which will go on until the next leasing program is completed, the Department of the Interior should develop an on-going

program to collect information for the yearly review and revision of the lease sale schedule. As new information comes to light generated both from the private and public sector, it will be important for the Department to have some systematic means of plugging it into the leasing program.

3. In light of the fact that the Department of the Interior has been involved in OCS activities for years, we would expect that the Department already has an enormous backlog of information concerning the resources on the OCS. In addition to the information available within the Department, many other Federal agencies have a tremendous amount of relevant information to offer Interior, particularly NOAA.

It would be far more constructive at this juncture, to conduct a comprehensive review of available data, on a federal, state and local level on the subjects listed in the Federal Register (Oct. 26, 1978). Once this process is completed, it would then be appropriate to publish in the Federal Register, the gaps in information which need to be filled in by the affected regions and interested parties. This would be a far better use of the limited financial and manpower resources which certainly the public, and in many cases state and local governments, have. Assembling all of this information and organizing it in a usable format would enable DOI to determine what additional data needs to be researched. This will obviously expedite the EIS process and improve the environmental studies program. Otherwise, it appears that the DOI could repeat this costly and time consuming collection process with each leasing program development and review as well as with many other actions required under the law.

Organizing all of this OCS information will be an enormous task which should be done cooperatively with several departments so that other programs will be able to make use of this data. Fortunately, much of the information currently being collected by Interior can be put in a computerized form fairly easily. There are a number of options that should be explored, ranging from extensive mapping of the coasts and oceans to computerized modeling of resources, using such techniques as vulnerability models, or attractiveness models for various regions of the OCS. As the uses of the oceans increase, we expect that the federal government will have to develop some type of information retrieval system to handle all of the available data and aid in decision making. We would recommend that members of the public and state and local governments be involved in the development of such a system. The importance of developing a comprehensive information system for the OCS program is that it could serve as a vital tool in not only the development and review of leasing programs, but also in many other procedures established under the new law such as the review of exploration, developments and production plans.

4. Perhaps even more important than the development of a better bank of information which is easily accessible, is the need to determine how the information will be plugged into the decisionmaking process. How, for example, will the Secretary "select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone," Sec. 18(a)(3)—OCS Lands Act Amendments? We would recommend that the Department try to establish written procedures aimed at achieving this balancing as required under the Act. Without any type of establishing procedures, the Department could be far more susceptible to law suits aimed at insuring a proper balance of interests. It is appropriate with the stepped up activity offshore that DOI begin to make some of the difficult decisions with regard to how to make balanced choices between competing interests on the OCS.

5. Our final comments are directed at the development of a leasing program in general. The current actions on the leasing program seem to indicate that the final product of the process will be a fairly rigid time table, which will specify the exact timing, acreage and location of all sales held from mid-1980 to 1985. Sec. 18 of the new OCS law does not specify that the leasing program must include this type of detailed information. In fact, it may not be in the best interest of our national energy needs nor consistent with the principles set forth in Sec. 18 to produce the type of rigid schedule which DOI has used in the past.

For example, under Sec. 606 of the new OCS law, the Secretary is directed to conduct an investigation of the oil and gas produced or located on the OCS. As this section is intended to aid the Federal government in developing and meeting our national energy needs, it may create conflicts of information which could have a direct bearing on the leasing program, is not available in time to aid in the development of the final schedule, next November.

The leasing program which is currently being developed does not have to set every date for all of the sales held over the next 5 year leasing period, particularly

those sales more than 2 years away. In light of the fact that the new law contains many new provisions which offer opportunities for Interior to maximize the benefits and minimize the impacts of a leasing program, it seems logical that the Department rethink past practices and design a more flexible program, in terms of dates, acreage and location. There are several ways that a flexible program could be designed without ignoring the need to give both the government and industry adequate lead time for planning purposes.

What could be done is to issue the dates and locations necessary for planning purposes (such as the call for nominations, receipt of nominations and tract selection) for sales to be held mid-81 through mid-82, (assuming the 1977 schedule for 1979-81 is followed and allowing a 2 year lead time before a sale). The details of the lease sales for mid-1982 through 1985 could be left fairly flexible as there is little need for all affected parties to know the exact dates for lease sales more than 2 years in advance. For example, if people knew that in 1984 there will be three sales, one in the Gulf, one in the Hope Basin of Alaska, and one in the South Atlantic, that would be adequate information for planning purposes. As the sale draws closer, the Secretary can issue more definite dates as it becomes necessary. This could even be done during the annual review of the leasing program which is required under the new OCS law. At this time, the Secretary can establish firm dates for the next series of steps in the leasing process. Hopefully this type of format will enable DOI to take the greatest advantage of the information collected over time.

6. Finally, as with the need to set up procedures which will insure the adequate balancing of oil/gas development versus the protection of other marine resources, there needs to be a more identifiable process for the final decision on whether or not to hold a lease sale. For example, the Secretary is currently faced with the decision of whether or not to hold the next mid-Atlantic sale in February. Due to delays from the suit over the first mid-Atlantic sale the original staggered timing between sales in the same area has been disrupted. As a result, valuable information from the first exploratory drilling is not available. In addition, several important provisions of the new law will not be in place in time for the sale, such as the new bidding systems. The combination of these two circumstances make it worthwhile for the Secretary to seriously reconsider whether or not it would be consistent with the goals of the OCS law to hold the sale, or delay it. What we would like to know is what and how the Secretary considers in making this decision. Now that the new OCS law is in place, we would like to know if the DOI has considered developing a decision making process which will be used in the final sale decisions, other than the practices which have been followed in the past. This will be particularly important for the next few sales until the new OCS law is fully operative.

Ms. ROBERTSON. As you know, work is already under way developing the next 5-year leasing program. The Department of Interior issued proposed regulations on the development of a 5-year leasing program and requests for information on October 26 of this year. However, I would have to submit that some of the deadlines they gave in the Federal Register are exceedingly short considering the extent of the information they requested.

What I would like to propose and ask the committee to look into is to ask Interior if they are going to rethink some of their past practices as far as setting up a leasing program.

For example, one of the things that has always been done in the past has been to set specific dates, timing, acreage, et cetera, for all sales over the 5-year leasing program. I feel in light of some of the new requirements under the OCS law which will produce a good deal of information not only on oil and gas potential but on environmental issues, it would be advantageous not to develop a rigid schedule but leave things as flexible as possible so we can take advantage of all this information.

The second comment I have on the leasing program is that one of the things the Department of the Interior requested was that everyone submit information on all areas of the OCS. They published an itemized list of information ranging from ranking of an area's potentials for oil and gas to its environmental sensitivity. It is a

vast quantity of information, all of which they wanted in by December 1 and they issued the requests on October 26.

A great deal of this information, it seems to me—considering how long the Department of Interior has been involved in OCS development—should already be in the hands of the Federal Government. However, you find as you talk to people within the administration that OCS data is very poorly organized. It is scattered between several different divisions within Interior, not to mention other departments.

I would like to propose that this committee urge the administration to organize existing information on the Outer Continental Shelf so that it can be used for many different programs, such as writing environmental impact statements, developing the leasing program, or studying marine sanctuaries proposals. This is a serious weakness as far as I am concerned in the current administration of the Outer Continental Shelf.

If you want more detail, please see my attached comments.

The second section is 19 which deals with State and local government coordination. The Bureau of Land Management, as far as I could tell, in the Department of Interior is basically responsible for coordinating and receiving comments from State and local governments, although the Office of OCS Coordination is also playing a role.

Frankly, I could not get any clear indication from both offices who had the major responsibility. But BLM is currently thinking of setting up six regional working groups to process State and local comments. These will consist of representatives from the State, from the Federal Government, industry, the private sector, and essentially will parallel the OCS advisory board, but they will be located in the different OCS regions.

The Secretary of Interior is supposed to make a decision later this month as to whether or not these working groups will in fact be set up. But the thing that I was not able to obtain to my satisfaction in the various conversations with people is if there is any specific procedure being set up within the administration to deal with State comments. Considering this is one of the most important reforms of the law, it is being handled in what I consider a very casual way.

I would like to see this committee question the administration about exactly how they are going to consider State comments. Are they going to have any written procedures other than just the rewriting of the law which they did recently in the Federal Register which will say this is how we are going to consider State and local comments. That is a very important point.

Title III is the next provision I will deal with which is the Oil Spill Liability Fund. If anything exemplifies the confusion within the administration, it is this provision. I had to deal with seven different agencies and departments to try to find out who is doing what and no one knew what anyone else was doing.

However, I must say that the status of this particular provision, or at least the lack of work that has been done, is primarily OMB's responsibility because they have not made a decision as far as who is responsible for what under this section.

In light of the uncertainties, I would like to commend the Coast Guard and Federal Maritime Commission for the work they have done so far. The Coast Guard did issue regulations this Monday in spite of the fact that they are not really sure they are going to be administering the regulations that they issued. The Federal Maritime Commission is also working on some regulations dealing with vessels, et cetera. But there still is a lot of uncertainty.

This particular section requires 13 different sets of regulations. For example, it requires an insurance study of private insurance, and a Presidential appointment of a trustee of national resources. Little has been done on most of the regulations.

I could not find out who was supposed to be doing the insurance study. One group told me it was the Department of Commerce, another said the Coast Guard. I would like to see if the committee could get an answer out of the administration on who is doing this insurance study. It is supposed to be going on right now.

In fact, the interim study is due to the President on December 18 which doesn't give us much time considering no one knows who is doing it. It is supposed to be completed in 1 year.

The other thing is all of these regulations are supposed to be effective by March 17, 1979. We have lost 3 months already due to OMB's inability to make a decision. So I hope the committee urges some action because I think this oil spill liability section is very important, particularly for the frontier areas.

Finally, I would like to bring up an interesting point to the committee's attention which I learned while researching this section. When talking with some people in the Coast Guard they said it would take 10 years to get the funds to the minimum level of \$100 million. This rough estimate is derived by using current production levels on the Outer Continental Shelf, figuring 3 cents per barrel, and it may take longer than 10 years, depending on whether administration costs are extracted from the fund.

In light of the fact that the Congress has been interested in passing a superfund legislation setting up an even larger fund for not only OCS spills but for all oil spills, I would like to see if you could get any further detail on whether in fact this is going to be the case, because if it is, maybe we should rethink how we are going to set up the liability fund. Perhaps the tax per barrel of oil should be raised or we might need appropriations from the Congress to get the fund operative.

The next section is title IV which is the Fishermen's Contingency Fund. The responsibility for this fund is shared between Commerce and Interior with, as far as I could tell, NOAA taking the primary lead. Basically, no work has begun at all due to lack of money, personnel, and for that matter, interest.

I am rather perturbed about this, particularly in light of the fact that there are going to be sales going on in prime fishing grounds and I would like to see this set up as soon as possible.

In addition to setting up regulations to establish the fund, there is also a 2-year study of obstructions which pose threats to commercial fishing. Nothing has been done on this at all. USGS is responsible for marking equipment that will be a hazard and Commerce will set up the whole processing of the claims into the funds, I presume. I hope that something is done on this in the near future.

Finally, section 606 which is the study on the oil and gas availability and potential on the Outer Continental Shelf. USGS apparently has the lead for this in the Department of the Interior. I was told when I called to find out what was going on that basically this section is an ongoing process and USGS has always been studying this. Therefore there is very little need to set anything up.

However, I feel that this is an extremely important section because it will give us some valuable resource information about the Outer Continental Shelf. I am not convinced that the past program should not be reexamined to make sure that it meets the requirements of law. I urge the committee to look at this.

I want to thank you very much for holding these hearings. I think although it is probably a little premature to get an accurate picture of exactly what direction implementation is heading in, we can certainly use this opportunity to keep everyone who is involved on their toes and correct any possible problems.

If I can be of any further help to the committee, please let me know.

[The prepared statement follows:]

STATEMENT OF HOPE ROBERTSON, PROJECT DIRECTOR, COASTAL AND OCEANS  
PROTECTION PROJECT, ENVIRONMENTAL POLICY INSTITUTE

I represent the Environmental Policy Institute, an independent research and educational organization. I would like to thank the Chairman and members of the OCS Ad Hoc Committee for the opportunity to testify at the first oversight hearings on the new Outer Continental Shelf Lands Act Amendments.

Because of the scope and complexity of this new law, EPI and NRDC have divided up the provisions of the law so that we can provide a more detailed analysis of the work which has been done by the Administration on some of the key sections. Before I begin my discussion of the status of the implementation of specific provisions, I would like to make a few general comments.

As you know, the environmental community worked very hard over the past 4 years in support of a new OCS law. Needless to say, we were extremely pleased and relieved when the OCS Lands Act Amendments were finally signed into law on September 18 of this year. But as difficult and time consuming as it was to pass this new law, its implementation will probably require even more attention.

When the law passed, my initial reaction was to get all of the new provisions in place as soon as possible, particularly those which I felt were critical to upcoming sales. When it became obvious that many of the new sections which do not have specific deadlines for implementation, such as parts of the Fishermen's Contingency Fund, may take a while to be in full operation, my reaction was to be highly critical and impatient with the handling of the implementation process.

Needless to say, there will be many critical comments made by others testifying before this committee on the problems so far in OCS implementation. Although I too have a few complaints to voice, I would like to make several points which I feel give some perspective to comments about the implementation process.

It took Congress more than four years to pass these amendments to the OCS Lands Act. During this time, the legislation went through an endless series of changes, as you well know.

The law became effective September 18 which means the Administration has had a grand total of 54 working days to implement an extraordinarily complex law.

OCS activities have been regulated by the same law for 25 years. As this committee recognized, a change was long overdue. Depending upon how much oil and gas is found in frontier areas, we can probably expect OCS activity to continue for another 25 to 50 years. Therefore, in light of the time period and resources we are potentially dealing with, it seems only sensible to spend the time necessary for establishing well thought out programs under the new law.

If the Department of the Interior rushes through the implementation process in an effort to avoid criticism from all fronts, we will only have ourselves to thank if a few years down the road, many of the programs are a failure or have to be reworked. This is not to say that I condone an inefficient or slow implementation process, but rather that if it appears that delays are a result of careful consideration

of the final product, we should all be patient and encouraging. This is particularly important as some members of the oil industry would love any opportunity to criticize and undermine the new law. Therefore, I hope that this Committee's efforts are directed at not only keeping implementation on track but also supporting the Administration's efforts if delays occur, which in the long run will benefit the quality of the OCS program.

I would also like to point out that some of the program implementation is hampered by the federal hiring freeze or delayed while waiting for Congress to appropriate the necessary funds.

The rest of my comments will focus on six provisions of the new OCS law: section 205—Revision of the Bidding Administration; section 18—The Leasing Program; section 19—Coordination with State's and Local Governments; title III—Oil Spill Liability; title IV—Fishermen's Contingency Fund; section 606 Investigation of Availability of Oil and Natural Gas from the OCS.

In the effort of tracking down who is doing what on each of these provisions, as well as other parts of the bill, I have witnessed one recurring problem, which I feel is really the only major criticism I have to make about the implementation efforts to date. That problem is a lack of organization in the implementation process. Understandably, the bill has countless provisions with many different departments involved. However, I hold the Department of Interior responsible, as lead agency, for at least knowing who is doing what for every section of the bill. I hope the Committee will attempt to put some pressure on the Administration to create one central place where we can turn to for information. Not only have I had to shuffle from BLM, USGS, the Office of OCS Coordination, which one would theoretically believe would know who is doing what, but the maze at DOE is hopeless, not to mention DOT, FMC, Commerce etc. Very few people had any idea of what anyone else was doing, even on some of the same programs. But as I go into specific provisions, this problem will be illustrated.

#### SECTION 205—REVISION OF THE BIDDING ADMINISTRATION

Of all of the tasks required under the new OCS law, setting up procedures to utilize new bidding systems is probably the most difficult one. The responsibility for establishing the accounting systems necessary for using the new bidding systems is led by the Department of Energy in consultation with DOI, although there does seem to be some difference of opinion on that subject occasionally. At the current time, the only new bidding system being investigated is profit sharing. Two contracts to study the economics and accounting systems which could be used for profit sharing, have been granted. One by the Department of the Interior to Resource Planning Associates, and one by the Department of Energy to Touch Ross. RPA has completed their analysis and the report is now being circulated in DOI. The DOE contract, which is broader than just this specific bidding system, is not yet complete. Until both of these studies have been reviewed, it is unlikely that regulations on bidding systems will be issued.

The Department of Energy, which has responsibility for issuing the regulations establishing the new bidding systems, will probably not be circulating proposed regulations for internal review until later this month, with potential publication of the regulations in February. Looking ahead to when we might expect to see profit sharing used for a lease sale, it appears that with a February publication date, allowing 4 to 6 months for the rule making process, and potentially 3 to 4 months between final promulgation and the first use of the system so that industry can set up their accounting procedures, (this will depend upon how much the regulations are altered between proposed and final form), at best, the profit sharing system may be operative by next August, in time for Sale No. 62 in the Gulf. At worst, the first sale which could utilize profit sharing would be 10 months from February and looking at the 1977-81 schedule, that would mean Sale No. 53 in Northern and Central California in February 1981.

Hopefully, during this time, progress will be made in setting up procedures necessary for using the other bidding systems outlined in the law. Although I would like to see the new bidding systems used as quickly as possible, if there is any area where my opening comments are applicable, it's on the implementation of the bidding system. I would much rather have the accounting systems set up very carefully than risk criticism from the oil industry who have been so adamantly opposed to using anything other than the traditional bonus bid system. However, we should also keep after DOE and DOI urging them to get these systems operating as soon as possible. Finally, it may be worthwhile to consider postponing some of the sales, particularly those in frontier areas, until the new bidding systems are in place.

## SECTION 18—THE LEASING PROGRAM

I recently submitted comments to the Department of the Interior in response to a notice in the Oct. 26, 1978 Federal Register with regard to the leasing program which they are currently developing for 1981-85. A copy of these comments are attached. To summarize, I would say that I feel the Department of the Interior should reassess their past practices in developing a leasing program such as the practice of setting rigid timetables for lease sales. A great deal of information will be generated about the outer continental shelf as a result of several new information collection programs set up by the new law. It seems premature to set firm dates, acreage etc. for sales more than 5 years away before we can take advantage of new information.

There are several ways that a more flexible program could be designed without jeopardizing the necessity of giving adequate lead time for preparations for a sale. (For further details, please see the attached comments.)

A second problem I have with the leasing program is the current lack of organization of information concerning the OCS. In the recent Federal Register notice, DOI requested interested parties to submit all available information about the OCS, ranging from environmental data to oil and gas potential of different areas of the OCS. This was to be done in a month's time. I suspect much of the data which was submitted will be duplication of existing data sitting around in files within Interior or elsewhere. Considering how long the U.S. Government has been collecting information on the offshore areas, one would think that there would be a fairly well established and organized information bank. But from what I have been able to determine, there is not any centralized system from which DOI can draw information to aid in such requirements as environmental impact statements, preparation of leasing programs etc.

With the increasing pressure on the coasts and oceans, it seems logical that the federal government develop a more sophisticated information bank on this area to serve as a tool in not only the OCS program but other ocean related programs as well. The long term value of such a system could be enormous.

## SECTION 19—COORDINATION WITH STATE AND LOCAL GOVERNMENTS

The processing of state and local government comments on the timing, location and size of lease sales, development and production plans, and other OCS activities, will rest primarily with the Bureau of Land Management. However, there does seem to be some confusion as far as whether the office of OCS Coordination will forward comments to the Secretary or whether BLM will. At the moment, BLM is trying to set up a formal process for handling state comments by establishing six regional working groups. These groups will consist of representatives of Federal agencies, private sector, and states. Apparently, these groups will review state and local comments and make recommendations to BLM which ultimately will be passed on to the Secretary. The Secretary is supposed to be making a decision with regard to this program within a month.

Our concern is that there is some procedure for reviewing state comments which will insure that their concerns are adequately considered. Apparently, BLM is in the process of writing some type of procedural book, although I was unable to get specific details on this subject. I hope the Committee is able to extract more information from BLM because greater state and local involvement is one of the major reforms made by the new OCS law.

## TITLE III—OIL SPILL LIABILITY FUND

If it is any indication of how things stand on the implementation of this section, not only was it difficult to determine the entire cast of characters involved, no one who was involved really know the entire story or for that matter wanted to. According to my tally, Department of Transportation (Coast Guard), Dept. of Treasury, Federal Maritime Commission, OMB and potentially DOC and DOI are involved.

The decisions as far as who does what is still pending in OMB. I hope this Committee will push for a quick resolution so that the program can get underway.

In anticipation of OMB's decision, the Coast Guard issued some preliminary regulations on Monday. The FMC is also doing some preliminary work on the regulations affecting them. There are 13 sets of regulations, an insurance study and a Presidential appointment required for implementation. All of the regulations and decisions are to take effect March 17, 1978. The study of the adequacy of private oil pollution insurance availability and whether the market is competitive, is supposed to be released in interim form by December 18th and in final form by next Septem-

ber. To my knowledge, nothing has been done on the study, primarily because no one knows who is responsible for it.

There are several other problems which have hampered the implementation of this provision. Due to the current hiring freeze, no one has the manpower to set up the program. This has also meant that no one wants it as it requires stretching a finite number of people and dollars to deal with the program. Until the supplemental appropriations of \$5 million are allocated, it is unlikely that the program will go into effect. At the earliest, the establishment of the fund and claims settlements will not begin until March 17, 1979.

Another hurdle is that there will probably be delays on claims settlements, which will be done by private companies, because the Secretary won't be able to reward the contracts until they are funded. However, DOT has already sent out a notice to potential bidders.

A very interesting problem according to one Coast Guard representative, is that the revenue put into the fund each year, using current production levels on the OCS, which, counting a gradual decline of production in some wells and addition of others, may stay fairly constant for the next few years. Estimates are that it could take up to 10 years to set up the fund with the minimum level of \$100 million. If administrative costs are deducted, it could take significantly longer. I think that the Committee should investigate this to see if it may be true, particularly in light of the fact that the Congress will probably be acting on Superfund legislation next session.

In summary, OMB appears to be the major hold up in the process and can basically be thanked for the loss of 3 out of the 6 months available for promulgation of regulations. Frankly, considering the uncertainties over who has responsibility for what, the Coast Guard and the Federal Maritime Commission should be commended for doing as much work as they have. Hopefully, once OMB makes a decision, implementation should roll fairly smoothly. After OMB, the next hurdle is getting the supplemental appropriations and the authority to borrow the necessary money to get the Oil Spill Liability Fund going.

#### TITLE IV—FISHERMEN'S CONTINGENCY FUND

The implementation of the Fishermen's Fund is shared by Interior (USGS) and Commerce (NOAA). Basically, no work has begun due to lack of funding, personnel and interest. According to the NOAA Representative, proposed regulations setting up area accounts will be issued after January 1. In addition to setting up the actual fund, regulations on claims settlement (DOC) and equipment identification (DOI) are needed. Finally, a 2-year joint study of all obstructions (natural and man-made) which pose threats to commercial fishing is to be conducted. None of these has been started. I hope this Committee will urge that efforts to begin developing this program, begin immediately.

#### SECTION 606—OIL AND GAS INVESTIGATION

This section requires that the Secretary conduct an investigation to determine the availability of oil and gas produced or located on the OCS. USGS in Interior has the primary lead. Although I was told that this is an ongoing process, I was not convinced that any effort has been spent assessing the adequacy of past practices in meeting the requirements of the new law. I feel this section plays an important role in the development of a productive OCS program and hope the Committee will urge that it is actively and efficiently pursued.

In conclusion, I want to thank the Committee for taking the interest in following the implementation of the new OCS law. Although it is probably premature to receive an accurate picture of how all of the programs are going to be implemented, at a minimum, the hearings over the next two days will reveal where there may be problems so that they can be corrected early in the process.

If I can be of any further assistance to this Committee I hope you will feel free to contact me.

The CHAIRMAN. Ms. Beinecke?

#### STATEMENT OF FRANCES BEINECKE

Ms. BEINECKE. Today I am speaking on behalf of the Natural Resources Defense Council. I would like the opportunity to submit comments on behalf of the Conservation Law Foundation of New England, not the Conservation Foundation as indicated on the agenda.

The CHAIRMAN. You want those remarks to be separate?

Ms. BEINECKE. I don't have them right now, but I would like the opportunity to submit them for the record today or tomorrow.

The CHAIRMAN. Without objection the record will be held open for those remarks.

[The information follows:]

CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC.,  
Boston, Mass., December 4, 1978.

Congressman JOHN M. MURPHY,  
*Ad Hoc Select Committee on Outer Continental Shelf,*  
*U.S. House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN MURPHY: Thank you for your invitation to the Conservation Law Foundation of New England, Inc. ("CLF") to testify at the oversight hearing to review the status of the implementation of the Outer Continental Shelf Lands Act Amendments of 1978 ("the Amendments"). CLF shares with you the belief that these Amendments are of significant importance in the future development of OCS oil and gas activity. They represent many years of work by Congress to improve the leasing program conducted by the Department of the Interior and to make that program more sensitive to the balance between energy production and marine resource protection.

The Amendments are both lengthy and detailed and will require elaborate regulations for full and adequate implementation. CLF believes that the Act, its legislative history and the activities of the Oversight Committee indicate that it was Congress' clear intent that these Amendments would significantly reform and improve the present Department of the Interior leasing program. For that reason, CLF is disturbed by the singular lack of response from the Department of the Interior and the surprising lack of detail in the few regulations that Interior has developed for implementation of the Amendments. Because of the failure of adequate implementation, CLF cannot comment in detail upon the administration of the OCS program under the Amendments. Rather, these comments stress the need for Congressional supervision if the Amendments are to be translated into an effective regulatory program. Several examples of the need for detail and the lack of Interior's response are listed below.

Section 18 of the Amendments provides for a Five Year Leasing Program which, as you have suggested in your letter "will provide for OCS management consistent with environmental needs, affected states policies, plans and goals and the Coastal Zone Management programs". Section 18 requires that a leasing program be developed which will "implement the policies of this Act". Those policies include a requirement that conflicts between OCS activities and other uses of the marine environment, explicitly fish and shellfish recovery, either be minimized or eliminated (§ 101(13) and § 102(7)). Thus, production of energy is by no means the only criterion for the creation of the leasing program and certainly not the sole motivating factor of the Amendments.

Section 18 is at the heart of a leasing program which will provide for a rational balance between energy production and protection of other significant marine resources such as fisheries. Despite the substance of the Amendments and of § 18, in particular, and despite the clear need for detailed regulatory implementation of § 18, the Department of the Interior has responded in a cursory manner to the requirements of this section. Regulations proposed for § 18 are brief and lacking in thoroughness or detail. In most respects they simply parrot the language of the Amendments and make no substantial effort to interpret or elaborate upon or implement fully this new legislation. For instance, the regulations published in the Federal Register on October 26, 1978 have no provisions for exclusion of areas from leasing, even though that is a requirement under § 18(f). There are no provisions for consultation with representatives of the fishing industry or the Regional Fisheries Management Councils, even though such consultation is absolutely required by § 18(f). In sum, there is no indication in the § 18 regulations of an attempt to balance oil and gas activity and other uses of the OCS as required by law.

Perhaps more troubling than the limited and inadequate scope of proposed regulations pursuant to § 18 is the extraordinary request by the Department of the Interior for comments on the Five Year Leasing Program which must be submitted before any regulations implementing that program are even in place. Thus, the request for those comments required a response by December 1, even though comments on the proposed final regulations implementing the program are not due until December 15. It is difficult to imagine that, without an administrative Five

Year Leasing Program, the comments received will either be considered by Interior or focused on the issues of significance. This "cart before the horse" approach reflects what CLF can only consider to be an unacceptable response to provisions in the OCS Amendments which were deemed of major significance by Congress.

Other sections of the Amendments require equal detail and thoughtfulness in their implementation. For example, the suspension and cancellation provisions of § 204 are of major importance in the ultimate protection of living marine resources from unforeseen environmental harm. In particular, cancellation of leases will require detailed standards to control the discretion of the Secretary and to guide the application of this provision to existing leases. Without such standards, any cancellation will surely be challenged by the lessees on grounds of arbitrary and capricious administrative action. At the present time, there has been no proposal from Interior for draft regulations implementing § 204 and no indication as to when those regulations will be available.

Similar arguments for regulatory detail can be made with respect to other substantive sections of the Amendments. Until the Department of the Interior has developed proposed draft regulations and until those regulations have been fully reviewed and commented upon by interested parties, it is extremely difficult to assess the effective implementation of the OCS Amendments. CLF therefore suggests that it would be appropriate for this Committee to continue its oversight of the Amendment's and their implementation and to reconvene oversight hearings again in the months to come as regulations are developed. CLF also respectfully submits that it would be appropriate at this time for Congress to indicate its sense of urgency concerning these regulations to the Department of Interior and for this Committee to request that the Department take more seriously the importance of the Amendments and the need for substance in the regulations.

CLF would like to make a final comment concerning the specifics of any proposed lease sale on Georges Bank. This Committee is undoubtedly aware of the importance of the Georges Bank fishery and of the recent court proceedings concerning its protection from adverse damage resulting from oil and gas activity. The OCS Amendments were clearly intended to strike a more reasonable balance between energy production and the protection of resources such as the Georges Bank fishery. It would therefore be ironic were the Department of the Interior to refuse to apply all significant provisions of the Amendments to any Georges Bank lease sale. And yet, that is precisely the attitude that has been suggested by Interior. There are indications, for example, that the Department will refuse to include Georges Bank in the scheduling and balancing assessment required by § 18. In light of the unusual importance of the Georges Bank resources and the relative insignificance of the anticipated oil and gas resources, it is at best surprising that a Georges Bank lease sale would not be subjected to the strictest scrutiny required by the OCS Amendments. CLF respectfully requests that this Committee indicate its belief that the Secretary of the Interior should reassess a Georges Bank lease sale in conjunction with the preparation of the entire Five Year Leasing Program and that the proposed North Atlantic lease sale be rescheduled or withdrawn in accordance with the specific requirement of the Amendments that conflicts between oil and gas activity and fish and shellfish recovery be "minimized or eliminated".

Thank you for the opportunity to present these comments to the Committee. CLF commends the Committee on its efforts to develop a more sensitive and comprehensive OCS leasing program and its continuing interest in the effective implementation of the OCS Amendments. If CLF can be of any additional assistance to the Committee, I hope you will not hesitate to contact me.

Sincerely yours,

DOUGLAS I. FOY,  
*Executive Director.*

Ms. BEINECKE. The Natural Resources Defense Council, Inc.—NRDC—appreciates this committee's invitation to present testimony on the implementation of the OCS Lands Act Amendments. NRDC is a national, nonprofit environmental organization with a membership exceeding 40,000.

NRDC has been deeply involved in OCS oil and gas issues for many years. This work has included litigation over lease sale 40 in the Mid-Atlantic; review and comment on the Department of the Interior's (DOI) environmental impact statements on lease sales 42, 43, and 49; review and comment on proposed regulations; and

extensive involvement in working for the passage of the OCS Lands Act Amendments.

NRDC's comments today cover a number of issues of key environmental interest. Hope Robertson from the Environmental Policy Center is also addressing issues of concern to us.

NRDC strongly supports the OCS Lands Act Amendments of 1978. This committee and its staff deserve the fullest praise for completing a long and arduous task. Although the amendments do not include everything we would like to see, we believe that they represent a major step forward in the reform of the OCS leasing program.

One of the questions posed in the invitation letter was whether changes in the amendments appear to be necessary at this time. We believe it is premature to identify necessary modifications to the act, but do not rule out the possibility of the need for changes. We will have a much clearer idea about the need for and nature of changes once the amendments start to be implemented.

Our major concern at this time regarding the amendments relate to their implementation. Implementation has proceeded slowly in all agencies. We have been very frustrated in the past 2 months in our attempts to obtain an implementation schedule from the Interior Department.

We were led to believe that Interior had been preparing for implementation prior to the act's passage and that required modifications in regulatory procedures would be smooth and fairly rapid. This has not been the case.

In addition to the unavailability of the schedule, it has been impossible to identify any individual at the Interior Department whose responsibility it is to coordinate the implementation of these amendments both in Interior and among all the involved Federal agencies.

We hope that the schedule which has been prepared by the Interior Department for this committee's review will provide the necessary information, and are pleased that this hearing has finally resulted in the development of a schedule for public review. This might not have happened otherwise.

We also look forward to hearing from the other Federal agencies, such as the Departments of Energy, Transportation and Commerce, concerning their schedules for implementation of the amendments.

Another area of concern is how much of the amendment's implementation will have happened at the time of Sale 49 in the Mid-Atlantic which is scheduled to be held in February. Although we have been assured that all sections of the act affect sales held after the act's passage, many new sections are not operable without accompanying regulations.

Important sections which fall into this category include: (1) the provision of section 5(a) for the suspension of and, where necessary, the cancellation of leases for environmental reasons; (2) the provisions of section 11 calling for the submission of detailed exploration plans by lessees and an accompanying general statement; (3) the provision of section 20 calling for the establishment of procedures to implement the environmental studies program; (4) the provisions of section 21 requiring the Secretary to establish requirements for the use of best available and safest technologies for drilling and

production operations; (5) the provision of section 25(c) calling for the submission of detailed development and production plans by lessees; (6) the provision of title III calling for the establishment and administration of an Offshore Oil Spill Pollution Fund; and (7) the provisions of title IV calling for establishment and administration of a Fishermen's Contingency Fund.

This list is not exhaustive, but highlights those provisions which from an environmental point of view require prompt and effective implementation before the protections they promise can be fully realized.

Since September the Department has only issued regulations in four areas: a new lease form; a rule for antitrust review of bids; a suspension of portions of existing regulations covering exploration, development and production plans and their review by affected States; and a request for information, a timetable, and a final regulation on the new leasing program. No other proposal for regulations has been issued for these other sections of the amendments.

Serious environmental concern arises from the fact that many lease sales have already occurred in frontier areas and Interior is pressing ahead with more lease sales in frontier areas. Yet without regulations implementing the new requirements, leasing operations in these areas remain unaffected by the new provisions of the law.

We believe that this result draws into serious question the Interior Department's compliance with the high standard of environmental care required by the new amendments. Because a primary purpose of passing these amendments was to adopt new safety procedures for operations in frontier areas, we would oppose further lease sales in frontier areas until the amendments become fully operable, through the promulgation of the necessary regulations.

Although the Department seems to be slow in issuing regulations in many key areas, that has not been the case in moving forward with the development of the new leasing program pursuant to section 18. We were distressed that the Federal Register notice only provided 30 days for the public to supply information on competing uses, marine productivity and environmental sensitivity for the entire U.S. offshore environment.

Yet Interior's own timetable does not call for a draft program until March of 1979. We feel we should have had a greater opportunity to provide comments in this area. We have submitted comments to the Department of Interior. We have requested that the Department allow the public to provide this essential information for an extended period. Although we are eager to have the amendments implemented fully at the earliest possible time, we also want to be sure that implementation occurs in the most thorough and complete manner.

In another notice in the Federal Register, the Interior Department suspended portions of existing regulations which relate to submission of environmental reports with exploration, development and production plans in the Gulf of Mexico, and submission of exploration and development and production plans to affected States. (30 CFR 250.34-1,2,3).

The reason for this has apparently been conflicts between the timing requirements of the amendments and this preexisting regulation. Although this section has been called a quick fix by Interior, no subsequent modifications in the regulations have been forthcoming. We would be very distressed if the Department continued to use the quick fix method rather than real revisions in the existing regulations. The requirements for exploration plans and development and production plans are key to acceptance of the offshore leasing program by affected States. Any conflicts between earlier regulations and the amendments must be corrected immediately.

Now I would like to turn to those sections of the amendments which we understand are being opposed by the oil industry, but which must continue to be fully supported. It is becoming apparent that there is much opposition to the review requirements for Outer Continental Shelf permits and licenses under the Coastal Zone Management Act.

In earlier testimony to this committee in 1977—Hearings, Ad Hoc Select Committee on Outer Continental Shelf, part 2, page 1145—we indicated that the consistency requirements of the Coastal Zone Management Act which had been amended in 1976 to reflect Outer Continental Shelf operations should hold. We continue to maintain this position, as the States must be given every opportunity to review activities which may affect their valuable coastal resources.

Another section where opposition has been expressed is the clean air requirements of section 5(a)(8). This section, which requires compliance with ambient air quality standards where offshore operations are shown to affect the air quality of any single state, must be fully supported. It is necessary to allow States to meet national ambient air quality standards and thereby protect the health of their citizens.

As this requirement only comes into play when a direct relationship is observed between offshore operations and onshore air quality, and can only be required when the Secretary reviews exploration and development and production plans for approval, we believe it places no undue reporting or compliance burden on a lessee. We would oppose any suggestions to weaken this section.

We thank you for the opportunity to appear before this committee and discuss those sections of the amendments which we think are key to providing adequate environmental protection. We will continue to closely review Interior's implementation of these amendments and are pleased that your committee is providing a forum for continuing comments on this issue.

Without your continuing interest and surveillance of the amendments, full implementation would be very difficult to achieve. We hope that the Ad Hoc Committee on the Outer Continental Shelf will continue its instrumental role in the oversight of this program.

[The information follows:]

NATURAL RESOURCES DEFENSE COUNCIL, INC.,  
*Washington, D.C., December 5, 1978.*

Hon. CECIL ANDRUS,  
*Secretary, Department of Interior,  
Washington, D.C.*

DEAR MR. SECRETARY: We are writing you because of our concern regarding the upcoming Outer Continental Shelf Lease Sale 49 in the Mid-Atlantic. This sale is scheduled to be held in February 1979. A proposed notice of sale appeared in the November 17, 1978 Federal Register. While we intend to submit detailed comments prior to December 21 on the proposed lease stipulations and tract selection contained in this proposed notice, there are two urgent matters concerning the proposed sale which we wish to call to your attention immediately.

As you well know the Outer Continental Shelf Lands Act Amendments of 1978 were enacted into law in September of this year. Passage was credited in large measure to your and the President's strong support. These amendments set forth significant procedures and mechanisms to ensure that responsible and orderly development of OCS oil and gas resources is achieved consistent with the protection of the coastal and marine environments. Many provisions of the amendments provide important new authority to you and to others, such as the Secretaries of Transportation and Commerce, to ensure that environmental concerns are fully reflected in leasing procedures. However, several of these provisions are not self-executing. Regulatory requirements must be established by your agency and the other agencies to implement these provisions. Sections of the amendments which fall into this category include: (1) the provision of section 5(a) for the suspension of and, where necessary, the cancellation of leases for environmental reasons; (2) the provisions of section 11 calling for the submission of detailed exploration plans by lessees and an accompanying general statement; (3) the provision of section 20 calling for the establishment of procedures to implement the environmental studies program; (4) the provisions of section 21 requiring the Secretary to establish requirements for the use of best available and safest technologies for drilling and production operations; (5) the provision of section 25(c) calling for the submission of detailed development and production plans by lessees; (6) the provisions of Title III calling for the establishment and administration of an Offshore Oil Spill Pollution Fund; and (7) the provisions of Title IV calling for the establishment and administration of a Fishermen's Contingency Fund. This list is not exhaustive, but highlights those provisions which from an environmental point of view require effective implementation before the protections they promise can be fully realized.

While you have repeatedly reiterated your commitment to proceed expeditiously with offshore leasing, we have not found evidence to date of a parallel commitment to proceed expeditiously with implementation of the recent amendments. We were led to believe as early as last spring that many of the regulations necessary to implement the amendments were in draft form, ready to be proposed if and when the amendments were enacted into law. It is now over four months since passage of the amendments was a certainty. Yet there have been no regulations issued in proposed or final form implementing the key sections referred to above.

We believe that the regulations implementing these sections should be in place before Lease Sale 49 goes forward. Until such regulations are in place leasing operations may proceed without necessity of meeting the new and important requirements of the amendments. This result would raise serious questions concerning the Department's compliance with the strong environmental mandate of the new law.

The second issue of concern to us relates to the need for a supplemental Environmental Impact Statement for Lease Sale 49. Apparently there has been discussion within your Department regarding the preparation of such a document. We think the Department should prepare such an EIS. We believe that the need for such a statement arises from passage of the amendments and the detailed changes in the law governing leasing which have resulted. If such statement is prepared, it must proceed through the ordinary review and comment procedures required by NEPA. (*NRDC v. Morton*, 337 F.Supp. 170 (D.D.C. 1972)). Issues which this supplemental EIS should address, which were not included in the FEIS on Sale 49, include: an assessment of the need to prepare and promulgate regulations before the lease sale; the environmental consequences of not having these regulations in place before the sale or soon thereafter; the costs associated with delaying the sale until such time as the regulations are in place; and an assessment of the proposed Sale 49 against the new environmental standards established by the amendments, including the standards set forth in the findings, purposes, and policy sections of the act.

We greatly appreciate your consideration of the above comments. We look forward to hearing from you on both these important matters.

Yours sincerely,

SARAH CHASIS,  
*Senior Staff Attorney.*

FRANCES BEINECKE,  
*Senior Project Scientist.*

The CHAIRMAN. Thank you.

Mr. Oliver, all statements will be printed in the record in their entirety. If you would like to summarize your statement, we could move right to the questioning.

#### STATEMENT OF MILTON OLIVER

Mr. OLIVER. Chairman Murphy and members of the committee, my name is Milton Oliver. I am a patent lawyer from Boston, but I am here today in my capacity as chairman of the national oil and gas subcommittee of the Sierra Club's national energy committee, and also as chairman of the Outer Continental Shelf coastal zone management Task Force of the New England Chapter.

The Sierra Club nationally has about 180,000 members and the New England chapter has about 6,000 of those. On behalf of the Sierra Club I would like to thank you for this opportunity to give you our views on the implementation of the Outer Continental Shelf Lands Act Amendments of 1978 which we all worked so hard on.

We believe that the Outer Continental Shelf bill's enactment promises improvements in the leasing process in at least five important respects. One, it provides for more realistic, predictive studies of the effect of oil, drilling mud, and other materials on the environment of the lease area. Two, it authorizes lease suspension or cancellation in case of another Santa Barbara-like disaster. Three, it establishes an oil spill liability fund. Four, it establishes a fishermen's gear compensation fund. Fifth, it gives States and municipalities more information about and influence over the drilling program.

Of these five, implementing regulations have been promulgated so far only for the last item, and they are far from satisfactory. In fact, the November 8 issue of the coastal zone newsletter *Nautilus* indicates that an existing regulation giving States 30 days to comment on exploration plans has been suspended, leaving them with too little time to consult municipalities before filing the State responses.

I understand in some cases this is as little as 5 days for the States to consult with municipalities.

The regulations published on October 26 make it appear that it is entirely discretionary with a Governor whether he informs municipalities about leasing plans or not, and implies that their comments must be channeled through him and perhaps subject to his censorship. We believe the regulation should make it clear that after submitting their comments to the Governor, municipalities are free to transmit them directly to the Interior Department. Many States are just not equipped to process municipalities' comments.

There have been no regulations promulgated yet to implement the cancellation, spill liability, or gear compensation provisions of

the fact, and we feel it would be irresponsible not to delay pending lease sales in frontier areas at least until those regulations are promulgated, a matter of a few months.

The Sierra Club has contended for a number of years that the Bureau of Land Management's environmental studies were inadequate to satisfy the requirements of the National Environmental Policy Act and those studies which were done were not properly synchronized with and factored into the decisionmaking process on leasing. The recent National Research Council review of the program, as you know, came to the same conclusions. What are needed are not masses of baseline statistics which will tell you what's extinct after the oil has killed them, but sound marine biological studies which will produce predictive models and tell you when and where to drill or not to drill so as to preserve our renewable fish resources.

In Massachusetts, we have had a replica of a codfish hanging in our house of representatives chamber for decades, and we take the jobs of our fishermen and our tourism workers seriously.

We are disturbed that we have been unable to discover from Interior that they are embarking on such necessary predictive studies to replace the previously criticized studies. We believe that such predictive studies should be completed before leasing is done, even if it takes 2 or 3 years. We are informed that another \$18.5 million is needed this fiscal year to commence the proper studies and we strongly urge you to impress upon your colleagues on the appropriate committees the necessity of providing these funds.

Further, we think the environmental information which goes into development and production plans should be more than a carbon copy of the environmental impact statement. They should incorporate the latest environmental findings, and regulations should be promulgated to require that.

Finally, we should consider, in the light of recent Mexican and other discoveries, whether it is wise to rush into drilling in the hostile North Atlantic or Arctic waters, where containment booms cannot begin to cope with spills. The oil will wait for us or our children to pump it when we have the proper technology to do so safely, and it will be even more valuable to have some left then.

Thank you very much.

The CHAIRMAN. Thank you.

Miss Corwin.

#### STATEMENT OF DR. RUTHANN CORWIN

Dr. CORWIN. Mr. Chairman, I am Dr. Ruthann Corwin, professor of environmental planning at the University of California, Los Angeles, speaking in behalf of the Scenic Shoreline Preservation Conference, a California environmental group. You have been sent copies of the testimony of Mr. Fred Eissler, which I wish to introduce into the record and briefly summarize.

The CHAIRMAN. It will appear at this point in the record.

[The information follows:]

## STATEMENT OF FRED EISSLER, SCENIC SHORELINE PRESERVATION CONFERENCE

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Mr. Chairman: My name is Fred Eissler. I am representative of Scenic Shoreline Preservation Conference, a California environmental group headquartered in Santa Barbara. Our organization believes that the Amendments, properly implemented, comprise the most significant OCS master planning document ever passed by Congress and are particularly applicable to the planning and management of the marine and coastal environments of the California Bight, the area affected by the proposed Lease Sales 48 and 53.

Both the operative language and the findings, purposes and policies of the Act provide the design for a marine management master plan to reconcile conflicting OCS multiple uses. Essentially, an Outer Continental Shelf Leasing Program (Sec. 18) is a land-ocean master plan. This five year plan has all the features of a land use element and general plan onshore and is a supplement to and to be coordinated with the rigorous planning processes underway in the coastal zone of California and other states.

The challenge of the legislation must be met by administrative agencies prepared to exercise fully the Act's landmark features requiring a new comprehensive approach to ocean management. The most advanced methods of information retrieval and computer modeling must be employed to complete and continually update a visible plan graphically defined with maps and overlays available for public review as the basis for an OCS energy management process. Elements of this Leasing Program or master plan (Sec. 18, (a)(2)(A-H)) shall present the environmental context of all OCS lease area zones and associated transport and use patterns from the high seas

to the internal boundaries of the coastal zone on land as a context or framework for evaluating and balancing the synergistic and cumulative impacts of oil and gas development and other OCS multiple uses upon each other and the total marine ecology. The requirements of this historic Act present a monumental task which can be met only by a bold and innovative planning approach by the administrative agencies.

One of the major gaps in this planning process to date is the absence of the overall five or ten year national energy plan required by the Amendments (Sec. 18 (a) and (a)(2)(C)). The proposed Lease Sales 48 and 53 along the California coast, for example, have never been justified under a national energy policy or in terms of a national market demand and cannot be until such a policy is defined. Any attempt to justify these lease sales also is invalid with the West Coast market experiencing a petroleum surplus. Until a 5-10 year national energy plan, authorized by the Amendments, has been completed, any consideration of OCS lease sales anywhere around the nation is premature.

Both the Interior and Energy Departments, then, face the challenge under this Act to work together in formulating a comprehensive energy plan based on a matrix of variables that integrates energy production with market need, alternative sources of energy as they are developed, and such significant options as energy conservation. Primary consideration should be given to alternative uses for oil and gas besides their wasteful consumption as fuel.

Several years ago, Scenic Shoreline drafted a hydrocarbon reserve bill proposing that petroleum in the Santa Barbara Channel remain in a reserve for petrochemical uses until such time as technology permitted safe production and wise use of the resource. A copy of this alternative applicable to the total OCS region and worthy of major consideration in a 5-10 year national energy plan is attached to this testimony.

Nowhere is the need for OCS masterplanning more urgent

than the Southern California Bight, the site of Lease Sales 48 and 53, extending from Point Concepcion to the Mexican border and actually beyond U.S. territorial waters to Baja California as far south as Scammons Lagoon. The problems of multiple use conflict in the bight are reflected with particular severity in the Santa Barbara Channel region, a 3,000 square mile marine territory bounded by the Channel Islands, some twenty-six miles offshore.

This region of ecological superlatives off Ventura and Santa Barbara Counties, one of the unique marine habitats in the world's temperate zone, is becoming an unplanned energy dump for proliferating oil platforms, floating LNG terminals, expanding tanker traffic, and oil spills and chronic pollution. The channel is one of the few places in the world oceans where two major ecosystems, the northern colder waters above Point Concepcion and the warmer currents to the south, mix and intermingle attracting a transitional zone flora and fauna from Southern California, Mexico, Central and Northern California and Alaska. The zone also provides the opportunity for the creation of new species. These protected waters with nutrient upwelling currents produce a great biomass of forage <sup>They</sup> support the largest and most diverse temperate water marine mammal population in the world, additionally remarkable for being so close to major Southern California population centers.

The large number of endangered species; the rare and endemic plants; the cetacean migratory routes and the stopping places for birds on the Pacific flyway; the superb attributes of a potential Channel Islands National Park; and the values to science, recreation, fisheries, boating and tourism make the potential for environmental degradation and economic loss in the channel region probably the highest in the Western United States with the possible exception of Alaska.

What is the trade-off? What is this rich and diverse marine heritage being sold for? The channel contains some 51% of the oil reserves in the bight, an estimated 300 million barrels,

which, at the national consumption rate of about 20 million barrels per day, would supply the nation for some 37 days. And what is being produced?--a high sulphur, low grade asphaltum which the ancient Chumash Indians appropriately used to caulk their sea-going canoes. The residual oil is too poor for processing at West Coast refineries; the companies consider dumping it on the market or shipping it to Japan. A 37 day supply of asphaltum to be produced over 30 years at major threat to a unique ecosystem is hardly a reasonable trade-off. The OCS Amendments were designed to bring some orderly protection and development out of the chaos of such rough-riding exploitation that has characterized this and other OCS ecosystems.

The balancing of multiple uses in such a highly sensitive channel area shall be achieved, according to the Act, by means of the OCS Leasing Program, a master plan, a visible compilation of elements and documents open to public scrutiny--not an exercise in the minds of bureaucrats behind closed doors. The process of reconciling ocean zones, assigning uses and developing elements,-- or in the words of the Act (Sec. 18 (2)(D)) considering "the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the Outer Continental Shelf"-- to be effective must be accomplished in tangible graphic form in a OCS Shelf Leasing Program--a Program being nothing less than a comprehensive and continuously up-dated master plan.

The opportunity for public participation in this process, we feel, is too restricted both by the Act and the regulations being promulgated by the Interior Department. Public input during preparation of the lease master plan program is adequate, according to the Act. Once the plan is completed, however, only the affected States have but a brief opportunity to review the final production before it is submitted to Congress. We urge that the public

generally and citizen groups and other organizations be afforded the opportunity, and time also, to comment on the finalized program plan at hearings and other forums.

The Act's provisions for consultation with local and state governments and the coordination with local and state coastal plans is a worthy extension of federal legislation. The California administration and local governments, incidentally, concur in opposition to Lease Sales 48 and 53. Marine sanctuaries under the Marine Protection, Research and Sanctuaries Act of 1972 have been nominated by several local governments encompassing vast sections of the bight, an indication of the high public regard for the sensitive OCS environments. Appended to our statement is a summary of the Santa Barbara County sanctuary nomination for the Santa Barbara Channel. A lease sale program management plan would certainly attempt to reconcile these sanctuary values with oil and gas exploitation.

Proposed liquified natural gas terminal development in the Santa Barbara Channel and elsewhere in lease sale areas of the California coast, potentially posing serious conflict with both marine protection and oil development, is a priority concern of the program planning process. Our organization opposes LNG in principle because it is unsafe, uneconomic, unreliable, inappropriate and unnecessary. We support legislation in Congress opposing LNG imports as inflationary. One or more floating LNG terminals in the channel would be an invitation to disaster at a proposed site at Ventura Flats (Oxnard Shelf) eight miles offshore from population centers at the narrow east end of the channel within two miles of tanker sea lanes and a short distance from existing and proposed oil platforms at the junction of fishing and boating routes to the Channel Islands from Oxnard, Ventura and Santa Barbara marinas, along cetacean migratory routes, and in rich forage grounds for endangered species at the adjacent Channel Islands National Monument. Because of the interrelated food chains and ocean currents

in the channel, pollution at this one site could impair the total region. Here in the channel is a test area, a laboratory for developing a master plan in which a rich variety of diverse interests can be balanced under Amendment planning provisions in a lease program planning document.

The Act (Sec. 201(g)(h)) refers to "marine" and "coastal" "components" or elements of the triple interface--physical, atmospheric and biological--which "interactively" affect the productivity and quality of the marine and terrestrial ecosystems. The air pollution element of a channel plan, for example, might indicate that the capacity of the air basin is the primary restriction on OCS development. In any case, the Act's emphasis upon interdependence and interactivity sets the requirement for a sophisticated planning process. Achieving a balance between exploitation and conservation in an efficient and expeditious manner will require the latest and best techniques in information retrieval and modeling. A systematic program for defining a scheme of multiple use priorities and a matrix for collecting and organizing information related to the land-ocean-air interface and transport fluxes from border to border of the lease sale areas as the basis of a land-ocean masterplan is a respectable challenge. The information and environmental studies and economic, social components (Sec. 201(h)) would then be available to all in a form readily usable to facilitate broad participation in decision-making.

Masterplanning the OCS is long overdue. We welcome and encourage every effort through these historic Amendments to achieve balanced OCS planning.

Attachments (2)

SCENIC SHORELINE PRESERVATION CONFERENCE, INC.  
4623 HIGGINS MESA DRIVE  
SANTA BARBARA, CALIFORNIA 93110

(805) 964-2492

1. The Marine Sanctuaries Study Bills were introduced in 1968 to formulate a type of undersea side to the Wilderness Act and, primarily at the same time, to forestall oil development in the Santa Barbara Channel and other vulnerable OCS areas, including Georges Bank off Cape Cod. Four years later in 1972 the marine sanctuary provision, after a varied course through legislative channels, moving with greater success once the oil moratorium sections were removed, became Title III of the Marine Protection Research and Sanctuaries Bill.

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2. The proposed Marine Hydrocarbon Reserve Study Act (1975) picks up the oil theme again on the assumption that now after the energy crisis has accentuated the importance of energy conservation, legislation on energy resource conservation may have a better chance of passage. The growing awareness of the need to conserve hydrocarbons for petrochemical uses should generate support for a reserve system, especially in those marine areas where the risk of oil spills presents environmental and social hazards of some intensity in view of the unsatisfactory state of the art of deep-water oil production and clean-up.

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3. One of the primary recommendations for hydrocarbon reserves as part of an "effective hydrocarbon conservation program" is made in the National Academy of Sciences Committee on Resources and Man publication entitled Resources and Man (San Francisco: W. H. Freeman and Company, 1969), Policy 18, p.15: "That fossil fuels be conserved for uses that cannot be met by other sources." Dr. Preston Cloud, chairman of the Resources and Man Subcommittee, forwarded a letter to President Nixon shortly after the Santa Barbara oil spill of 1969 requesting that the channel be included in a hydrocarbon reserve system. A similar concept had been proposed by another geologist active in government policy matters, Dr. John C. Crowell, a professor at the University of California at Santa Barbara and a colleague there of Dr. Cloud.

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4. Some of the provisions of the proposed Act are taken from the original Sanctuaries Study Bills; Senator Cranston's 1973 Santa Barbara Channel Federal Energy Reserve Act (S 2339); and ~~legislation currently being considered~~, Senator Holling's Outer Continental Shelf Lands Act Amendments of 1975. The latter bill refers to a National Strategic Energy Reserve Study (Sec.304) comparable, it would seem, although the concept is not clearly defined, to a Naval Petroleum Reserve. The Senator Cranston 1973 proposal considered a type of semi-permanent reserve to remain inviolate until such time as oil and gas could be produced with far greater safety than the state of the art can guarantee even today, especially in the seismically hazardous deep-water areas of the Santa Barbara Channel. The proposed Marine Hydrocarbon Reserve Study Act combines several concepts -- the aforementioned safety needs of the Cranston bill and the paramount need

to reserve hydrocarbons for their highest and best uses. Furthermore, the Act would give priority consideration to marine areas where unique environmental and social factors would potentially be impaired by hazardous oil exploration and production.

5. It should be stressed that the Act does not set up military reserves, although certainly conserving oil on the home front in hydrocarbon reserves provides the long-term strategic advantage of not increasing dependence on foreign oil imports by using up supplies here. To qualify as military preserves, the oil fields should be production-ready in the event of an emergency. The OCS is not a satisfactory place for this strategy, especially considering the inadequate technology of offshore drilling, the vulnerability from the ecological standpoint of the marine environment, and the potential impact of oil development upon tourist-oriented coastal communities.
6. Additional legislation may be necessary to expand a system of onshore petroleum reservoirs such as the Elk Hills shut-in reserve held on standby status with the production equipment and standby pipeline capacity ready in case of an emergency. This approach is defined in "A National Defense Petroleum Reserve Alternative to Oil Import Quotas" by Walter J. Mead and Philip E. Sorensen (University of California, Santa Barbara, c.1971). The paper also considers the storage of petroleum in salt domes.

S . \_\_\_\_\_

1 Be it enacted by the Senate and House of Representatives  
2 of the United States of America in Congress assembled, That  
3 this Act may be cited as "The Marine Hydrocarbon Reserve  
4 Study Act".

5 FINDINGS

6 Sec. 2. The Congress hereby finds and declares that --

7 (1) diminishing oil and natural gas supplies from domestic  
8 and foreign sources can no longer be relied upon to meet the  
9 United States or world energy budget;

10 (2) hydrocarbons, such as petroleum and natural gas, are  
11 needed for petrochemicals, synthetic polymers, and essential  
12 liquid fuels, for which suitable substitutes are as yet  
13 unknown;

14 (3) these resources are also important in synthetic and  
15 bacterial food production;

16 (4) to the extent practicable, hydrocarbons should not be  
17 spent as fuel for transportation, electricity, heating, and  
18 industrial purposes whenever substitutes can be utilized and  
19 energy conservation is feasible;

20 (5) while other nations, individually and in cartels, are  
21 stretching out their hydrocarbon reserves, the United States  
22 should not increase its strategic dependence on hydrocarbon  
23 imports by rapidly and wastefully depleting its own reserves;

24 (6) a need exists, therefore, to determine, as part of a  
25 hydrocarbon conservation program, the most feasible and  
26 desirable means to establish a Marine Hydrocarbon Reserve  
27 System within certain portions of the tidelands, outer contin-  
28 ental shelf, seaward areas, and Great Lakes of the United States:

1 (7) it is in the national interest to give priority study  
2 and consideration for inclusion in such a reserve system to  
3 those areas with hydrocarbon reserves, such as the Santa  
4 Barbara Channel and other frontier areas, having the greatest  
5 potential for environmental and social impact and damage  
6 from oil development.

7 ESTABLISHMENT OF MARINE HYDROCARBON RESERVE STUDIES

8 Sec. 3. (a) In furtherance of this policy the Secretary  
9 of \_\_\_\_\_ shall study, investigate, and formulate  
10 recommendations on the most feasible and desirable means of  
11 establishing portions of the nation's tidelands, outer contin-  
12 ental shelf, seaward areas, and Great Lakes as Marine Hydro-  
13 carbon Reserves, including but not limited to the Santa  
14 Barbara Channel and other frontier areas.

15 (b) The Secretary shall cooperate and consult with other  
16 interested Federal agencies as well as other interested public  
17 and private organizations and shall coordinate his studies,  
18 to the extent feasible, with all other applicable planning  
19 activities related to the areas under consideration, including  
20 the coastal zone management programs of any state which have  
21 been approved pursuant to Section 306 of the Coastal Zone  
22 Management Act of 1972.

23 (c) In conducting the studies, the Secretary shall schedule  
24 hearings in areas contiguous to the proposed reserve sites  
25 for the purpose of receiving views on the establishment of  
26 such reserves.

27 STUDIES TO DETERMINE AREAS SELECTED

28 Sec. 4. In determining the areas to be selected for hydro-

1 carbon reserve status, the Secretary shall conduct necessary  
2 studies that include, but shall not be limited to the following  
3 research:

4 (1) an oil and gas exploratory program sufficiently  
5 comprehensive to obtain public information, or the provision  
6 of presently available exploratory data by the lessee for  
7 public distribution, to evaluate the extent, location, and  
8 potential for reserve status of the oil and gas resources in  
9 the areas under consideration;

10 (2) baseline studies of the marine and coastal environments  
11 of the potential reserves, and Environmental Impact Statements  
12 on the comparative effect of oil development and reserve status  
13 in candidate areas, pursuant to the National Environmental  
14 Policy Act of 1969;

15 (3) a safety evaluation of each potential area, including  
16 but not limited to the effectiveness, safety, and reliability  
17 of the following: drilling and production techniques; oil spill  
18 containment and recovery technology; onshore and offshore storage,  
19 treatment, and handling facilities; and tanker and pipeline  
20 transport. The effectiveness, safety, and reliability of these  
21 technologies shall be compared with the costs and benefits of  
22 reserve status, giving consideration to such multiple use  
23 opportunities within potential reserves as sport and commercial  
24 fishing, wildlife conservation, outdoor recreation, and scenic  
25 beauty; and

26 (4) a plan for management of the reserves, including, where  
27 applicable, rules on the tenure of present lessees.

## 1       SUSPENSION OF PRODUCTION IN POTENTIAL RESERVES

2       Sec. 5. (a) Until such time as he submits the report  
33 required by section 6 of this Act, the Secretary of \_\_\_\_\_  
4 shall not issue or renew any license, permit, or other  
5 authorization for exploration or production of oil and gas  
6 from any part of the Outer Continental Shelf under study as  
7 a possible Marine Hydrocarbon Reserve, except as provided by  
8 Section 4. (1) of this Act.

9       (b) All exploration and production of oil and gas in study  
10 areas already leased, except as provided by Section 4.(1) of  
11 this Act, shall be suspended until submission of the report  
12 required by Section 6 of this Act, with the exception of the  
13 operations listed in the following subsections (c) and (d).

14       (c) The Secretary is authorized under such terms and  
15 conditions as he may prescribe to permit continued oil and gas  
16 production on leases P-0241, P-0240, P-0166 in the Santa Barbara  
17 Channel, if he finds such action is necessary or desirable to  
18 prevent or minimize oil spillage, leaks, or other pollution.

19       (d) Notwithstanding the preceding provisions of this  
20 section, the President may terminate the suspension, for such  
21 a period as he may prescribe, upon determining that a national  
22 emergency in oil and gas supplies necessitates such termination  
23 for such period.

24       (e) The Secretary is authorized to extend the primary  
25 term on each lease on which production is suspended pursuant  
26 to this section, and for an additional period equal to the time  
27 remaining on the primary term of such lease on the date of enact-  
28 ment of this Act.

1 (f) During the period of suspension, the Secretary shall  
2 waive all the rentals and drilling deferment payments with  
3 respect to each lease and the lessee shall be allowed a credit  
4 toward any tax imposed on such holder pursuant to subtitle A  
5 of the Internal Revenue Code of 1954 for any taxable year in  
6 an amount equal to the interest, at a current fair market rate  
7 on such holder's investment in such lease, for the period of  
8 such suspension during such year.

9 REPORT TO CONGRESS

10 Sec. 6. The Secretary of \_\_\_\_\_ shall submit to  
11 the Congress through the President within two years after the date  
12 of this Act a report of his findings and recommendations, including  
13 such legislation as he deems appropriate. The Secretary's report  
14 shall contain but not be limited to findings listed in Sec. 4.  
15 of this Act.

16 DEFINITION OF TERMS

17 Sec. 7. For the purposes of this Act --

18 (a) The term "tidelands" means bays, estuaries, land and  
19 waters within the three-mile territorial limit of the United  
20 States.

21 (b) The term "Outer Continental Shelf" means land and  
22 waters extending from the three-mile territorial limit out to  
23 the two-hundred meter depth contour.

24 (c) The term "seaward areas" means land and waters  
25 contiguous to and extending from the two-hundred-meter depth  
26 contour.

27 (d) The term "frontier areas" means regions and areas of  
28 the Outer Continental Shelf where there has been no previous

1 development of oil and gas or other areas where geological  
2 or environmental conditions make oil and gas development  
3 hazardous: to wit, the areas known as Georges Bank;  
4 Baltimore Canyon; Blake Plateau; the portion of the Florida  
5 Embayment in the Atlantic Ocean; southern California, includingg  
6 the Santa Barbara Channel; and Gulf of Alaska.

7                                    APPROPRIATIONS

8            Sec. 8. There is authorized to be appropriated not to  
9 exceed \_\_\_\_\_ million to carry out this Act.

- SUMMARY -

SANTA BARBARA CHANNEL  
MARINE SANCTUARY NOMINATION  
July 11, 1978

Area Selected:

Approximately 3,000 square miles of the Santa Barbara Channel and a zone south around the four Santa Barbara Channel Islands: San Miguel, Santa Rosa, Santa Cruz, and the Anacapas. See accompanying map.

Background:

In his environmental message of May 23, 1977, President Carter directed the Secretary of Commerce to review areas offshore of the United States for possible Marine Sanctuary designation under the Marine Protection, Research, and Sanctuaries Act of 1972. Nominations for Marine Sanctuary designation may be submitted by any interested person or organization. On April 3, 1978, the Board of Supervisors of Santa Barbara County submitted the nomination of the Santa Barbara Channel area for Sanctuary status to the Secretary of Commerce. On June 24, 1978, the County forwarded a more complete Nomination paper and Management Information report to the National Oceanographic and Atmospheric Administration, which will prepare the "white paper" on the nomination and an impact statement for the Secretary of Commerce.

Purpose for Nomination:

The Act provides that areas may be nominated for protection of: habitats, species, research sites, recreational/aesthetic values, or unique values. The Santa Barbara Channel Marine Sanctuary is nominated for the protection of values in all of the above categories.

Special Values of the Santa Barbara Channel:

The offshore island and basin topography of the California bight is unique in the North American continental shelf, and has created an uncommon diversity of habitats for support of marine organisms. The nomination area includes the submarine shelf and fan off Pt. Arguello and Pt. Conception, the feeding grounds of the island platform and the Santa Rosa underwater plateau, the benthic communities and fishing grounds over the Oxnard and mainland shelves and the Hueneme and Mugu submarine canyons, the recreation and foraging waters of the Santa Barbara basin, and a section of the continental shelf sloping towards the Patton Escarpment.

The area nominated is the northernmost part of the California bight. The United States portion is one of the biologically most productive offshore regions of our nation, and its northwestern waters encompassed by the proposed Marine Sanctuary are the coolest, highest in upwelled nutrients, and support the greatest biomass of forage for marine animals.

In addition to the diversity and richness resulting from its topography and the upwellings, the Santa Barbara Channel is particularly justified for Marine Sanctuary status because of its location as the focus of the California transition zone. There are a handful of places in the world's oceans where two major marine provinces meet and inter-

mingle. In the Santa Barbara Channel and around the islands, the south-flowing cold California Current, diverted by Point Conception, is mixed with the warmer, more saline, southern waters brought north by the geostrophic current. These rivers-in-the sea carry with them the organisms of the northern and southern Pacific provinces, resulting in organisms within the nomination area from Mexico, and from Alaska. The confluence of the two provinces has greatly increased the biological diversity of the nomination area through the survival of relic species and the evolution of new ones. Research on the endemic species of marine invertebrates, mammals, birds, and other organisms found only within the nomination area or on the islands has greatly increased our understanding of genetic evolution, population biology, and the geological and climatological history of the eastern Pacific.

Thousands of different species of birds, seals and sea lions, whales, invertebrates, fish, and marine plants depend on the habitats of the Channel region for support. These include over 30 marine mammals - six kinds of pinnipeds, 14 different whales and ten dolphins. San Miguel Island supports the world's largest and most diverse temperate water community of seals and sea lions. Over 168 species of birds whose habitats are the Channel or the coast have been reported; nine species of marine birds currently breed in colonies on the four islands or offshore rocks. Numerous fish and invertebrate species are of key forage, commercial, sport, and research value. Twenty-five rare or endangered species would be provided with habitat protection by Sanctuary designation. Many of these species such as the Guadalupe fur seal or the California brown pelican, endangered by human activities, hold potential for restoration.

The variety of habitats and diversity of species has created dozens of popular recreation sites in the Channel for scuba diving, sport fishing, and shellfishing. The Channel area provides over 850,000 angler-days of sportfishing each year.

Scientists from all over the State conduct research and educational programs on the Channel islands and waters. Research has included geology, physical and chemical oceanography, marine biology and ecology, paleontology, archeology, and the natural history of the Islands. The U.S. Bureau of Land Management is now conducting a major research program for collection of ecological baseline data for responsible management of the continental shelf.

#### Potential for Damage and Degradation:

The proposed Sanctuary encompasses the bulk of existing and projected offshore development on the west coast. Oil and gas drilling, tanker traffic, development of new technologies such as the Space Shuttle and LNG facilities, and military testing all converge in the nomination area. Existing oil and gas development is largely located in the eastern waters of the Channel. Ten major energy and technology projects planned for the Channel will intensify development and spread its impacts throughout the Channel for the first time. Four of the projects will significantly alter the environment and carry the potential for Channel-wide environmental damage. All of the proposed projects can affect the diversity of species in the Sanctuary area. All carry some threat to habitats and the potential of a calamitous accident. The LNG terminal and the SOHIO tankers have a high potential for catastrophe.

The major threat is from oil spills. Most petroleum hydrocarbons are toxic and can kill coastal and marine organisms either chemically through direct contact or ingestion, or physically from smothering or the disruption of body insulation. Weathering, the type of oil, the dosage, the time of year, and other factors influence the extent of damage. The effects of oil spills, chronic air and water pollution, sonic booms, and other potential impacts of the projects will be especially severe in the regions of high productivity, such as the Santa Rosa plateau; in the habitats of organisms with critical ecological value, such as inshore areas during massing of market squid; in reproductive

areas, such as nesting and rookery sites; in feeding grounds and migratory pathways; and in areas that are part of the range of exceptionally vulnerable species. The probability of a catastrophic impact - that measure of impact affecting entire populations and from which recovery is uncertain - is extremely high given the certainty of several large spills over the lifetime of the projects and their locations in the midst of the Channel's biologically sensitive environments.

Benefits of Marine Sanctuary Designation:

The Marine Sanctuary proposal is a complement to Federal, State, and private efforts to preserve the Channel Islands for the nations's benefit. The Anacapas are part of the Channel Islands National Monument, and visitation is allowed on San Miguel Island by permit supervised by the National Park Service. The Nature Conservancy has acquired an option over the majority of Santa Cruz Island, the largest of the four, for a natural preserve. The California Coastal Commission has proposed Sanctuary status overlapping this proposal and including the waters under their jurisdiction within the three-mile limit.

The significant resources of these areas and the proposed Sanctuary are left unprotected because agencies with management jurisdiction do not have enforcement authority over threatening activities. Establishment of a Marine Sanctuary will locate management responsibility within NOAA in the Department of Commerce. The Sanctuary also provides the opportunity, not now available, to assess the cumulative effects of all activities in the Channel region.

The opportunity presented by the Channel nomination is one of a laboratory to test and sharpen our nation's skills in managing its resources for maximum benefit in the long term, to see that the exploitation of one type of resources does not prevent the use and enjoyment of others.

Prepared by RESOURCES, Consultants in Natural

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Dr. CORWIN. The Outer Continental Shelf Act Amendments, properly implemented, comprise the most significant Outer Continental Shelf planning document ever passed by Congress. Mr. Eissler, president of the Scenic Shoreline Preservation Conference, calls attention to the language of the act providing for a comprehensive approach to reconciling conflicting Outer Continental Shelf uses and achieving a balance between exploitation and conservation (sec. 18(a)(2)(D)).

He also points out that one of the major gaps has been an absence of an overall national energy plan as required by the amendments—Section 18(a) and (a)(2)(C)—to justify why a resource in a particularly sensitive area, such as the Santa Barbara Channel, contributing a very small fraction of the Nation's need, should be leased now rather than conserved for future use.

Mr. Eissler has attached a copy of the proposed Marine Hydrocarbon Reserve Study Act, supported by environmental groups, which would reduce American foreign exchange losses in the future by holding U.S. oil in the ground until prices increase and then having it available in the future with new technology to replace the more expensive imported oil. The Scenic Shoreline Conference also calls for a very visible plan, open to public scrutiny and taking cognizance of local values.

These remarks can be seen in Mr. Eissler's testimony.

I would like to focus in my comments on the problems of a comprehensive approach to conflict resolution in the Outer Continental Shelf. Section 18 of the amendments requires that timing and location of development shall be based on consideration of both development benefits and environmental risks, and an equitable sharing of those benefits and risks among the various regions (18(a)(2)(B)).

It also specifies in 18(a)(2)(G) consideration of the relative environmental sensitivity and marine productivity of different areas of the Outer Continental Shelf. Section 20(e) requires an annual assessment of the cumulative effects of activities conducted under the act on the human, marine, and coastal environments.

If honestly done, these are going to be some of the most difficult problems that an agency like the Bureau of Land Management will face in carrying out the act. These are not mandates that can be carried out by referring to the individual lease sale environmental impact statement's; they require the utmost attention at the earliest stages of decisionmaking—now, in fact, in the creation of the 5-year leasing program.

It is not adequate to talk just of screening areas which have particularly fragile biological communities or particularly hydrocarbon sensitive species. What we are learning about the marine environment indicates that marine ecosystems, like terrestrial ones, are capable of concentrating toxic substances in the food chains, so that organisms like many of the fish we harvest, become contaminated and lose their reproductive vitality.

Further, marine systems are complex ones, subject to long-term cycles we are only beginning to identify, and stressed by our present harvesting as well as by ocean pollution. We may not be able to perceive for some species a direct effect from oil pollution in the short term, but we may be contributing through chronic contami-

nation to the point where an already pressured population goes into an irreversible decline, like the recent collapse of the North Sea herring fisheries.

As other nations such as Canada and Japan overfish, pollute, and destroy their fisheries, U.S. fishermen will find a growing market for our own production, providing we don't make the same mistakes as other nations. Careful management of Outer Continental Shelf development to protect and ensure the expansion of the productivity of U.S. territorial waters can provide us with a long-term and, I might mention, a renewable source of foreign exchange earnings.

We must not make the mistake of thinking that drawing a line around a few especially vulnerable or valuable areas will prevent major biological damage to marine resources. While it may be possible to secure cleanup equipment close enough to such areas to stop direct damage under a few conditions, it will take a very different approach from putting up barriers to protect ecosystems from chronic chemical contamination. We have not even been assured of adequate cleanup technology which can work in seas greater than 6 to 8 feet, although the act makes a finding that "technology is or can be made available \* \* \*" to allow production without undue harm or damage to the environment.

The technology that can be made available must be applied at the point of production, not after the oil has entered the air or water environment when it is much too difficult and costly to recover. The BLM and USGS must find ways to require the development and utilization of technologies to reduce emissions from each stage of the operation, but where we can foresee a sensitive environment, and know realistically what pollution we cannot prevent, we must control the leasing decisions themselves to prevent major damage.

The BLM's Outer Continental Shelf environmental studies program was initiated in 1974 to meet the requirements of the National Environmental Policy Act. The evolution of the program has played down the study of long-term environmental effects in favor of more immediate and currently controversial issues, and in so doing, has violated the intent of NEPA and the requirements of section 102(2)(C) of that act. Because these studies are done at the regional Outer Continental Shelf office level, where the criteria for priority is the number of court challenges based on the issue, issues such as cumulative effects on marine productivity have received a limited amount of attention.

It certainly cannot be expected that the regional offices, without some kind of national coordination, can solve the problem of the relative environmental sensitivity and production of different areas of the Outer Continental Shelf, as stipulated in section 18(a)(2)(G).

I should note that these offices have taken major steps in collecting the diverse information on the marine environment available in each region, but it is inappropriate to call upon them for interpretations that are better done at the national level. I would suggest that these interpretations be done utilizing the arrangements authorized in section 20(f) with the Department of Commerce and regional institutions and other agencies. They should begin immediately, with one goal—to produce some input prior to the release

of the leasing program. Otherwise it is likely that the program will be in violation of the amendments' requirements for consideration as specified in section 18(a)(2).

It is true that questions of environmental sensitivity and long-term impacts on marine productivity involve multiyear studies and before-and-after data that is time-consuming to collect. It is also true that we cannot answer all our questions within the next 5-year leasing period, much less in the months remaining before the leasing program is to go to Congress. However, the act calls for review of the program by the Secretary of the Interior at least once a year, and allows him to make changes as necessary as new information about the environment is developed. There are some very specific things that can be done now to make the initial program and its first revisions reflect the considerations listed in the act.

At the very least, the responsible agencies could convene marine expertise from around the country to do a preliminary classification of marine ecosystem types off our coasts and indicate which are more or less vulnerable. They can utilize what understanding currently exists about recovery of damaged ecosystems and can make preliminary predictions based on population dynamics of the species involved and other factors. This would give a much more rational basis for directing the specific regional studies.

Those regions where ecosystems exist for which data is lacking even to make tentative conclusions should certainly be relegated to much later in a leasing schedule, as should those which we can predict now are highly vulnerable, until it can be shown that pollution prevention technology is adequate to prevent chronic pollution that would significantly alter the natural system, and that the need exists for the resource available from each region.

I will conclude at this point and thank you for your attention.

The Chairman. Thank you, Dr. Corwin.

Jim Flug.

#### STATEMENT OF JIM FLUG

Mr. FLUG. Thank you, Mr. Chairman. Some of my best friends are environmentalists, and I am not a professional environmentalist; I am here as a generalized public interest advocate. The Energy Action Educational Foundation is my organization. I am also a board member of the Citizen/Labor Energy Coalition, which has general positions that relate to the testimony I am giving today but which has not taken specific positions, and therefore I am testifying today only on behalf of Energy Action.

Mr. Chairman, this has been a subject that has been a high priority one for us since we came into existence with our predecessor organization 3 years ago. Our position before the new act was passed was that under existing law the Department of Interior was not meeting its trustee responsibilities for the public's oil and gas and was not meeting the standards of existing statutes.

In particular, the existing standard of fair value derived from the old laws and regulations was not being met primarily because of continued, almost exclusive use of bid fixed low royalty high cash-bonus leasing system. That system made no provision for an equitable sharing between the oil companies and the public of the

rapid increases in energy prices which began in the early 1970s and were expected by many years before that.

The second major problem with that system is that it resulted in an insufficient number of bidders. Because of the requirements of high front-end cash quantities, only the largest companies could bid actively.

Third, it was operated in a way that allowed the government, at a time when there was decreasing competition for these specific tracts to let go of the public's resources without adequate knowledge of the resource. In other words, the public had only two possible protections to make sure that it got fair value for its resources. One was very active competitive bidding for the resources so that a real market determination could be made, and the other was the knowledge that the Department of Interior had as to the actual value of those resources so that it could decide which bids to accept, which bids not to accept.

Our position was that there should have been an immediate shift to alternative bidding systems. We believe first that there was a wider range of these alternative systems available than Interior believed; and secondly, that there should have been more knowledge of what was being sold as well as a better evaluation system once the existing valuation system had proved so inadequate, a fact which was discernible from the vast disparities between USGS evaluations and the company's own evaluations of the same properties.

Moreover, we felt that there was a separate failure to meet the competitive bidding standard in existing law as well as the general obligation of all Federal agencies to pay direct attention to competitive standards, to maintaining the principles of the anti-trust laws. In fact, the low number of bidders and in many cases the predominance of zero bids and single bids on particular tracts, we believe, did not, on the face of it, meet a competitive bidding standard.

And as well, we thought that the allowance of joint ventures, even under the ultimately developed regulations, was also inconsistent with the competitive bidding standard and the general competitive enforcement obligations of the Department of Interior, because the allowance of majors to bid with anyone else meant that those other companies which were potential competing bidders were prevented from becoming competing bidders.

Finally, there was a lack of competitive review, no processes for assuring that the competitive considerations would be taken into account. And there is a letter which should be in the record of this hearing from the Justice Department to the Department of Interior dated January 3, 1978, laying out very clearly that there was existing authority, and, we believe, responsibility, for conducting competitive reviews by DOI, with the cooperation of the Department of Justice.

Our position, even before the new law was that the competitive reviews had to be done and that many bids should have been rejected based on lack of competition or anticompetitive results of the granting of those bids.

Finally, our position was that effective October 1, 1977, that is, with the beginning of the Department of Energy under the new

act, there was a requirement that regulations be in place on alternative bidding systems, on competition, and on due diligence, and that any leasing since that date was, in addition to the violations I have already mentioned, in violation of the Department of Energy Act.

All of these positions are reflected in the lengthy exchange of correspondence we have filed with the committee between ourselves and the Department of Interior. We came close to the point of filing suit against the Georges Bank Sale on these bases. That became unnecessary when that sale was challenged on other grounds, and I will get back to that issue.

Once the act was passed, then, of course, we felt that all of our positions were strengthened. The fair value standard was made quite explicit in section 101(7) and 102(2)(c). There was a congressionally mandated movement away from the cash bonus system—and I use that as shorthand for high cash bonus, low fixed royalty, and a provision and requirement that there be predominant use, we believe as soon as possible exclusive use, of alternative systems that will increase the competition for bidding and the return to the public for its oil and gas.

The bill emphasizes competition, mentions it in several places, and—also very important in the course of the discussions leading to the passage of the amendments—Interior made clear its position in repeated statements by the Secretary, by the new head of USGS, that it had ample power to do all that was necessary to know in advance the nature of the public's resources before those resources were placed in private hands for the purpose of development.

On competition, the explicit findings and purposes of the act, section 101, section 102, and the policy reflected in section 202 reemphasize what we had been saying about the importance of competition, about the need for competitive determinations to be made, a need which the Justice letter that I mentioned also emphasized. It provided specifically for competitive reviews by the Department of Justice and Federal Trade Commission, a specific mandate for those reviews. Even prior to the act, these agencies had performed competitive reviews, but only ad hoc, only in certain sales.

When the Federal Trade Commission did give a recommendation, there was on the part of Interior something which politely would be called lack of attention and maybe less politely, contempt for the recommendation. The Justice Department did not have standards in place to apply for the competitive review, we believe, applied the wrong standards in too short a time period for adequate review. The reform statute takes care of all of these problems and also makes clear that Interior must make a competitive determination one way or the other, both about the competitiveness of the bidding and about creation of a situation inconsistent with the antitrust laws, to use the terms of the statute.

As far as the Department of Energy responsibilities, the act does not change those to the extent that DOE was required to have regulations in place, to make further sales valid. We think that that responsibility not only exists but becomes more critical because of the emphasis of the new act on fair value and on competition.

The post-act situation is that a sale has been held, another sale is about to be held, and another one is out for state comments scheduled for February. On the fair value standard we think, again, there has been a continuing failure to meet that standard. On Sale 65, the MAFLA Sale, 75 percent of the tracts were sold on the cash bonus bid system. That is even more than had been the case in some of the prior sales before the act.

There is 60 percent planned for sale 51 and 47 percent planned for sale 49. We think this is highly excessive. The law requires that a reason be expressed for using a particular form of a bidding system. The statements regarding both sales 65 and 51 do reflect the fact that the reason for using something other than cash bonus bidding, that is, in this case the sliding scale royalty, is to increase competition for those tracts.

No good reason is stated for the continued predominant use of the cash bonus bidding system other than that they need it for comparison. We have plenty of experience with that system. We do not need it for comparison. We certainly do not need 75 percent for comparison, and of course it is not even a fair test of the alternative system, because if you offer cash bonus bids at the same time as sliding scale royalties, and you have the major companies' overtly wanting to discredit alternative systems, there might be a bias towards the cash bonus bid by that system. The statistics from the sale that has already been held seem to be consistent with such a pattern.

Moreover, the Department of the Interior cannot really make the choice of systems which you all gave them until they have the regulations in place for the alternative systems. They cannot make an intelligent choice. They cannot make a complete choice among the systems you gave them because the regulations are not in place. The sliding scale royalty is a poor alternative. It was felt that it was necessary under existing law because some of the lawyers at Interior felt they could not go beyond that. It is better than the cash bonus bidding system, and it might have been necessary, taking that legal point of view. It is not necessary now. The Department is not giving itself a fair choice by going ahead without having the regulations in place for the other systems.

In fact, there are still too few bidders on the tracts to get fair value. The last sale, the MAFLA sale, was a ridiculous sale. It has been called a garbage sale. There was probably no reason to have the sale at all. There was not enough bidding; there were a tremendous number of single bids; very few multiple bids, and the public has no confidence from that sale that it was getting fair value for its resources. There was an allowance of joint bids by the majors under the circumstances where if those joint bids had not been allowed, there might well have been competing bids from the joint venturers and still almost no knowledge of the resources that were being sold, that is, the confidence levels of the estimates made by USGS were at the lowest levels and there were still tremendous disparities between the evaluations of the USGS and the bids themselves.

With respect to competition, even though we have a more explicit mandate, there is even less action than there was before the act. Somebody has to do something. Now we have at least four agencies

with a mandate to do something about competition: Interior, Department of Energy, Department of Justice, and the Federal Trade Commission.

On the last lease sale, essentially nothing was done. We believe that what was done violates the new law; that is, apparently there was a decision not to have a review, and that decision was not made with the concurrence of the Federal Trade Commission.

We believe it was an abuse of discretion not to have the review for the reason stated, and the reason stated was they were not prepared with their standards. Well, as the January 1978 letter from the Justice Department to Barbara Heller points out, this is not a new function for the Department of Justice. They know how to do competitive reviews.

In fact, they have done it in the Outer Continental Shelf context. We think the standards they applied were lousy, but not having standards in place, we think, is an abuse of discretion. In other words, if those are not in place and they cannot do it, they should not go ahead. But in fact, as we understand it, they did not consult with the Federal Trade Commission in reaching that determination, so it is violative on the face.

In the sale 51 there is nothing set forth in the notice in advance about any competitive review or competitive review standards. There are still joint ventures, as I say, and no indication that that problem is going to be dealt with in any of the upcoming sales, and still no provision for competitive review procedures.

The fact is, in short, that despite the new emphasis on competition, nothing is being done yet, and we think the sales cannot be made until something is done. And in fact in the last sale, there were no findings or determinations by Interior. We think that that is the minimum required under any circumstances by the law. As far as the DOE regulations go, it is now a year and 2 months into the Department of Energy. None of those regulations are in place. There is no firm schedule for those regulations. If we can have a firm schedule for sales, we can have a firm schedule for regulations.

I want to point out that the 1977 schedule, released by Secretary Andrus in August of 1977, first of all contemplated immediate passage of the law. He was assuming that the regulations under the new law would be in place for most of these sales.

Second of all, he said at the time that they would review the schedule in the light of the new law when it was passed, that is, it contemplated that there might be need to make changes in the schedule, depending on the requirements under the law. So we come to the conclusion, especially with the Baltimore Canyon Sale coming up, which we think brings together all of the problems with the leasing system, that drastic action needs to be taken right now. In particular, we believe that there should be no further leasing until the regulations are in place on competition, competitive review procedures, due diligence, alternative leasing systems, and onstructure drilling.

I have not mentioned, of course, that we think the failure to perform onstructure drilling is an added indication of the breach of fiduciary obligation by the department. There should be no further use of the high cash-bonus bid low fixed royalty leasing systems

unless there is specific cause shown, specific need shown, set forth and demonstrated in advance. There should be no further leasing until the onstructure type of test drilling has begun and is in full operation, and in fact, we have suggested before, and I will add to the record my statement on the subject in Atlantic City the EIS hearing on the next North Atlantic sale, that the bid nominations be tied to recommendations for onstructure test drilling. There should be a postponement of further Baltimore Canyon leasing until completion of at least one well, including the full testing on that well from each structure on the previous sale.

Again, I would point out that Secretary Andrus himself in August of 1977 pointed out the need for an interval between the first sale in a frontier area and subsequent sales in the same geological province to permit the use of exploratory results from one sale in making trust selections for later sale and, of course, I would add evaluations on the later sale. That standard has not been met. The delays in the beginning of drilling in Baltimore Canyon and the slow completion, the lack of a beginning of drilling on many of the tracts and structures mean that that sale should be delayed on that basis alone.

Fifth, the respective responsibilities of Interior, DOE, Justice, FTC should be viewed as supplementary and mutually reinforcing. The publication inside DOE which everybody at the Department of Energy relies on to find out what is going on in the energy field, and especially inside the Department, has pointed out there are already arguments over whose responsibility competition is. Our position, and we believe the position of the various statutes, is it is everybody's responsibility. Each of them must identify or attempt to identify existing or potential competitive problems from the differing vantage points. If any of them identify such problems, then such a finding should presumptively require a remedy, regardless of the failure of one of the other agencies to make such a finding.

Sixth, there should be an immediate discussion and decision as to the mode of dealing with the facts and conclusions set forth in the pending FTC proceeding against Exxon and the other major oil companies reflecting severe competitive problems, at least in the eastern portion of the country.

We raised this with the Department, I think, 1 year ago this week, pointed out they cannot just close their eyes to the fact that there is a major antitrust case pending, raising the question of severe competitive problems. Other competitive problems have been raised by the Justice Department in the context of their deep-water port report as long ago as 1976 in the Loop and Serdock proceedings and other Department of Justice filings in pipeline cases.

These are already existing findings of major competitive problems in the energy industry which the leasing patterns may well and, we believe, will certainly contribute to, if they continue as they have. We believe that there cannot really be a meaningful leasing program until this is addressed. And finally we have suggested to the Department some competition standards in our letter of April 12 which has been filed with the committee. These were suggested in connection with sale 43. They reflect some automatic

disqualifications, for example, of single bids and other standards for leasing.

The CHAIRMAN. Thank you, Mr. Flug.

Dr. Oliver, we certainly appreciate your coming down from Boston for this hearing. In your statement, you have indicated you feel it would be irresponsible not to delay pending lease sales in frontier areas at least until certain regulations are promulgated, perhaps a matter of a few months. Since activity on leases should be minimal until these are promulgated, and the Interior Department has already put potential lessees on notice that they will be required to comply with all the provisions of 95-372, is it not appropriate to continue with the leasing program in accordance with the major purpose of the act, to expedite OCS development?

Mr. OLIVER. I could turn that around and say that if the companies are not prepared to explore on these leases promptly, why do they need to have them sold that soon? I really think that you have to know what the problems are going to be before you can decide where you are going to allow people to be putting in pipes which will interfere. In view of the fact that these environmental standards apparently are still in the design stage, I do not know yet whether it would be safe to even allow exploratory work.

The CHAIRMAN. Are there other comments on that question?

Mr. FLUG. Obviously, on the regulations we are concerned with, unless there is an action before the lease sale, it is too late to do on structure drilling after the lease sale, it means that you have probably put up a lot of tracts that you did not have to, decreased the competition on particular tracts, and probably from the environmental point of view did some unnecessary drilling. The same applies to all the other regulations. They have to be done before the sale.

The CHAIRMAN. What is your view as to whether the Interior Department should be allowed to proceed with the Georges Bank sale, and will you now seek to have the suit dropped?

Mr. OLIVER. The Sierra Club takes the position taken by the Conservation Law Foundation in the Georges Bank suit in their brief filed with the First Circuit Court of Appeals, where they said that the promulgation of the regulations under the new act are necessary and cannot conceivably be done within the next 6 months or so.

I point out that even implementation of the act will not remedy the deficiency of the environmental impact statement on the Georges Bank which took very little account of the mandate under the 200-mile limit law to rebuild the fishing stocks out there and did not even mention the possibility of designation of Georges Bank as a marine sanctuary, so that we think that at the very least there ought to be an adequate environmental impact statement and a full set of regulations before this Georges Bank sale proceeds.

If it has been demonstrated that there is no technology capable of controlling an oil spill in the North Atlantic, perhaps we should wait until there is such technology.

The CHAIRMAN. Ms. Beinecke.

Ms. BEINECKE. We would not take a position on whether or not the suit should be dropped because we are not plaintiffs. We do

support the Conservation Law Foundation's position to stay in the suit. We would like to see the litigation resolved in the court and not have the case dropped.

NRDC's position on the Georges Bank sale is that the amendments require the Secretary to consider many environmental standards which were not considered when that sale was proposed and the environmental impact statement was developed. Sale 42 should be re-evaluated under those new standards before any decision can be made on whether or not to hold the sale, no matter what the outcome of the litigation.

The CHAIRMAN. Mr. Breaux.

Mr. BREAUX. The only question I have, to any of you, concerns a number of members who really are trying to make up their minds on whether or not to have a continuation of the Select Committee on the Outer Continental Shelf, which is this committee, in order to have oversight responsibilities on the legislation. I have heard Ms. Robertson make a comment on that. But I was wondering if the other members of the panel have touched on that.

Ms. ROBERTSON. I did not make any comment on that particular subject. I guess I wanted to see who the new members are going to be of various committees.

Mr. BREAUX. Are you shopping around?

Ms. ROBERTSON. Yes, I am.

Mr. BREAUX. That is very frank. I appreciate that.

In the interest of good government and good Outer Continental Shelf development and environmental studies, do you think the Outer Continental Shelf Select Committee should continue, not considering the players? We have to make a rather difficult decision because if the committee does not continue, the oversight function probably will be bounced around in several committees in the Congress. That might be good or it might cause some problems. We have a choice to make in the upcoming Congress.

Mr. OLIVER. I think we would consider, obviously, someone is going to have to push all these agencies to do the proper job. If Congress in one committee or another does not do it, the judiciary is likely to do it, and we just have a choice as to which branch.

Mr. BREAUX. Do you have an opinion? Maybe you do not have an opinion.

Ms. BEINECKE. We have an opinion; that is, that the committee should continue to have oversight responsibility during the implementation phase of the amendments. I am not taking a position on whether it should continue indefinitely. But during this very important period of pushing agencies to come out with the appropriate regulations as quickly as possible, I think it ought to continue.

Mr. BREAUX. It ought to what?

Ms. BEINECKE. It ought to continue for this period. I am not sure how long this period is going to last.

Mr. BREAUX. Do you have a position?

Mr. FLUG. We do not have a predetermined position. I think our only hope would be that somebody has an overall responsibility. Obviously, the different things that we are interested in impinge on a number of different areas of the bill, and probably would involve a number of different committees. If this committee were to go out of existence, it would be all important that some other

committee chairman take it upon himself or herself to say: I will undertake the responsibility for overview of this subject because we obviously need some place to go and some place to have coordinated oversight.

So it is up to you how you work that out. Obviously this is a very delicately balanced situation, and maybe that is the best dynamic or maybe you can work out something else. But I do not know enough about the history of this committee or that dynamic to have a strong feeling. I just want to make sure that somewhere there is that overview where we can go and where we can know an eye is being kept on all these different agencies who have a piece of this action.

Mr. BREUX. Thank you.

Ms. Corwin.

Dr. CORWIN. The Conference has not taken a position on this, but I think we concur with the previous speakers that some form of oversight is clearly necessary. Also, I agree with Mr. Oliver, that depends on how well this oversight is actually going.

Mr. BREUX. Thank you.

The CHAIRMAN. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Just to follow up, I thank this panel. We appreciate your testimony. I can understand you are having trouble finding which of the various agencies, to go to in trying to get something done.

It is almost academic. You have to centralize responsibility in this area or the law is not going to be effective.

I have just one question to Mr. Flug: Where in these amendments do you find what you indicate is a mandate that on structure drilling to be done in a massive way?

Mr. FLUG. We found the mandate for onstructure drilling in the provisions of previous law. We do not understand how the trustee can purport to be obtaining fair value if he is selling valuable resources without having made the obvious and necessary efforts to determine the worth of those resources.

No private seller, no private trustee, would allow this kind of resource to go out of his control, and certainly not under the terms involved here, without making some better effort to assess them than the Department has. We believe that mandate was there even before the passage of this law. The reason I refer to the on-structure drilling regulations is not because of the mandate of the law but because the previous regulations, apparently for historic reasons, did not provide for on-structure drilling.

The USGS has announced that it is going to propose regulations to provide for on-structure drilling, and we think that since there is that fiduciary, legal obligation to have it, that further leasing cannot go forward until the Department completes that self-propelled regulatory process. That is not something that was required by the act. It is something which the Department has to do to undue its previous regulation.

Mr. FORSYTHE. In a nutshell, you are telling me that full Federal exploration is essential if we are to know what resources are available before they are sold?

Mr. FLUG. I never said any such thing.

Mr. FORSYTHE. I read that in what you are saying.

Mr. FLUG. No; I think there are various ways you could go about it. For example, as the Secretary points out in his August release, if you schedule your leasing correctly and as we have said in some of our documents here, if you pick your bid acceptances correctly, you can get an awful lot of on-structure drilling done before widespread leasing is done, just in the normal commercial processes. Of course, there is also the cost we will process. There is no reason why the Secretary cannot say, This time around I am going to accept or not accept anything other than proposals for on-structure cost wells.

Mr. FORSYTHE. Thank you, Mr. Flug.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Belsky.

Mr. BELSKY. I want to ask, if I can, Ms. Robertson and Mr. Oliver, to respond. There was a series of complaints made by all of you that there seems to be an insufficient period of time established by the Department of the Interior to respond to some of their proposed regulations, particularly Ms. Beinecke stated she was very concerned because you only had 30 days to provide information. Those kinds of responses seem to indicate that you did not expect to be asked in a very short period of time the kinds of things that are being asked.

I am curious why you think 30 days is an insufficient time to put together material that you already had available, and testified to before this committee on numerous occasions, and had indicated privately to members and staff.

Ms. BEINECKE. Thirty days is not insufficient for us to respond, but I think 30 days is a very limited time for all the professionals in marine biology and geology and every other marine science that would provide information. Our comments to Interior were that we thought, because of the scope of the request, that the comment period in the Federal Register was very limited, and that people in the scientific community are not in the habit of reading the Federal Register every day to find out what is supposed to be provided on every issue pertaining to the environment. So we asked, because Interior was going to be preparing the leasing program over a period of time, that information that became available from the scientific community ought to be accepted whenever it did become available.

Mr. OLIVER. You are also talking about a kind of moving target. You are talking about the relative environmental sensitivity of 22 lease areas from Georges Bank all the way around the coast to the shoreline of Alaska. There are ongoing environmental studies in many of these areas and different things being published each year, and we do not maintain a continuous listing of what is mentioned as available at any given moment and we are not as well equipped financially to maintain the files as perhaps the industry or Interior is.

Ms. ROBERTSON. One of the points I bring out in the attachment to my testimony is that at this point I think Interior should have a fairly good catalog of information both from outside sources and inhouse studies. I think it would be far more useful for them to request information which will fill in gaps in existing data rather than risk gathering repetitious material.

I have had quite a few local groups around the country calling me in panic over the past 3 weeks. By the time they found out about the Federal Register notice it was too late to try to submit every tidbit of information they might have or obtain on the OCS. My objection that I voiced to Interior was that the notice in the Federal Register was somewhat misleading. I understand that they have to get the information in as soon as possible but it is not that information can no longer be turned in after that. That is one of my objections. I felt they should clarify that in future notices. They are open to receiving information under the other comments period.

Mr. BELSKY. Ms. Robertson, you mentioned the problem of deciding responsibility for setting up the new bidding systems. How can this be resolved, and do you have any suggestions?

Mr. ROBERTSON. The difference of opinion, as I have witnessed it, is I believe the Department of Energy specifically has the authority under the act creating DOE to develop the regulations setting up the bidding system. However, while the Department of Energy is doing this Interior is also active. I will give you a specific example. The Department of Interior has let a contract to study the accounting systems and economics of profit sharing. The Department of Energy also issued a contract with Touch, Ross to do the same exact thing. I think it is fine to have two different independent assessments of what an accounting system should look like.

Interior blames Department of Energy for delays because DOE has not issued the regulations yet. However, energy says Interior is the biggest problem, and I find as an outside observer there is no clear designation of who actually has the lead. All I want is those bidding regulations out as soon as possible, and I just find there are arguments going between the office of policy and budget and DOI and in the Department of Energy, and this is something I would like to see the committee investigate so we can get action on this quickly.

Mr. FLUG. These are not new bidding systems. They are in effect all over the world. If the Peoples Republic of China decided tomorrow that they wanted to enter into a profit sharing agreement with Exxon, then Exxon and the Peoples Republic of China would probably hire some Washington lawfirm and would have a very favorable profit sharing agreement in effect quickly. This is well known to companies involved in it all over the world. If we do not have good enough relations with some of those other countries to find out how they work—and of course this legislation with this authority has been pending now for years.

If somebody over there was not doing some groundwork, then something is wrong, and I think that when you come down to it, that is the basic problem. I do not think Interior has faced up to the fact that there has to be very swiftly a total change in attitude, a total change in approach to the leasing system. They have to get that through their head. And if you cannot get it through their head, then you have to go to the President of the United States and have him write a memo to the Secretary of Interior and the Secretary of Energy saying: "Get your stuff together".

The CHAIRMAN. If we have other questions, we will submit them to you in writing.

[Correspondence submitted by Mr. Flug was placed in the files of the committee.]

The CHAIRMAN. At 2:30 this afternoon we will take the National Ocean Industries panel: Mr. E.C. Broun, president, Petroleum Services Group; Dresser Industries, Inc., and chairman of NOIA; Mr. Paul L. Kelly, senior vice president, Zapata Corp.; Mr. Carl H. Savit, senior vice president, Western Geophysical Co.; Mr. T.C. Rogers, president, National Supply Co.; and Mr. J. David Gooch, vice president, Houston Oil & Minerals.

Our next panel will now be Joe Foster, president, exploration and production, Tenneco Oil; Mr. H.R. Nanz, vice president, western exploration and production, Shell Oil Co.; Mr. David Skedgell, vice president for government relations, American Gas Association; and Mr. William Gipson, president, Pogo Producing Co., testifying for the American Petroleum Institute; Mid-Continent Oil & Gas Association; Western Oil & Gas Association; and Pogo.

Gentlemen, all statements will be printed in the record in their entirety. If you would proceed to summarize your statement, we will start with Mr. Joe Foster, president, exploration and production, Tenneco Oil Co.

**STATEMENTS OF JOE B. FOSTER, PRESIDENT, EXPLORATION AND PRODUCTION, TENNECO OIL CO.; R. H. NANZ, VICE PRESIDENT, WESTERN EXPLORATION AND PRODUCTION, SHELL OIL CO.; DAVID SKEDGELL, VICE PRESIDENT FOR GOVERNMENT RELATIONS, AMERICAN GAS ASSOCIATION; AND WILLIAM GIPSON, PRESIDENT, POGO PRODUCING CO., TESTIFYING FOR AMERICAN PETROLEUM INSTITUTE, MID-CONTINENT OIL & GAS ASSOCIATION, WESTERN OIL & GAS ASSOCIATION, AND POGO PRODUCING CO.**

Mr. FOSTER. Mr. Chairman, I am Joe Foster, president of Tenneco Oil Exploration & Production.

Tenneco has been active in the Gulf of Mexico since 1959 and is presently the third largest producer of natural gas and the 11th largest oil producer operating in the gulf. We are also active in the Atlantic and over the years we have expended over \$1.5 billion exploring for and developing reserves of oil and natural gas from the Outer Continental Shelf.

We believe the development of the Outer Continental Shelf mineral resources is vitally important to the Nation and to our company. Furthermore, we believe it is essential that this development take place under a set of regulations and safeguards which insure that the public interest is served, that we do those things which properly balance the many tradeoffs among the environment, our need for energy, our economic and balance of payment problems, and the differing needs at the local and the national levels.

Our object in being here is to discuss some of the problems we have encountered with existing regulation of the OCS and to suggest some solutions that we believe are in the public interest.

First, let's discuss delays resulting from the regulatory process. I describe in some detail in my written testimony our efforts to secure a permit from the Environmental Protection Agency to drill in the Baltimore Canyon. It has been over 2 years since we first acquired leases there, and we have yet to obtain a satisfactory

permit from EPA. Much of the delay has been due to waiting periods between various steps in the process and some of it has been created by our unwillingness to accept what we believe to be unreasonable effluent discharge requirements.

We have lost 2 years of a 5-year lease, Mr. Chairman, in an area where we need to be moving rapidly to add new energy supplies. I shudder to think of the delays we may encounter as development and production activities are undertaken in this frontier area.

It is impossible to spell out every detail of an oil field operation in advance, and it may not be feasible to give as many different agencies as much time to review each step of the operation as present regulations are requiring. Many delays occur because one bureau or agency is waiting for another one to conclude its review before it starts its review. These reviews should be conducted concurrently rather than consecutively, wherever possible.

For every significant step of the Outer Continental Shelf regulatory process, Congress should clearly establish both the scope of inquiry and place limits on the periods of decision. Otherwise, costly delays will continue to hamper offshore exploration.

In my written testimony, I next speak about inconsistencies in the application and interpretation of rules. Inconsistencies among the various districts of the same agency can ultimately result in a company's inadvertently being in violation of regulations and can cause some gross inequities. We cite some examples in our submittal.

Mr. Chairman, a third thing that bothers us greatly about the administration of the OCS is lack of input from outside the various departments into their decisionmaking process prior to issuing a significant regulation. It has been our experience that once regulations have been published in the Federal Register, little can be done to change them. The comments from industry seem to count for very little.

I am only too well aware of the credibility gap we in the industry have with the press and with many in Washington. I know that regulators are reluctant to bring industry into the rule-writing process for fear of being criticized by the press or by so-called public interest groups.

I simply suggest to you that we in the industry are interested in doing what is right for this country and that it is not in the public interest to ignore the input of people who have experience in a very complex area such as this. Our regulators should have the courage to seek our input and, if appropriate, use it, before regulations get written in stone.

As you know, Mr. Chairman, our business is fraught with risk and uncertainty. We drill lots of dry holes and make lots of mistakes trying to locate elusive pockets of oil or gas thousands of feet below the Earth's surface. The regulatory process has injected another element of uncertainty into our business.

Frequently, we must ask ourselves, if we commit to use that very expensive rig, can we get a permit to drill or will we have to pay it stand-by time while waiting for a permit to be issued. Or if we order a \$3 million platform to produce a lease, will the Secretary of Interior give us a lease extension? We have to make our decisions before the regulators can give us an answer.

I have a great deal of sympathy for those who administer the regulations because they are simply trying to do what the regulations say. And it is very difficult to write rules to deal with a business where we need to change directions and plans so often.

This uncertainty occurs because we have too many rules, too detailed rules, and have left little or no discretion with the local supervisors. It will only get worse as the rules and regulations proliferate. Hopefully, better congressional oversight can slow, if not stop, this proliferation.

We have a section in our prepared testimony concerning the heavy requirements that companies submit proprietary and confidential data to so many different governmental agencies.

We question that they need it in the first place, that they will use it in the second, and that it will be kept confidential in the third.

Finally, we discuss regulations which are simply contrary to the public interest and/or contrary to the intent of Congress. We believe that the Secretary of Interior's recent announcement of regulations to permit on-structure drilling prior to leasing is an example of regulation contrary to the intent of Congress. If Congress had wanted on-structure drilling, it could and would have put it in the recent OCS bill. It was thoroughly debated and was omitted.

Further, we believe this regulation is contrary to the national interest. Others on this panel are going into detail to explain why and we do so in our written testimony.

We are also concerned that the Department of Interior's bid rejection procedures are not in the public interest. We suggest an approach whereby the Government could award most of the leases upon which high bids have heretofore been rejected.

Our proposal, if adopted, would permit earlier exploration and development of leases that would otherwise lie dormant yet would insure that the public receives no less bonus for them than the value the Government places on those leases.

We simply suggest, Mr. Chairman, that if the high bid on a lease is 75 percent or more of the Government's minimum acceptable bid, the high bidder be given the option of increasing his bid to the minimum acceptable level. Our lawyers tell us the DOI has the statutory right to do this.

Our research shows that since the adoption of the present bid evaluation system—March 1974—a total of 130,148 additional acres would now be under lease had this policy been in effect, assuming all bidders had exercised the option to pay the increased amount, and the U.S. Treasury would have received over \$89 million in additional bonus revenue. I urge consideration of this new method for bid evaluation.

Mr. Chairman, everybody talks about excessive regulation in this country, but nobody does anything about it. The Congress of the United States is the only body that can do anything about it in my opinion.

I believe that Congress must, at a minimum, require Federal agencies to justify both the need and practicality of proposed regulations within congressionally mandated parameters and provide, in most cases, that authorities sought under those regulations be

granted or denied within explicitly limited periods of time. In other words, only Congress can regulate the regulators.

It is not impossible to do what I am suggesting. Consider the decision parameters and time frames imposed on the Congress by itself in the new Outer Continental Shelf Act with respect to newly proposed bidding systems. There, if within 30 days there is no congressional action, the proposed system stands; the committee to which the matter is referred has only 10 days to act, and even debate is limited in time and scope.

This committee should not hesitate to impose the same sort of deadlines on the bureaucracy as it has imposed on itself. Unless this committee strongly and continuously asserts its oversight powers, the goals of the Outer Continental Shelf Lands Act Amendments of 1978 will not be met.

Thank you for the opportunity to present Tenneco's views.  
[The information follows:]

PREPARED STATEMENT OF JOE B. FOSTER, TENNECO OIL CO.

Mr. Chairman, I am Joe Foster, President of Tenneco Oil Exploration and Production Company. Our company has a continuing interest and stake in the proper exploration and development of the Outer Continental Shelf (OCS).

During 1977, Tenneco Oil Company produced 28 million net barrels of oil and condensate and 404 BCF of natural gas. Of this amount, approximately 30% of the oil and 63% of the gas came from the OCS. Tenneco has been active in the Gulf of Mexico since 1959 and is presently the third largest producer of natural gas and the eleventh largest oil producer operating in the Gulf. Over the years we have expended \$1.4 billion exploring for and developing reserves of oil and natural gas from the OCS.

The development of our OCS resources is necessary and important to both Tenneco Oil and the Nation. Because of this, we appreciate the opportunity to give our views to you and your committee on OCS administration and to assist in any way we can to further the work of this committee.

I sincerely hope that the following discussion of the problems which we have faced and some solutions which might be considered will be helpful to you and the committee in your efforts to improve federal administration of the OCS.

DELAYS

First among the problems we have encountered are the many delays inherent in the procedure of OCS leasing. As a producer, we often encounter delays in obtaining approval for permits, plans, and other actions.

An example is the delay we are presently encountering in obtaining a National Pollutant Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA).

On August 17, 1976, Tenneco obtained the right to conduct exploratory drilling activities on certain OCS tracts in the Baltimore Canyon Trough area of the Atlantic Ocean. On September 24, 1976, we were notified by Region II of the EPA of the application requirements for a permit under NPDES, pursuant to the Federal Water Pollution Control Act of 1972. We had submitted an application for an NPDES permit prior to September 24, 1976, and were surprised to learn over the next few weeks of the additional, detailed information the agency was requiring us to supply. For example, we were asked to submit descriptions of conflicting site uses and possible man-made hazards, the results of archeological surveys, descriptions of onshore facilities, information on oil spill contingency plans, and site-specific data on surface sediments and geological hazards. In many cases, this information was properly the subject of appropriate Department of Interior regulations, not those of the EPA. What most concerned us, however, was the delay that could result from the EPA's processing of the huge volume of information Tenneco and other companies had submitted.

In any event, it was not until September 9, 1977, that draft NPDES permits were issued. After public comments were received, final NPDES permits were issued on December 2, 1977, which were to become effective on January 3, 1978, pending a request for an adjudicatory hearing. Tenneco promptly filed such a request.

Thereafter, although the Regional Administrator was required to act on our request for a hearing within ten days, no action was taken by the agency for over three and one-half months, when we were notified that our request was denied. Within five days appropriate Judicial Review was sought. Despite our action, the Regional Administrator indicated that certain issues, which he characterized as legal issues, would be referred to the General Counsel for further decision. That referral occurred in May, 1978, and nearly four months later, on October 20, 1978, the General Counsel of the EPA rendered a decision that suggested, among other things, that the adjudicatory hearing that Tenneco requested some ten months earlier might be appropriate after all. To this day we still have no idea of when such a hearing will take place or when the contested issues will be finally resolved.

Over two years have now passed since our leases were awarded, and yet we have not been allowed to drill our first exploratory well. Some companies have conducted exploratory activities but only at the expense of complying with pollution control requirements, which we think are neither required by law or appropriate, and which have been questioned by the agency's own General Counsel. In the meantime the clock is running, and the first two years of a five year lease have been expended. I am not suggesting that we do away with environmental protections on the OCS. I am suggesting, however, that Congress did not intend to delegate to the EPA the kind of enforcement

authority over exploratory activities on the OCS that Region II has sought to exercise.

Mr. Chairman, the delays I have outlined are just the beginning. Comprehensive environmental appraisals will be required under NEPA before any production activities occur in the mid-Atlantic. Because we have experienced such extensive environmental delays to date with respect to relatively simple exploration activities, we question how long it will take to begin complex full-scale production activities. For every significant step of the OCS regulatory process, Congress must clearly establish both the scope of inquiry and limits on the periods of decision. Otherwise, costly delays will continue to hamper offshore exploration.

Some of the delays in Departmental approval of exploration plans, development plans, and other permits occur because USGS has to wait for various bureaus within the DOI, other agencies, and the affected states to conclude their review and comments on these decisions. These reviews should be conducted concurrently rather than consecutively.

#### INCONSISTENCIES IN THE APPLICATION AND INTERPRETATION OF RULES

Inconsistencies in the application and interpretation of rules is another problem in OCS administration. Inconsistencies can ultimately result in a company's inadvertently and unintentionally failing to be in compliance with regulations. They may arise because of differences in interpretation among the various USGS districts or because of a lack of fixed guidelines or rules with respect to particular problems.

Among USGS district differences in interpretation presently exist with respect to equipment requirements and uses (check valves shut-off valve placement, blow-down valves, manifold design, and current plug placement on temporarily abandoned wells). Where changes are required on workovers and in drilling wells, producers find that there are differences of interpretation among the districts concerning whether or not particular changes require USGS approval. An illustration from Tenneco's experience follows: In two of the three districts, OCS Order 8 (1977 revisions) was interpreted to mean that check valves downstream of dump valves were not necessary as flow-restricting devices. The third district had a different interpretation and required installation of these check valves. On two platforms recently installed in the latter district, Tenneco Oil Company had to install approximately 35 additional check valves.

Serious problems arise when a Tenneco Oil Company platform in one district is inspected by inspectors from another district. (This happens quite often when inspection loads in one of the districts become excessive). In that event, we would receive numerous incidents of noncompliance because of this difference in interpretation.

Methods of resolving inconsistencies of interpretation among various districts are needed in order to prevent costly delays and unnecessary expense incurred in attempting to comply when the outcome is uncertain.

Lack of fixed rules and guidelines is another source of inconsistency. An example is the inconsistency in the way that the Gulf of Mexico OCS office handles unitizations. There are no fixed rules or guidelines for either the USGS or the producers, the results of which are inconsistencies, confusion and, in some cases, inequitable handling of unitization matters.

We are aware of one case in which unitization was ordered to include an extremely large area where no wells had been drilled to provide a basis for the decision. To prove reservoir continuity, seismic data was heavily relied upon.

In another case, there were far more wells on the leases, and well control was supported by seismic. There, unitization was refused because delineation in one small portion of the field was not deemed sufficient by the USGS. There was far more known about this field than the first example cited above. As a result of the refusal by the USGS to order unitization in the second case, an extra platform had to be set and unnecessary, wasteful wells were drilled.

#### INFLEXIBILITY

Seemingly, the Department of the Interior has been inflexible and unresponsive in its administration of the OCS lands. An example is as follows: Tenneco has found that of the tracts we have nominated in the Gulf of Mexico only 8.7% are actually put up for sale. In a recent Gulf of Mexico sale, industry nominated over 700 tracts and only 89 were offered by bidding. It is our opinion that if a tract is nominated by a qualified bidder it should be put up for bid unless it is specifically rejected by the Secretary for justified and publicly announced reasons. This method of lease sale tract selection would undoubtedly bring about increased exploration for new reserves our country desperately needs in order to help reduce our dependence on foreign imports.

#### LACK OF INFORMED INPUT

Mr. Chairman, one of the things that bothers us the most about the administration of the OCS is lack of input from outside the department into their decision-making process prior to issuing significant decisions. An example of this

is the department's recently announced decision to allow on-structure drilling prior to leasing. In our opinion, this will not be beneficial to the country for several reasons.

On-structure drilling will ultimately delay domestic production and cause us to import more foreign crude. The on-structure test will obviously be on the structure thought to be the best at the time. Information from the test well will act as a deterrent to the competitiveness at a lease sale. If the tests are successful and the area put up for lease sale, the successful tracts would siphon off much of the dollars and effort that normally go into numerous untested areas in a lease sale. If the test well is unsuccessful, the sale of other blocks and other structures in the same geologic area will surely go bidless or much lower than if no test well had been drilled. Finding new discoveries of hydrocarbons is a developing science, and we are continually being surprised.

A good example is Prudhoe Bay. There, the largest oil field in North America was discovered only after 24 years of exploration by both the U. S. Navy and many private companies. Another good example is in the North Sea, where industry drilled 33 very expensive wells before a commercial discovery was made at Ekofisk. We think that, to explore a new area fully, numerous wells on numerous tracts must be drilled. This can be done when the tracts are leased and the only additional investment is a well, but if the single well in the area is unsuccessful there is the added risk of lease costs as a deterrent to exploration. In addition to on-structure tests reducing the number of exploratory wells, they will also reduce pre-leasing exploration such as geophysics and geological stratigraphic testing. There would be no

incentive to do extensive geophysics if a well may ultimately be drilled by someone else. It would be more logical to wait until the well results are available. If the results seem to be productive, then geophysics can be done to look for similar structures. Without a strong geophysical program in many basins, you will see a deterioration of exploration initiative and new ideas.

Finally, there is, in our opinion, a good chance that the government would not put the tested areas up for sale but would hold them for strategic purposes such as the present petroleum reserves.

Our opinion, based on our experience as an explorer in the OCS, is that the maximum amount of reserves will be available for distribution to consumers faster with offstructure drilling than through onstructure drilling prior to lease sales.

Yet, after a vast amount of discussion in the Congress and a thorough discussion of these points, the Department of the Interior has decided to go ahead with on-structure drilling despite the informed objections of others.

But, let me address the problem of lack of industry input more generally. It has been our experience that once regulations have been published in the Federal Register, little can be done to change - to a lesser or greater extent - their contents. The comments from industry seem to count for very little - no matter how many in number, nor how thoughtful in their content, nor how helpful in their practicality. The knowledge and concern

of private industry should be tapped by the Department before the regulations are published in the Register, when they are in virtually final form. Just as this committee held hearings before writing the 1978 Amendments to the Outer Continental Shelf Lands Act, the Department could invite constructive suggestions by holding hearings as it formulates regulations. Finally, justification should be given for rejection of industry comments so that departmental reasoning can be subjected to both public and judicial scrutiny.

#### UNCERTAINTY IN REGULATORY PROCESS

Because we are capital-intensive, we must make commitments of millions of dollars in advance of undertaking a project, which is calculated to produce revenue after given period of years. For this reason our industry sustains severe damage because of uncertainties in the area of regulation. We suggest that the Agencies involved should make a major effort to write the necessary regulations requested by the OCS amendments as soon as reasonably possible.

An example of uncertainty and its effects may be found in the procedure for handling suspensions of production. The USGS and the Secretary of the Interior often wait to render a decision on a suspension request until it is too late for the lessee to take any action, such as drilling, to save the lease. Decisions should be required of the Secretary of the Interior 30 to 45 days before the expiration date of the lease which would give the operator time to attempt to locate equipment to test the lease if the Request for Suspension were refused. Many times we must commit to large capital expenditures on platforms ( 4 to 7 million dollars) and

production equipment (1 to 3 million dollars) prior to knowing if we will be able to retain the lease. Tenneco has experienced this delay three times in the last two years. This example tends to show that uncertainty not only costs private industry and, ultimately, the consumer money but also results in a tremendous waste of otherwise productive industrial resources.

UNNECESSARY DISCLOSURE OF COMPETITELY DAMAGING INFORMATION

We are also concerned about the confidentiality of the proprietary data. Under the new Act, operators must allow a Governor or his designated representative to examine such proprietary data. It seems to us highly probable that this extremely valuable information will be disclosed, inadvertently or otherwise, to others who might use it unfairly in competitive bidding situations.

We believe that the threat of disclosure will force a company either to delay obtaining the information or to dispense with it entirely. Neither of these courses of action are in the best interests of the country.

An example of unnecessary disclosure of data occurred in our company's relations with the USGS. The USGS requested geophysical data from some of our exploration activities on the Louisiana Outer Continental Shelf involving 215 miles of seismic data.

Yet, shortly after the USGS received the data, it decided that it would not be used by the USGS, and this vast amount of data was shipped back to our company's office.

REGULATIONS NOT IN THE PUBLIC INTEREST AND CONTRARY TO THE INTENT OF CONGRESS

We believe that some of the present regulations are contrary to the intent of Congress and not in the public interest.

Furthermore, the administration of some regulations seems to have been conducted in ways not consistent with the public interest or the intent of Congress.

The moves of the Department to adopt onstructure drilling have already been discussed. The reasons for which this decision is against the public interest have been pointed out. That the Congress only this year rejected onstructure drilling is well known to everyone involved.

But the public interest can be violated not only in the provisions of regulations but also in their administration. An example may be found in the system that the DOI uses for evaluating high bids for purposes of acceptance or rejection. This sytem utilizes three basis estimates of value for each tract offered. The first is called the "Mean Range of Values" (MROV). This is the mean of multiple values computed by USGS prior to the sale from varying data input. This mean is then discounted to present worth and the result is the second value called the "Discounted Mean Range of Values" (DMROV). These values are unknown to bidders prior to the sale.

The third estimate is called the "Average Evaluation of Tract" (AET). This value, calculated after the sale, is the average of the bids on a given tract and the MROV for that tract.

Tract evaluation is far from an exact science. However, acceptance or rejection of bids currently depends upon a comparison of the high bid and these three government estimates of value. As a result, after every sale, the Department must invariably make "close calls" in those instances where a high bid is below but very close to government values or falls between values.

In making the comparisons the Department has been somewhat inconsistent in its treatment of bidders from sale to sale. However, by far the most critical effect has been that for every "close call" that results in a rejected bid, that tract will go unexplored and undeveloped but for, in many instances, a relatively few dollars.

It is our suggestion that DOI consider adopting a new policy that simply states that any high bidder whose bid is at least 75% of the DMROV and the AET, be allowed the option to increase his bid to the greater of the DMROV or the AET as the case may be and accept a lease.

Our legal department can see no prohibitive obstacles. This suggestion preserves competitive bidding at the sale, and all bidders would still be treated equally.

The new policy would:

1. Eliminate the "close calls" and consistency problems faced by the Department after every lease sale.
2. Provide the U.S. with a bonus bid in an amount equal to that which by government estimates is acceptable.

3. Result in increased acreage being leased with proportionately increased production possibilities consistent with environmental protections.
4. Be in the public interest and better carry out the mandate of the OCS Land Act.

Our research shows that since the adoption of the present bid evaluation system (March 1974), a total of 130,148 additional acres would now be under lease had this policy been in effect, and, assuming all bidders had exercised the option to pay the increased amount, the U.S. Treasury would have received over \$89 million in additional bonus revenue. I urge consideration of this new method for bid evaluation.

#### NEED FOR OVERSIGHT

In conclusion, Mr. Chairman, let me state my sincere belief that unless the committee and the rest of Congress assert the powers that exist under the Constitution, much of what goes on here today will be of no avail.

The very clear majority of the people in this Nation and the Congress are committed to the idea that domestic supplies of oil and gas must be dramatically increased if we are to achieve National economic and energy goals, assure National security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. It is my opinion that much of the regulating being carried out or contemplated by the Federal bureaucracy today carries this Nation away from, not toward, these stated goals.

It seems to us that whenever our company or others, such as those appearing before this Committee today, make specific recommendations for change, they somehow "lose steam" as they filter through the enormous Federal bureaucracy and results are more often than not imperceptible. For this reason, it is my opinion that many of the recommendations made here today will never come to pass for two simple reasons. First, because of its size and nature, the Federal bureaucracy is largely uncontrollable by those at the top whose job it is to carry out the Nation's goals, and, second, the Congress continues to feed this giant by authorizing broad powers to implement additional regulations.

It seems apparent to me that for Congress to formulate national goals and then authorize the various Federal agencies to promulgate regulations to carry out such goals, is not getting the job done. I believe that Congress must, at a minimum, require Federal agencies to justify both the need and practicability of proposed regulations within congressionally mandated parameters and provide, in most cases, that applications, requests, permits, and other authorities sought under those regulations be granted or denied within explicitly limited periods of time. In other words, only Congress can regulate the regulators.

The Committee has included some regulatory parameter and time requirements in the OCS Land Act Amendments of 1978, but the broad authority to create and expand the law through regulation still remains.

It is not impossible to do what I am suggesting. Consider the decision parameters and time frames imposed on the Congress by itself in the new OCS Act with respect to newly proposed bidding systems. There, if within 30 days there is no congressional action the proposed system stands, the committee to which the matter is referred has only 10 days to act, and even debate is limited in time and scope.

This committee should not hesitate to impose the same sort of deadlines on the bureaucracy as it has imposed on itself. Unless this committee strongly and continuously asserts its oversight powers, the goals of the Outer Continental Shelf Lands Act Amendments of 1978 will not be met.

We are pleased that the committee is showing its interest in promoting the goals of the Act, and that we are able to contribute to this process. I will be happy to answer any questions the committee may have.

The CHAIRMAN. Thank you, Mr. Foster.  
Mr. Nanz?

**STATEMENT OF R. H. NANZ, VICE PRESIDENT, WESTERN  
EXPLORATION AND PRODUCTION, SHELL OIL CO.**

Mr. NANZ. Thank you. I am a vice president of Shell Oil Co. responsible for central and western exploration and production operations.

We appreciate the opportunity to appear here for two reasons.

First, we think the deliberations and actions of this committee are of critical importance to the economic and national security.

Second, what this committee does is of utmost importance to my company and the continued success we have had in providing a worthwhile service to the Nation.

Now, in view of this, I would like to just mention some of our credentials. I am a geologist. I have been with Shell Oil Co. 31 years, about half in research. I have held positions in charge of research and also in charge of worldwide exploration. I have participated almost directly in the last 20 Outer Continental Shelf lease sales so I am familiar with the process.

First, let me say we have provided testimony. I have appeared before this committee in its first hearing in New Orleans in 1975. Mr. Hart, a vice president of our company, appeared before the Senate Committee on this bill last year. We have included his testimony here as exhibit A in our written testimony.

Now, Shell Oil Co. is a leader in offshore exploration and production. We have done a major portion of the research and pioneered much of the technology. I will provide that for the record.

These techniques are used throughout the world. We say all this just to show our dedication to the offshore and that is evidence

there that we are a leading producer of oil and gas in the offshore. We have about 2,500 people employed in offshore activity.

I would first like to restate the first purpose of the act which in part says—

Expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade.

In view of that objective, we would like to focus on what we consider to be the most important problem and that is the development and implementation of an accelerated and effective lease sale schedule. We have provided comments on the Outer Continental Shelf which will be issued separately. Unfortunately, we think the lease sale will be delayed, and, second, we do not think President Carter's forecast for energy production in 1985 will be met. It will probably not be met.

Of course, the tragedy of this is that if there is a shortfall that can be made up at all, it will have to be made up from foreign sources with deterioration of our economic and national security.

I might add to this that the Shell forecast for 1990 we think will also not be met because we were counting on 4 million barrels a day new production from new discoveries from the offshore. If that is not met and foreign supplies are bought, it would mean an export of another \$20 billion a year at today's prices for energy resources. (Exhibit B.)

Now I would say we are exceedingly fortunate as a nation that we have the potential in our offshore areas. It didn't have to be that way. The geology might have been such that the opportunity was not there.

Now I thought that that is bad enough, but I can think of something even worse and that is that it is there and we don't get it. We can help ourselves and we don't.

Now we think the obvious and critical thing to do is to accelerate the offshore lease sales and we have provided a proposed 5-year schedule for this as our exhibit C. This has the most promising areas first.

In our estimation we think it is optimum from the standpoint of industry capability and logistics. It provides for adequate Federal management, coordination with affected parties, and environmental protection.

We recommend six lease sales a year, about 1 million acres per sale offered, and two parallel series of sales, one in proven areas like the Gulf of Mexico and the other in frontier areas.

We say this is the best utilization of the Nation's human resources and we emphasize that industry is poised to do the work now, but it may not be later. These highly skilled groups cannot be held together if there is nothing to work on in the offshore.

Now the Department of Interior requested, as you know, last month a submittal on priority ranking of areas for potential and also description of the operational capability. We have just supplied that to Interior. Also, that is attached here as exhibit D.

I would like to point out, however, that we did this same thing in mid-1977 and the industry consensus was published in the Oil and Gas Journal in August.

Soon after the Interior published the schedule, and I would like to say there is practically no correlation between the industry priorities and the lease sale schedule. (Exhibit E.) We can only hope that the new 5-year plan has better balance and allows for early lease sales in the most promising areas.

In order for such a schedule to be attained, I think two things have to happen. There has to be significantly greater cooperation between the Federal agencies and among Federal, State and other parties so that litigation can be avoided, and that these planning procedures take the minimum time, not the maximum mandated.

I am sure that industry will cooperate, but there is little else we can do but provide information on this part of it.

The anticipated policy of greatest concern to us pertains to the proposed presale onstructure drilling. I think you are aware of the statements that have been made publicly of the Department of the Interior's intention to promote that practice.

In our opinion that would not only cause extensive delays in the timely development of resources, but there is a possibility that much of the Nation's resources on the Outer Continental Shelf would be denied to the Nation forever by erroneous condemnation of some area.

We note that after 3 years of debate on this subject, Congress refused to mandate presale onstructure drilling, and the ink on the President's signature had hardly dried before the Secretary of the Interior announced his intention to allow presale onstructure drilling.

We are amazed at this announcement since it contradicts the clear intent of Congress; it assumes that the necessary authority exists and, above all, it indicates a belief that such a policy is sound from a technical standpoint.

Reasons given to justify presale onstructure drilling are that the data are needed to more accurately assess the potential of the offshore areas, to establish priorities for lease sales, and to assure the public fair value for its resources.

With reference to establishing priorities for a lease sale, our understanding is that the Interior Department has to come up with a schedule by June for the 5-year period and it is clear that significant drilling cannot be done before that time. So it cannot affect that schedule.

Now with reference to the assessment of the potentials of regions. I think all competent petroleum geologists would agree that one or a few holes will not properly evaluate a province. I need only mention the Atlantic Offshore where a hole on the large structure was dry and a hole on another structure found gas.

I will point out that there are 11 holes completed or drilling now and we still don't know the potential. The danger is that a dry hole might condemn an area. In California that could have happened. If we had a hole on the outer banks and it was dry, we would not have had the discovery on the Beta project.

We have tried to visualize some of the decisions the Secretary would make in this process. Which class of structure in the area should be drilled? Which structure within a certain class should be drilled? Which fault block on the structure? How deep should the well be drilled?

With reference to the evaluation of the individual tracts in a lease sale, drilling one hole on one tract is futile. At best, one hole merely partially evaluates one tract. Assume the test well encountered a significant thickness of oil or gas, what value should be placed on the tract? Does it cover enough area to be commercial?

We had to drill eight holes on our Beta prospect off California before we could decide whether it was commercial or not, even though the first well appeared to have about 500 feet of pay. Does the fault block extend to the adjacent tract? What about other fault blocks? What about other structures in the area? Do they have commercial accumulations or not? Does the discovery justify a pipeline to shore?

It is clear to everyone in the business that a single exploratory test would not properly appraise either the specific structure or region insofar as production potential is concerned. Will the drilling stop with one hole? If not, how many will be drilled? How long will the sale be delayed?

In my 31 years in the oil business I have been impressed with the fact that Americans have been the undisputed world leader in the development of exploration and production technology and have explored and developed the U.S. private, State and available Federal lands, with an efficiency and thoroughness unmatched in the world.

This is true because there is incentive in our system to develop better concepts, techniques and equipment in order to outperform competitors and possibly realize a slightly better than average return on investments. Presale onstructure drilling will diminish this incentive.

The potential of a region is best determined and realized when many groups with a variety of concepts and techniques, acting simultaneously or in waves, explore and develop in competition. No one group, neither the Government nor a single company, can come close to the same efficiency in exploration or development. The history of the oil exploration is replete with examples. I would only mention here the North Slope where several groups tried in three waves before one group found Prudhoe By field.

Presale onstructure drilling is not needed to insure fair value to the public. Intense competition in the industry will assure that in the future, as it has in the past (exhibit A, attachment B.) That is our information on profitability offshore. There could just not be a better deal for the public. We have testified on that many times.

Now some individuals unfamiliar with the energy business could get the impression from the intense exploration and development activities in portions of the Lower 48 States that the Nation's resources are being aggressively developed. That impression would be dangerously wrong.

That intense activity is focused on a limited, heavily explored portion of the United States, primarily on private lands. The potential for the much larger discoveries of new energy supplies of critical importance to the nation now lies elsewhere. Where is it? It is on Federal lands, as shown below.

I have attached a chart in the testimony of our estimate where this is. Most of it, we would say two-thirds, is on Federal lands. Why aren't we getting after it? Let's look.

Western United States: Exploration and production on some Federal lands of high potential is severely restricted, awaiting Forest Service RARE II study and BLM wilderness study.

Alaska Onshore: Moratorium on exploration continues awaiting resolution of D-2 lands issue with the prospect of much of the region permanently withdrawn.

National Petroleum Reserve A: This 23 million acre area is unavailable for comprehensive exploration by industry as the Federal Government conducts a low level and, thus far, fruitless exploration program.

OCS: Continual and increasing delays in exploration of high potential frontier provinces.

What a contrast between these actions of the Government which prevent exploration on Federal lands and the fine words in the first-listed purpose of the new law:

Expedite exploration and development—achieve national economic and energy policy goals, assure national security, reduce dependence on foreign source, and maintain a favorable balance of payments in world trade.

We ask your help in reversing this trend in order to accomplish the goals of the legislation.

I appreciate your attention and assure you that you can count on our continued cooperation.

[The exhibits follow:]

Region	Potential (percent)		Prospective area	Primary jurisdiction
	Oil <sup>1</sup>	Gas <sup>2</sup>		
Lower 48 onshore .....	25	48	Productive area .....	Private/Federal/State.
			Nonproductive area .....	Federal/Private/State.
Lower 48 offshore .....	17	22	Gulf of Mexico .....	Federal.
			Atlantic Coast .....	Do.
			Southern California .....	Do.
Alaska .....	58	30	Beaufort Sea .....	Federal/State.
			Other offshore areas .....	Federal.
			NPRA .....	Do.
			Arctic wildlife areas .....	Do.
			Other onshore areas .....	Federal/State/Natives.

<sup>1</sup> 30 to 100 billion barrels.

<sup>2</sup> 150 to 500 trillion cubic feet.

LIST OF EXHIBITS

- A. Testimony of T. F. Hart, Vice President of Shell Oil Company before the Committee on Energy and Natural Resources on S. 9, The OCS Lands Act Amendment of 1977. U. S. Senate - April 19, 1977.
- Attachment A - "On-structure" Drilling  
National Journal, April 2, 1977
- Attachment B - Testimony of T. F. Hart, Shell Oil Company,  
EIS Hearing - South Atlantic OCS Sale #43,  
Savannah, Georgia., March 28, 1977
- B. Long Range Potential of Domestic Oil and Gas - Charles L. Blackburn, Executive Vice-President, Shell Oil Company  
NAPIA/PIRA Fall Conference - Boca Raton, Florida, October 19, 1978
- C. Proposed OCS Lease Sale Schedule - Shell Oil Company
- D. Submittal by Shell Oil Company in Response to Federal Register notice of October 26, 1978. Ranking of OCS area by potential and summary of operational conditions.
- E. Comparison of Industry Preferred Order of OCS Sales to Department of Interior's Proposed Planning Schedule (August, 1977)

## EXHIBIT A

Statement of Robert H. Nanz,  
Vice President, Shell Oil Company,  
before the Ad Hoc Select Committee  
on the Outer Continental Shelf,  
U.S. House of Representatives -  
December 6, 1978

## TESTIMONY OF

T. F. HART, VICE PRESIDENT, SHELL OIL COMPANY  
BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON S.9  
THE OCS LANDS ACT AMENDMENTS OF 1977  
U.S. SENATE - APRIL 19, 1977

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Mr. Chairman, Members of the Committee, I am Thomas F. Hart, Vice President of Exploration for Shell Oil Company, and in that capacity am responsible for both our domestic and foreign exploration ventures. During the past 10 years I have been directly involved in 18 lease sales held in the Gulf of Mexico, Southern California, the Gulf of Alaska, and the Middle Atlantic.

I appreciate the opportunity to appear before this distinguished Committee and present Shell's views on the proposed amendments to the OCS Lands Act.

In the short time available to me, I would like to get right down to the amendment issue that frightens me the most -- both as an oil man and as a United States citizen. The issue is described in Section 11, g and h, of Senate Bill S-9.

These paragraphs would authorize and direct the Secretary of the Interior to drill, or cause to be drilled, exploratory tests in frontier areas on geologic structures deemed the most likely to contain oil and gas. This drilling is to be done prior to leasing the area to private operators. Presumably the information from this government-sponsored drilling would be made available to all interested parties prior to leasing.

The stated purpose for a portion of these drilling instructions is for reasons of national security and environmental protection. Within our experience to date in exploring the Federal offshore, neither of these concerns,

real or imagined, has ever been relieved by drilling a test or two on the top of a geologic structure. Another stated purpose for these drilling instructions is to expedite development in frontier areas. Implicit in this reasoning is a suggestion that the current Act is inadequate for speedily opening up frontiers for development. The current OCS Lands Act permits this, and the private oil industry has been the leading spokesman for the urgency of opening up the frontier areas promptly.

The implied purpose for all of these on-structure drilling instructions, however, is to obligate the Secretary of Interior to evaluate the oil and gas potential of a sale province prior to leasing to private industry. The intent is to arm the Interior Department with the best diagnostic data to determine fair value for Federal leases. It is fair to further infer that the intent of this pre-sale drilling is to aid private industry in their sale evaluations.

Ideally, as a result of this drilling, large oil and gas fields would not be undervalued by the Government and the Industry would not incur large capital losses on barren structures. Unfortunately, this utopian condition can never be achieved because of the nature of the exploration business. In fact, the results of drilling a few tests on a few structures in a frontier province may be dangerously misleading. The exploration history of the basins of the world gives us countless examples of initial drilling failures being followed by later cycles of high success. Conversely, scores of examples exist of initial success followed by cycle after cycle of failure. This is and always will be the nature of the exploration business. The oil and gas potential of a province can only be determined by multiple cycles of drilling based on multiple geological hypotheses. Until now in the Federal offshore,

we have had the good fortune of many companies evaluating a province simultaneously. Multiple drilling cycles and geological hypotheses have been applied concurrently.

A conscientious Secretary of Interior and his professional staff--the U.S.G.S.--know what is necessary for accurate evaluation. Therefore, they should not and will not assume the responsibility of assigning fair value to leases after drilling just a well or two on a geologic structure or two. If they truly stop at this point, little of importance will have been accomplished in a technical appraisal of the province, unless they are very, very lucky. The Secretary, on advice from his professional staff, must continue to drill.

Let me take you through the sequence of drilling steps that a competent, technical staff would require before assuming the responsibility for assigning fair value to a frontier basin. One of the frontier areas on the lease schedule is the Southeast Georgia Embayment of the South Atlantic. Approximately 40 geological structures have been identified, nominated and are being considered for leasing. The Secretary on instructions from this Bill would be required to drill at least one of these 40 structures. Further, he is required to drill the structure having the greatest likelihood of containing significant oil and gas accumulations. At this moment in my organization, we are in debate as to which of the 40 structures has the greatest potential. At least 10 geologic variables are at work in this province that can cause one structure to be more attractive than the others. However, a structure must be selected and it will be drilled. If the well fails, for whatever reason, this does not evaluate the leases of the province. Conscientious professionals will continue to come forward with valid arguments to drill other structures with different geologic characteristics. These also must be drilled.

With continuing failure, it is anybody's guess as to how many wells the Secretary would drill before being comfortable with his negative province evaluation. Seventeen failures were drilled in the MAFLA sale area before Industry was satisfied that a proper evaluation of the province had been made. Forty-three tests have been drilled in the South Texas OCS to date with little apparent success. Industry is continuing its evaluation. Sixty-four failures have been drilled on the Nova Scotian Shelf and evaluation is continuing. I suggest that strong arguments would be made to the Secretary to drill essentially all the structures of the Southeast Georgia Embayment even in the face of continuing failure.

In the case of success with the initial test, an additional test or tests must then be drilled on the structure before the lateral extent and volume of the field can be ascertained. My Company's drilling experience to make this evaluation varies from a low of one additional well on the structure to a high of 17 additional wells. As far as drilling additional structures in the province, the same logic as in the failure case will prevail. That is, all of the structures that exhibit different geologic variables must be drilled. I suggest that in the initial success case, strong technical arguments could be made to the Secretary to drill essentially all of the structures in the Southeast Georgia Embayment.

Once the decision is made to evaluate by the drill, the proper technical stopping point is exceedingly difficult to determine. Structures left undrilled will be a continuing source of uncertainty to the evaluator. The pressure on the Secretary to continue drilling, even in the case of failure, will be unusually extreme. A missed oil or gas field, after he has been given this drilling responsibility, could raise charges of "give away".

Frontier provinces that have been evaluated by continuing failure will be of little interest to the Industry and to the Government. Frontier provinces that have been evaluated with success will be of little interest to the exploration arms of Industry, but of extreme interest to the Government. It is an easy chain of logic from the Federal Government drilling the oil discoveries on Federal lands to the Federal Government producing and transporting that oil, using private industry only as contractors. This is a Federal Oil Company.

If the Government stops short of a thorough drilling program, they will be guilty of what is called "creaming". That is, taking a few obvious shots, hoping for the big hit. This historically has not worked. "Creaming" will not evaluate a frontier province, but it will greatly diminish the private oil industry's interest in sale preparation. Some in Industry will not prepare for the sale because they had planned to do the "creaming". Most will tolerate the delay, doing token evaluation work as they await government drilling results. Few will risk the expensive, staff-intensive technological effort that has characterized sale preparations up to now. High exploration technology will leave the OCS. The result will be a less thorough evaluation of the frontier.

Mr. Chairman, Members of the Committee, the OCS Lands Act of 1953 is a good one and has served this nation well. To date, the results have been maximum discovery of oil and gas on the leases that have been made available. Do not enact OCS legislation that will be counterproductive to our nation's needs.

## POLICY FORUM

## "On-Structure" Drilling

### A Detriment to Our Search for Energy

*This is the second in a series of papers by Shell Oil Company on some of the issues involved in the formation of a national energy policy. Because the Administration, Congress and the public face a difficult task in balancing a multitude of interests, it is our hope that this series—based on our experience, research and judgment—will be a positive contribution to the policy-making process.*

John F. Bookout

In the business of exploring for oil and natural gas, failure is far more common than success.

Almost as common are companies finding oil and gas where others failed. A good example is Prudhoe Bay—the largest oilfield in North America, located on Alaska's North Slope. It was discovered only after the U.S. Navy and a number of companies had explored the general area of the North Slope for at least 24 years.

The Navy drilled 36 exploratory wells and 44 core tests from 1944 to 1953, making nine relatively minor oil and gas discoveries. Over the next 15 years, six companies, either alone or in various combinations, drilled some 15 wells and found only small deposits. Finally, in 1968, one company group hit Prudhoe Bay. Fourteen wells subsequently confirmed the size of this giant field estimated to contain some 10 billion barrels of oil and 26 trillion cubic feet of gas. (Shell Oil was not among those on this historic strike although the company did explore there.)

Prudhoe Bay's reserves might not be ready to supply the American people today had their discovery depended on a single company or group using a single exploration technique.

#### SINGLE-SHOT LAW

This single-shot approach may be required, however, by amendments offered to the Outer Continental Shelf Lands Act of 1953. Similar proposals failed in the last Congress.

The "on-structure" drilling provision outranks all other parts of the legislation as most detrimental to efforts to satisfy America's energy needs. This key provision would require that the government direct

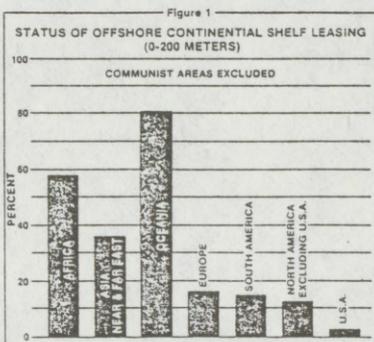
exploratory drilling on geologic structures most likely to contain oil and gas before offering leases on these structures to private companies. The government could have private companies do this "on-structure" drilling or form a federal agency or company and take over the exploratory drilling itself.

Supporters of the idea argue that if the government first knew where there was oil and gas it could better value the leases it sold. Thus, they claim, the public would be assured of fair value for the leases and leasing would be more competitive since more information would be available to bidders before a sale.

This is incorrect and reflects a lack of understanding of how oil and natural gas are discovered, evaluated and finally developed. The present leasing program fosters competition and the public already gets at least a fair value for its leases. In addition, on-structure drilling would delay OCS exploration because of the time required even to attempt a sensible evaluation drilling program.

#### OCS POTENTIAL IS VAST

Potential supplies of oil and natural gas from the OCS are needed too badly to be delayed. Shell estimates that about 60 per cent of new oil and 35 per



## POLICY FORUM

*"Potential supplies of oil and natural gas from the Outer Continental Shelf are needed too badly to be delayed. Shell estimates that about 60 per cent of new oil and 35 per cent of new gas discoveries will come in the OCS."*

cent of new gas discoveries will come in the OCS. This will take the nation's best effort. Weather is more hostile and operations are more expensive in OCS frontier areas than where the industry has operated before. Lead times for developing OCS oil and gas can run to eight years or more.

Despite intensive drilling on available leases, the nation's oil and gas production still is declining. The U.S. is far behind other nations in leasing OCS areas, with only 2 per cent of potential acreage (Figure 1) under lease because of leasing delays which began in the late 1960s and continue today.

The situation will get worse if we adopt the approach of drilling a well here and there with the thought that this has any chance of providing an inventory of the resource.

#### STRUCTURES AND BASINS

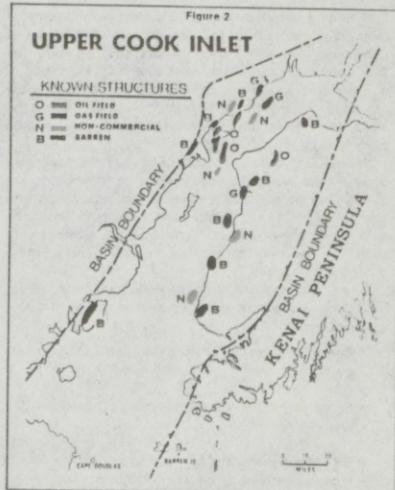
"Structures" are rock formations composed and shaped so they are able to trap and hold oil and gas. In a given area, or basin, there may be many structures or a few. Some may hold oil, some gas, some both, some neither. (Figure 2 showing Upper Cook Inlet in Alaska demonstrates this.)

Individual structures may themselves be one big oil and gas trap. More often, earth movements have shattered the formations into segments. Some segments may have oil and gas. Some may not. Discovering which is which requires a lot of drilling and some shrewd deduction—like putting together a three-dimensional puzzle.

This process requires a lot of information. Sometimes a single well may find oil and gas but additional drilling discovers no more—the first well just happened to have hit the only producing segment in the area. Conversely, several wells may give no indication of reserves and an area may be abandoned—only to have another company come along with a different thought and with one well hit the right part of a structure.

Even if the first well finds oil and natural gas, information still is not complete. To define the size of the accumulation, more wells must be drilled. Depending on the complexities, this can take years.

An area can be condemned or undervalued prematurely if one well or a few wells find nothing or produce marginal results. On the other hand, the potential of an area or the value of a tract may be over-estimated if one well strikes oil or gas, but the rest of the area or the tract later proves unproductive.



The bulk of the oil industry's domestic offshore oil experience to date has been in the Gulf of Mexico. There, only one out of five leases acquired offshore from Louisiana since 1948 has been productive. There also have been complete failures to date in other portions of the Gulf. In the 1973 Mississippi-Alabama-Florida (MAFLA) sale area, companies spent millions on preliminary exploration studies, more than \$1 billion total on lease bonuses and additional millions on drilling. The result: zero oil or natural gas.

*"The nation's current program for OCS oil and gas exploration is a good one as it has provided an intensely competitive environment for the oil companies. The result has been maximum discovery of oil and gas on the leases that have been made available."*

The industry hasn't the capability to predict success ratios in frontier OCS areas. Such capability comes much later in an area's development.

#### GOVERNMENT DIRECTION

If the government were directing exploration, it might be tempted by failures to stop drilling wells. Exploratory wells in frontier areas cost as much as \$15 million each. One can imagine the reluctance of a government agency to ask Congress continually for more millions in taxpayers' money to gamble on wells with no ability to assure better results than already experienced in the area.

There are other results of government-directed drilling that would be detrimental to the public interest. The oil industry's experienced exploration arm could wither away. Exploration research would be stifled, with the loss of technological advances so critical to locating increasingly harder-to-find offshore oil and gas deposits.

If the government is to have any chance of approaching a program equal to that of the oil industry, it would have to:

- Create a sizeable exploration organization of its own;
- Spend as much as many private companies collectively spend;
- Be able to generate as many ideas as the sum of those generated by private companies; and
- Be willing to apply as many exploration strategies as individual companies or company groups in the private sector with the knowledge that hindsight will reveal most were incorrect.

The government could undertake such projects, but rapid implementation would demand much higher costs than under the current system. Whether American taxpayers would approve and whether Congress would fund such programs to supersede work already done by private industry is a serious consideration.

#### LEASE RETURNS

Even if Congress votes for on-structure drilling and directs a governmental exploration effort, would this improve the return that the American taxpayers get from federal leases? The record suggests otherwise; in fact, the return to industry hardly could be less and still be acceptable.

U.S. Geological Survey statistics show that the American people have received a fair return from federally-owned oil and gas. They show the government, through 1975, received nearly \$20 billion—or 90 per cent—of the almost \$22 billion value of oil and gas production from all U.S. offshore leases. The \$20 billion was for bonuses, royalties and rents. Industry spent an additional \$15 billion for exploration and production leaving it, at present, some \$13 billion in the red. Oil companies, of course, hope to recover this investment and eventually to show a profit over the years; yet some firms probably never will realize full pay-out.

The nation's current program for OCS oil and gas exploration is a good one as it has provided an intensely competitive environment for the oil companies. The result has been maximum discovery of oil and gas on the leases that have been made available. It has certainly provided the U.S. Treasury with at least its fair share of rewards.

The "on-structure" drilling approach—government-directed or otherwise—cannot substitute for many private companies using multiple theories and employing many drilling rigs simultaneously in any given area.



JOHN F. BOOKOUT  
PRESIDENT  
SHELL OIL COMPANY

Testimony of T. F. Hart, Shell Oil Company  
EIS Hearing South Atlantic OCS Sale #43  
Savannah, Ga., March 28, 1977

My name is Thomas F. Hart. I am Vice President of Exploration for Shell Oil Company and in that capacity am responsible for both our domestic and foreign exploration ventures. During the past 10 years I have been directly involved in 18 lease sales held in the Gulf of Mexico, Southern California, the Gulf of Alaska and the Middle Atlantic.

I appreciate the opportunity to participate in this hearing and present our views on energy and related problems. At the outset let me say we share with you a common concern for the need for energy. We share an equal concern for protecting the environment while securing that energy. Shell is convinced that energy production and environmental concern can be harmonious. Let me add that I believe our record over the past several years shows this to be true. We are equally proud of the record of industry in the offshore. Later on in this hearing experts will discuss that record for you. We have reviewed the Draft Environmental Impact Statement for this South Atlantic sale and are satisfied that the environmental risks have been adequately evaluated.

REMAINING U.S. DISCOVERY POTENTIAL

Significant amounts of oil and gas will still be found onshore, but the greatest potential for new oil lies in the offshore. We expect about 60% of the new oil discoveries and about 35% of the new gas discoveries to come from the offshore. There are more than 20 unexplored offshore areas which are prime targets for this exploration (Figure 1).

We estimate the future undiscovered potential for the U.S. to range from 65 to 155 billion barrels of crude oil and natural gas liquids and from 225 to 575 trillion cubic feet of gas with most likely volumes being about 110 billion barrels of crude oil and natural gas liquids and 400 trillion cubic feet of gas. In terms of years of additional supply at 1975 rates of consumption, this is about 18 years' additional supply of oil and 20 years' additional supply of gas. Of course, this is above and beyond our current reserves which amount to about six years' consumption of oil and ten years' consumption of gas. The total amount of liquids found to date is 164 billion barrels, and the total gas is 723 trillion cubic feet (Figure 2). So we are saying that we have so far found 60% of the oil and gas that will be found and produced with foreseeable technology and economics.

I would be derelict in my testimony if I did not remind you that these are estimates and no one really knows how much oil and gas are in the frontier offshore areas and no one will ever know unless these areas are opened for leasing and exploration. We may be pleasantly surprised or rudely shocked. Meaningful future economic planning for this country cannot be done without this knowledge. Many companies had high hopes for the oil and gas potential of the 1973 MAFLA sale area. As it turned out, we were rudely shocked, and, by the way, all of the massive environmental concerns and studies were for naught because no oil or gas was found.

TOTAL ENERGY SUPPLY AND DEMAND FORECAST

In our total energy supply and demand picture, Shell believes that the steady increase in imports can be arrested at the 11 million barrel per day level in the 1980's. This is in spite of a growth in domestic demand of about 3% per year which we think will occur (Figure 3).

This leveling-off of imports can occur if we can accomplish three major goals:

- 1) An aggressive exploration program both onshore and offshore. In the case of offshore, this assumes that about 4,000 new tracts, some 25 million acres, will be leased by 1990, about two-thirds being in Alaska and off the West Coast.
- 2) A doubling of coal production - a difficult feat in the face of environmental restrictions, legal delays, and legislative threats, not to mention the herculean physical task in manufacturing new equipment and opening new mines.
- 3) The completion of one nuclear-powered 1,000-megawatt generating plant every two weeks in the 1980's. The program has already slipped because of increased capital costs and environmental objections.

Although Shell believes that the U.S. can stabilize imports during the 1980's at about 11 million barrels per day by launching an aggressive onshore and offshore exploration effort (Figure 4C), let's consider the impact of alternative exploration scenarios.

First, in the unlikely case of no new domestic exploration, onshore or offshore, production from discovered fields would decline rapidly until, by 1990, it would be necessary to import over 21 million barrels per day or almost 80 percent of our oil consumption (Figure 4A). Although we do not suggest this as a plausible scenario, it illustrates a serious problem - declining production in existing domestic fields. I will expand on this problem shortly.

Second, let's look at the impact of not exploring and developing our frontier areas. Shell estimates that this would result in a loss of 4 million barrels of oil equivalent production per day by 1990, with a corresponding increase in imports to 15 million barrels per day (Figure 4B).

DECLINING DOMESTIC PRODUCTION

If there is any doubt that an aggressive offshore exploration effort is necessary, let us look back at the U.S. production record of the past few years.

Domestic crude oil production peaked in 1970 and had declined by 13% through 1975; similarly, natural gas production has been on the decline since 1972. The decline is not limited to onshore fields. Crude oil production from the Federal OCS lands peaked in 1971 and had declined 22% by the end of 1975. This is a startling decline, almost twice the rate of the nation as a whole. Natural gas production from Federal OCS lands reached a plateau in 1974 and is currently just maintaining that level.

Why has the OCS oil production declined so sharply? Essentially all of the OCS crude comes from the Gulf of Mexico - the only offshore area where aggressive exploration had been permitted until recently. More acreage has been awarded in lease sales in the past five years than in the preceding ten years, but the Gulf of Mexico has become mature and discoveries are smaller. We are producing reserves there faster than they are being added.

#### PROGRESS OF OTHER NATIONS IN EXPLORING CONTINENTAL SHELVES

Elsewhere in the world offshore production is on the increase. Why? 35% of the offshore areas of foreign non-communist countries are under lease whereas only 2% of ours are (Figure 5). While we deliberate, other countries strengthen their positions.

#### A POISED INDUSTRY

What impact will this prolonged deliberation have on the petroleum industry? As Vice President of Exploration for Shell, I am deeply concerned. Shell has two large offshore divisions and two modern seismic survey vessels ready for future sales offshore; but, because of the tremendous expenditures involved, we cannot stay poised indefinitely. I cannot speak for industry but I am positive that most companies find themselves in the same position. Highly trained and experienced technical teams are costly to maintain. The cost of Shell's offshore exploration, exclusive of lease bonus, has been averaging \$80-90 million per year.

Continued delay will thin the ranks of industry teams. Many companies will have to go elsewhere to explore and some may just fold up their activities, particularly those companies associated exclusively with the offshore. The heaviest casualties will naturally be among the support companies who furnish offshore services and supplies.

My company currently accounts for 15% of the oil and 6% of the gas being produced from Federal OCS leases. We currently hold 8% of the Federal oil and gas leases in the Gulf of Mexico. If no more leases were to be offered, Shell will complete its exploration drilling in the Gulf of Mexico in approximately 21 months. Shell currently holds 10% of the Federal leases in the Southern California Borderlands. We will complete exploration evaluation of these properties in about 9 months. Shell currently holds 23% of the Federal leases in the Gulf of Alaska.

Exploration evaluation of these holdings will be completed in 9 to 21 months. Shell has 7% of the Federal leases awarded in the Baltimore Canyon area off the Atlantic Coast. Our exploration evaluation of these properties will be completed in 12 to 22 months after successful settlement of litigation as to the legality of the sale. Let me emphasize that the exploration effort in these areas will take place concurrently rather than in consecutive order. In other words, Shell will have completed exploration evaluation of its current Federal offshore leasehold in about two years or less. We have to have new areas to explore to maintain our exploration operations and expertise.

#### CRITICS OF THE SYSTEM

Although I realize that the basic purpose of this hearing is to address environmental issues, I would be remiss if I did not use this forum to refute two claims of critics of the present policies for leasing Federal offshore lands.

The first of these claims is the contention that industry has acquired offshore oil and gas rights at "bargain prices". Shell has made an analysis of how the petroleum industry stands today on its investment in the Gulf of Mexico (Figure 6). As of year end 1975, the market value of oil and gas produced from Federal leases amounted to 22 billion dollars. During the same time period, \$19 billion was paid to the Federal government for lease bonuses, royalties, and rentals. Another \$15 billion was spent to find, develop, and produce the oil and gas, leaving industry \$12 billion in the red. Valuing the yet to be produced reserves at year-end 1975 prices and assuming no increase in costs, Shell calculates that industry will ultimately realize an after-tax rate of return of only 7% on its investment (Figure 7).

The second claim of critics is that smaller companies have not been able to participate in offshore ventures. There is ample evidence to refute this charge. In the last 20 OCS sales, some 150 companies other than the eight largest domestic producers have acquired interests in 66 percent of the leases and obtained 49 percent of the ownership. Even more significantly, these smaller companies have acquired interests in 81 percent of the "premium tracts" (greater than \$20 million bonus) and obtained 51 percent of the ownership.

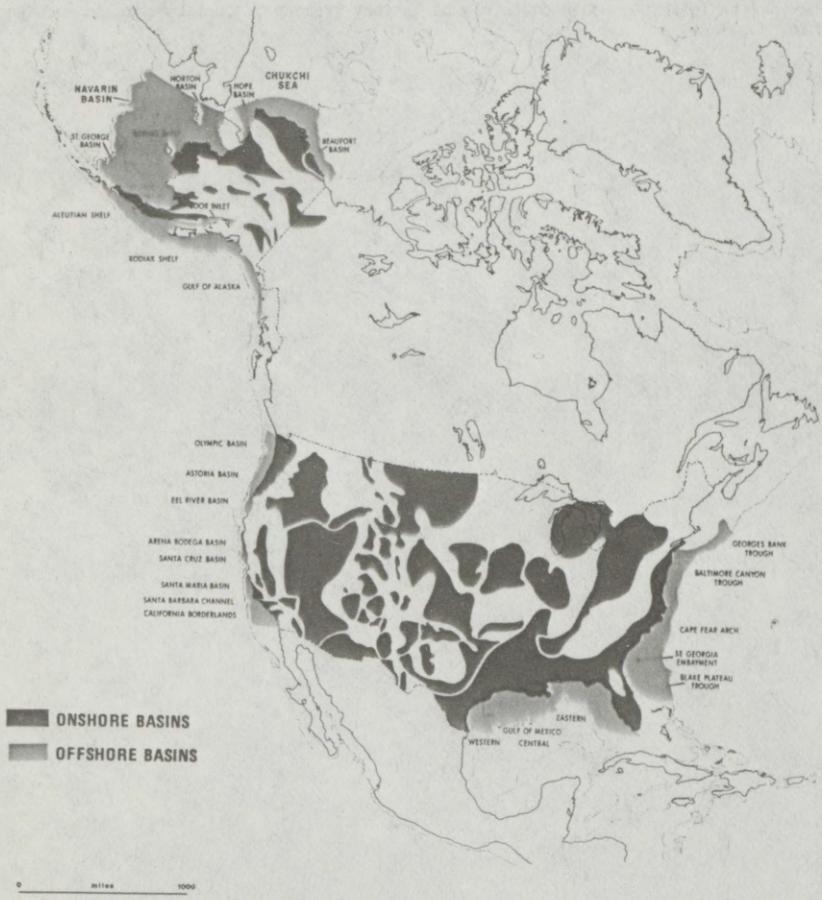
#### SUMMARY AND CONCLUSIONS

In closing, I wish to quickly summarize the most significant points which I have tried to make.

1. Domestic production is declining.
2. Delays in offshore leasing have contributed to this decline.
3. Remaining potential is limited in onshore areas.

4. Domestic supply shortfall will worsen without offshore development.
5. An urgent need exists to determine the extent of U.S. offshore resources promptly. The American oil industry is poised and waiting to do this.

It would be tragic for this nation to allow ghosts of environmental damage and false claims of rip-offs to further delay the task which needs to be accomplished. The inevitable result would certainly be further erosion of our economic independence. Thank you.



**U.S.A. ONSHORE AND OFFSHORE BASINS**

FIGURE

# CRUDE OIL & NATURAL GAS DISCOVERIES

BY YEAR OF DISCOVERY — BILLIONS OF BARRELS

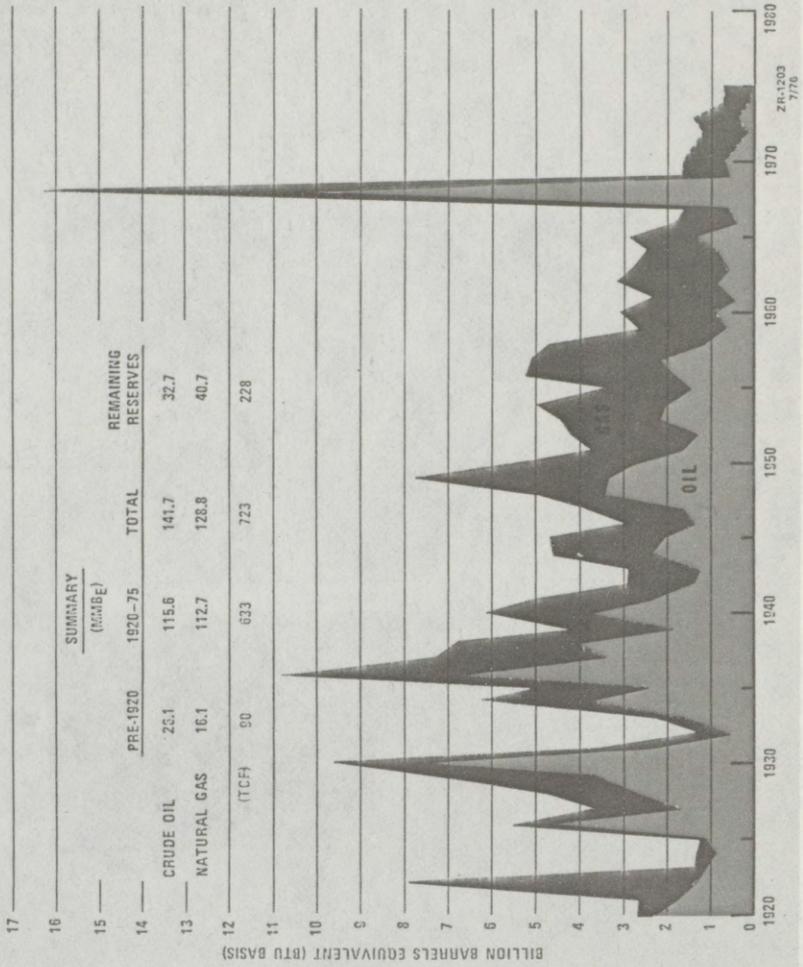
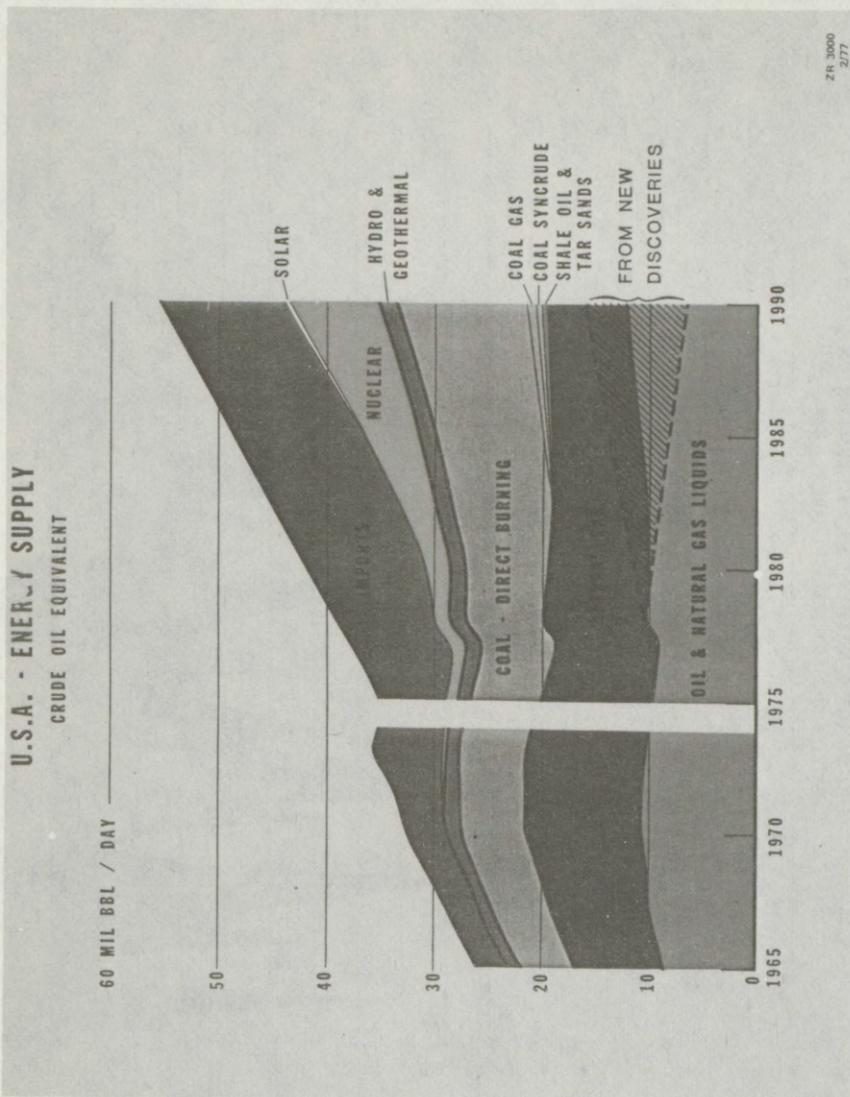


FIGURE 2

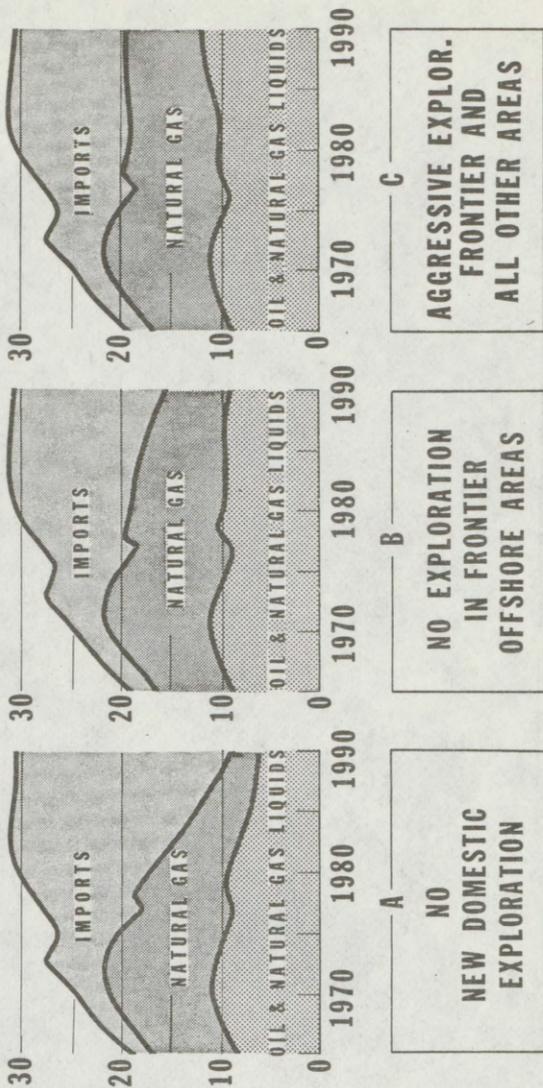


ZR 3000  
2/77

FIGURE 3

# U.S.A. - CONVENTIONAL HYDROCARBON SUPPLY

MILLION BARRELS / DAILY (COE)



ZR-1192  
6/76

FIGURE 4

**OFFSHORE EXPLORATION**  
**SHELF AREAS HELD BY LEASE OR CONCESSION**

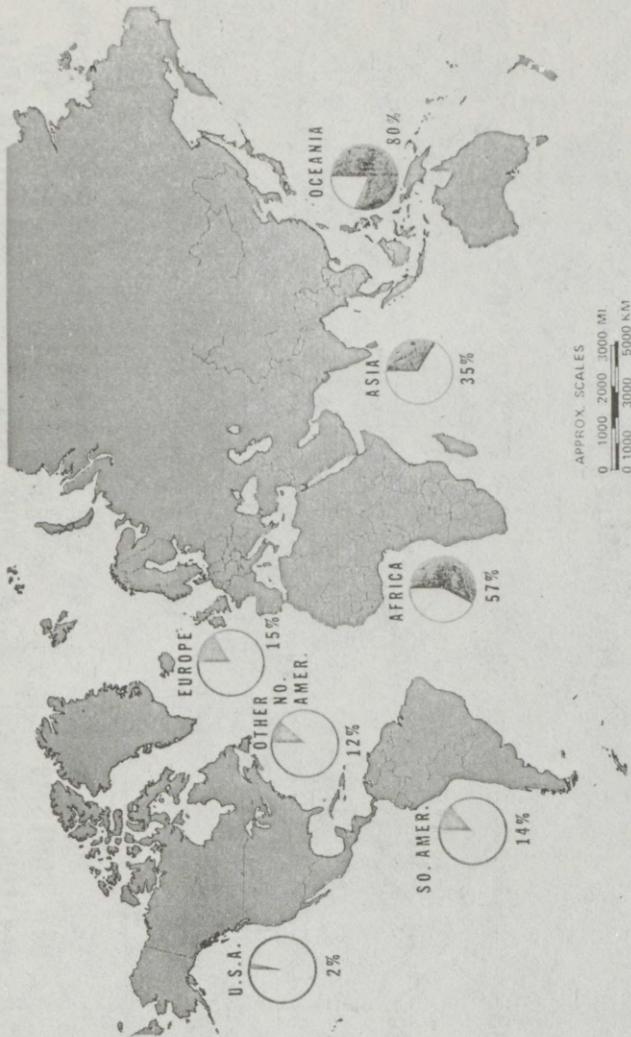


FIGURE 5

OCS GULF OF MEXICO  
INDUSTRY CASH POSITION 12/31/75

<u>DEVELOPED VOLUMES.</u>	6 BILLION BARRELS O&C 60 TCF Gas
<u>PRODUCTION</u>	3.8 BILLION BARRELS O&C 27 TCF Gas
<u>PRODUCTION VALUE</u>	\$ 22 BILLION
<u>PAYMENTS TO GOVERNMENT</u>	
BONUS	\$ 15 BILLION
ROYALTY & RENT	4
SUBTOTAL	\$ 19 BILLION
<u>OTHER EXPENDITURES</u>	
EXPLORATION COST	\$ 3 BILLION
DEVELOPMENT COST	9
PRODUCING EXPENSE	3
SUBTOTAL	\$ 15 BILLION
<u>CASH POSITION</u>	
(BEFORE TAX)	\$ (12) BILLION

FIGURE 6

# INDUSTRY PERFORMANCE - GULF OF MEXICO OCS

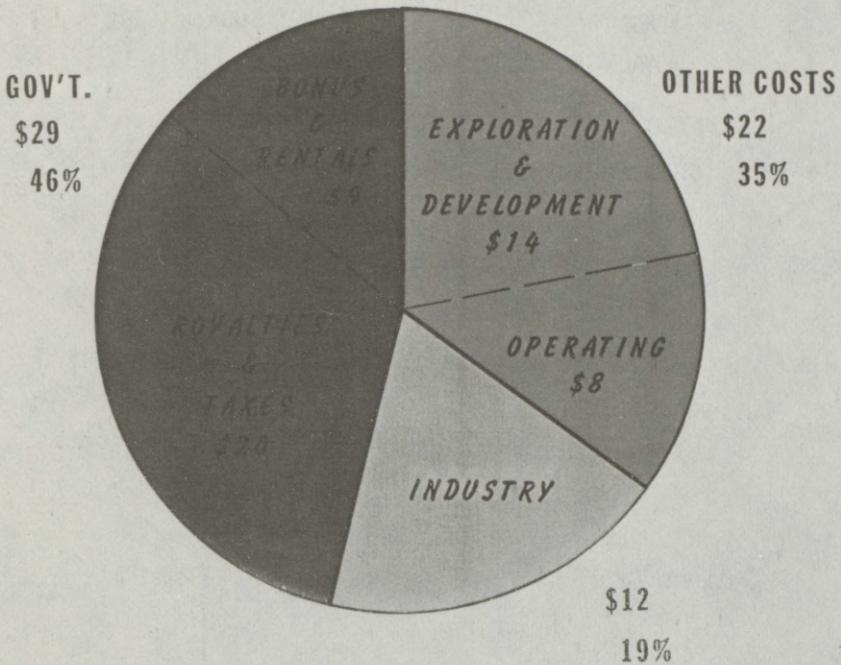
LEASES SOLD 1945-1973

VOLUMES DISCOVERED - 7 BILLION BARRELS OIL  
62 TRILLION CUBIC FT. GAS

## DISTRIBUTION OF REVENUE

TOTAL GROSS REVENUE

\$63 BILLION



INDUSTRY RATE OF RETURN - 7%

FIGURE 7

EXHIBIT B

Statement of Robert H. Nanz,  
Vice President, Shell Oil Company,  
before the Ad Hoc Select Committee  
on the Outer Continental Shelf,  
U.S. House of Representatives -  
December 6, 1978

LONG RANGE POTENTIAL OF  
DOMESTIC OIL AND GAS

PRESENTED BY  
CHARLES L. BLACKBURN, EXECUTIVE VICE PRESIDENT  
SHELL OIL COMPANY

NAPIA/PIRA FALL CONFERENCE  
BOCA RATON, FLORIDA  
OCTOBER 19, 1978

# DOMESTIC OIL AND GAS RESOURCES

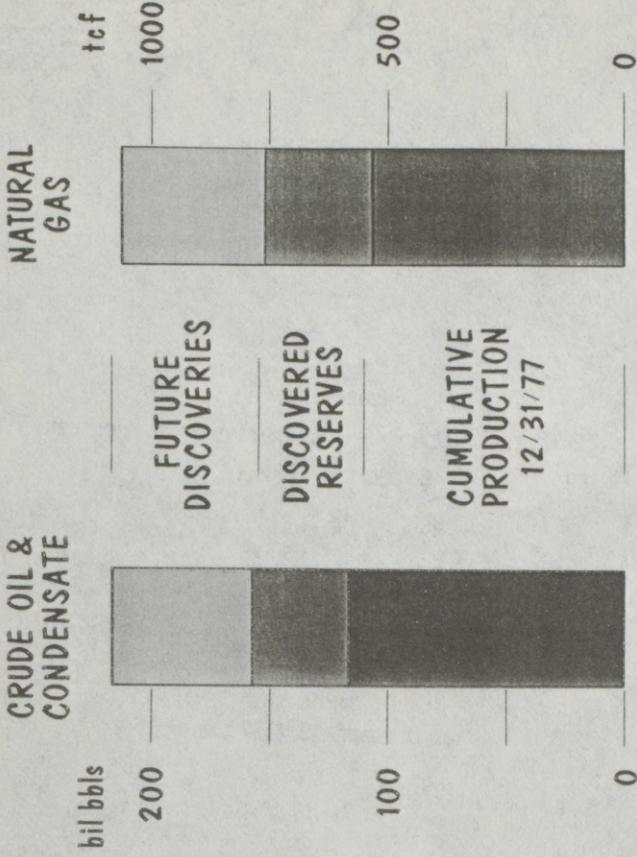


CHART 1 - DOMESTIC OIL AND GAS RESOURCES

## o DISTRIBUTION OF RESOURCE

	CRUDE & CONDENSATE <u>BIL. BBLs.</u>	NATURAL GAS <u>TCF</u>	APPROXIMATE <u>PERCENTAGE</u>
CUMULATIVE PRODUCTION	120	540	50
DISCOVERED RESERVES	40	220	20
FUTURE DISCOVERIES	<u>60</u>	<u>315</u>	<u>30</u>
TOTAL	220	1,075	100

## o APPROACH TO STUDY

1) GEOLOGIC REVIEW BY BASINS.

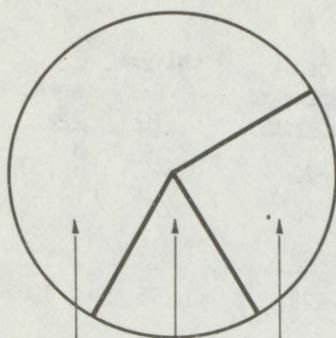
2) ASSUMPTIONS:

A) CONTINUING IMPROVEMENTS IN TECHNOLOGY

B) FAVORABLE ECONOMIC CLIMATE

# DISTRIBUTION OF FUTURE USA DISCOVERY VOLUMES

## CRUDE OIL & CONDENSATE

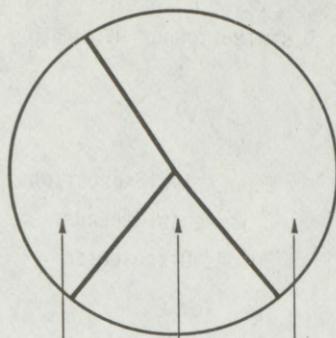


ALASKA — 58%

OFFSHORE  
LOWER 48 — 17%

ONSHORE  
LOWER 48 — 25%

## NATURAL GAS



ALASKA — 30%

OFFSHORE  
LOWER 48 — 22%

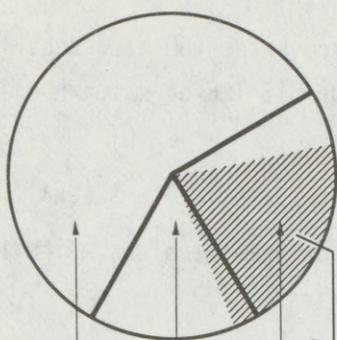
ONSHORE  
LOWER 48 — 48%

CHART 2 - DISTRIBUTION OF LONG RANGE U.S. DISCOVERY VOLUMES

- DIVIDES FUTURE U.S. DISCOVERIES (60 BIL. BBLs. OF CRUDE AND CONDENSATE AND 315 TCF OF NATURAL GAS) BETWEEN GEOGRAPHIC AREAS.
- NEARLY 60% REMAINING OIL POTENTIAL IN ALASKA.
- APPROXIMATELY ONE-HALF OF REMAINING GAS POTENTIAL IN ONSHORE LOWER 48 STATES.

# DISTRIBUTION OF FUTURE USA DISCOVERY VOLUMES

## CRUDE OIL & CONDENSATE



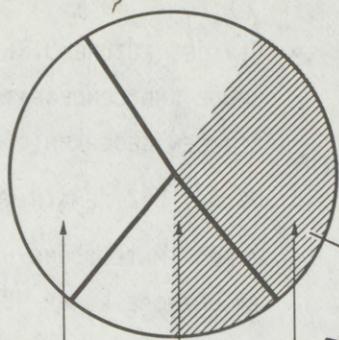
ALASKA — 58%

OFFSHORE  
LOWER 48 — 17%

ONSHORE  
LOWER 48 — 25%

supported by discovery history

## NATURAL GAS



ALASKA — 30%

OFFSHORE  
LOWER 48 — 22%

ONSHORE  
LOWER 48 — 48%

supported by discovery history

CHART 3 - DISCOVERIES SUPPORTED BY HISTORY

- o SAME CHART AS PREVIOUS WITH PORTION OF FORECAST THAT WE HAVE INDEPENDENTLY SUPPORTED BY STATISTICAL ANALYSIS OF DISCOVERY HISTORY.
- o STATISTICAL ANALYSES WERE CONDUCTED FOR ALL MATURE BASINS OF THE ONSHORE LOWER 48 AND THE GULF OF MEXICO.
- o PERCENTAGE DISTRIBUTIONS:

	<u>TOTAL</u>	<u>SUPPORTED BY DISCOVERY HISTORY</u>
CRUDE OIL & CONDENSATE		
ONSHORE LOWER 48	25	20
OFFSHORE LOWER 48	17	3
NATURAL GAS		
ONSHORE LOWER 48	48	31
OFFSHORE LOWER 48	22	11

- o INCLUDED IN OUR FORECAST FOR ONSHORE LOWER 48 IS AN ADDITIONAL 3 BIL. BBLs. CRUDE OIL AND CONDENSATE AND 52 TCF NATURAL GAS NOT SUPPORTED STATISTICALLY. BASIS:
  - 1) DISCOVERIES IN LIGHTLY EXPLORED AREAS (HORIZONS).
  - 2) FUTURE LARGE DISCOVERIES THAT WE CANNOT FORECAST.
- o NEXT 2 CHARTS WILL ILLUSTRATE THE TECHNIQUE WE USED IN DEVELOPING THESE STATISTICAL ANALYSES.

INDUSTRY DISCOVERY VOLUMES — SUBREGION A  
**ASSOCIATED & NON-ASSOCIATED GAS**

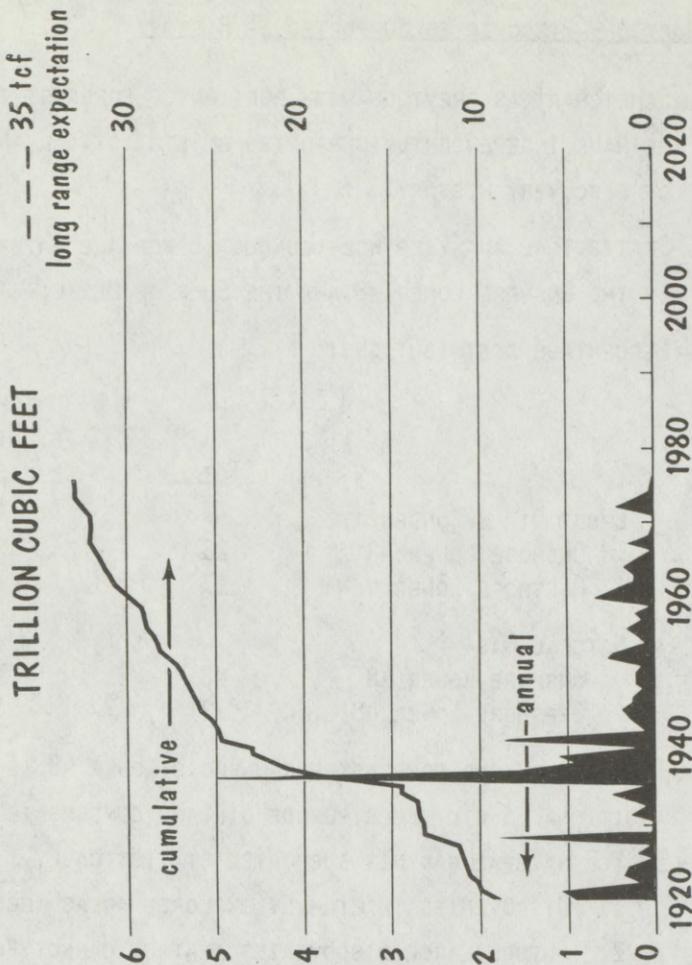


CHART 4 - GAS DISCOVERY HISTORY - SUBREGION A

- o EXAMPLE OF A GAS DISCOVERY CHART FOR A SEGMENT OF ONSHORE 48. HAVE DIVIDED ONSHORE LOWER 48 INTO 20 DIFFERENT GEOLOGIC SUBREGIONS.
- o ANNUAL DISCOVERIES ARE IN RED WITH SCALE ON LEFT WHILE BLUE LINE WITH SCALE ON RIGHT REPRESENTS CUMULATIVE DISCOVERED VOLUMES.
- o CHART PORTRAYS TYPICAL SHAPE FOR CUMULATIVE DISCOVERED VOLUMES CURVE.
  - 1) INCREASES RAPIDLY BEFORE 1940 AS EASY GAS IS FOUND.
  - 2) GROWTH RATE DIMINISHES WITH TIME AFTER 1940 AS IT BECOMES HARDER TO FIND REMAINING GAS.
- o LARGE DISCOVERIES SUCH AS THE 5 TCF DISCOVERY THAT OCCURRED IN 1936 CAUSES CUMULATIVE DISCOVERED VOLUME CURVE TO SHIFT. SINCE WE CANNOT FORECAST THIS TYPE OF BEHAVIOR, WE PROVIDED FOR AN INCREMENT OF FUTURE DISCOVERIES THAT ARE NOT SUPPORTED BY DISCOVERY HISTORY.

INDUSTRY DISCOVERY VOLUMES — SUBREGION B

**OIL & CONDENSATE**

--- 7.8 bil bbls  
long range expectation

CUMULATIVE billion bbls

ANNUAL million bbls

600  
400  
200  
0

6  
4  
2  
0

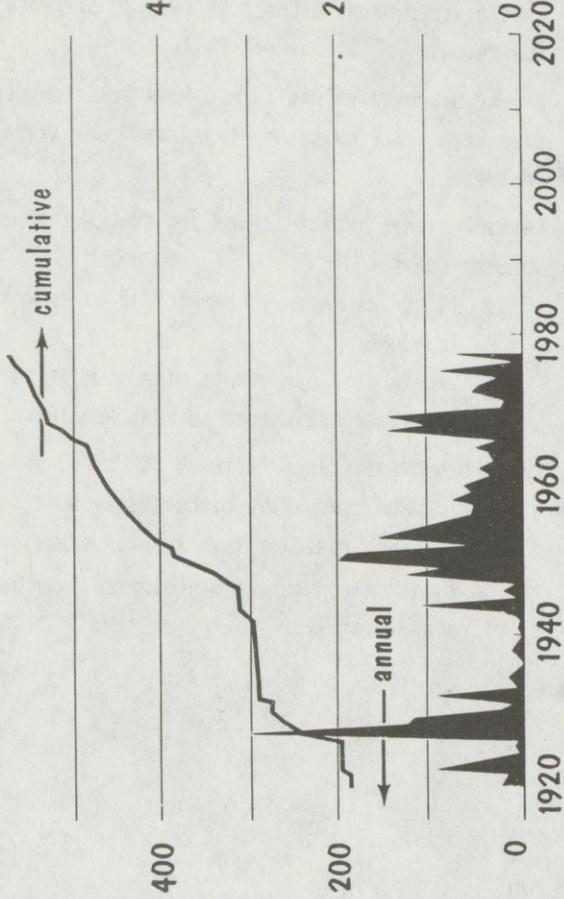


CHART 5 - OIL DISCOVERY HISTORY - SUBREGION B

- o EXAMPLE OF AN OIL DISCOVERY CHART FOR A DIFFERENT GEOLOGIC SUBREGION OF ONSHORE LOWER 48.
- o CURVE HAS DIFFERENT SHAPE AS THIS SUBREGION IS STILL IN A FAIRLY RAPID GROWTH PHASE.
- o SINCE THERE IS ONLY A FINITE RESOURCE AVAILABLE, CURVE HAS TO FLATTEN OUT EVENTUALLY.
- o WE FORECAST THE EXPECTED LONG RANGE DISCOVERY VOLUMES WILL BE 34% HIGHER THAN CUMULATIVE DISCOVERED TO DATE.

**COMPARISON OF ESTIMATES  
FUTURE U.S. OIL & GAS DISCOVERIES\*  
(BILLIONS OF BARRELS & TRILLIONS OF CUBIC FEET)**

	SHELL 1978		USGS 1975		EXXON 1976	
	OIL	GAS	OIL	GAS	OIL	GAS
ONSHORE						
LOWER 48	15	150	44	345	N/A	N/A
ALASKA	10	50	12	32	N/A	N/A
TOTAL	<u>25</u>	<u>200</u>	<u>56</u>	<u>377</u>	<u>19</u>	<u>186</u>
OFFSHORE						
LOWER 48	10	70	11	63	N/A	N/A
ALASKA	25	45	15	44	N/A	N/A
TOTAL	<u>35</u>	<u>115</u>	<u>26</u>	<u>107</u>	<u>36</u>	<u>101</u>
TOTAL USA	60	315	82	484	55	287
RANGE USA						
MINIMUM	30	150	50	322	20	127
MAXIMUM	100	500	127	655	130	657

\*EXCLUDES NATURAL GAS LIQUIDS.

CHART 6 - COMPARISON OF FUTURE DISCOVERY ESTIMATES

- COMPARES SHELL'S CURRENT ESTIMATE OF FUTURE DISCOVERIES SUBDIVIDED BY GEOGRAPHIC AREAS WITH ESTIMATES PUBLISHED BY USGS IN 1975 AND EXXON IN 1976.
- IN ADDITION TO EXPECTED VOLUMES FOR EACH GEOGRAPHIC AREA, WE HAVE INCLUDED THE RANGE FOR THE TOTAL ESTIMATE AT THE BOTTOM OF THE CHART TO SHOW OUR UNCERTAINTY.
- THE PERCENTAGE RANGE IN FUTURE DISCOVERIES WOULD BE GREATER FOR INDIVIDUAL GEOGRAPHIC AREAS. CONSEQUENTLY, IN OUR OPINION, ALL AREAS COULD HAVE A LARGE POTENTIAL.
- COMPARISON OF SHELL AND USGS ESTIMATES
  - 1) SHELL SUBSTANTIALLY LOWER IN ONSHORE LOWER 48 WHERE OUR ESTIMATES ARE LARGELY SUPPORTED BY DISCOVERY HISTORY.
  - 2) SHELL HAS SUBSTANTIALLY HIGHER OIL DISCOVERIES IN OFFSHORE ALASKA.
  - 3) REMAINING ESTIMATES ARE SIMILAR.
- SHELL AND EXXON ESTIMATES ARE SIMILAR EXCEPT THAT EXXON IS SLIGHTLY LOWER IN THE ONSHORE.
- SHELL AND EXXON PLACE GREATEST POTENTIAL IN THE OFFSHORE.



CHART 7 - U.S.A. OFFSHORE BASINS

- o CHART RANKS THE REMAINING POTENTIAL OF OFFSHORE BASINS AFTER 1978 SALES.
- o WITH EXCEPTION OF THE CENTRAL AND WESTERN GULF OF MEXICO AND THE SANTA BARBARA CHANNEL, THE AREAS OF HIGHEST POTENTIAL ARE IN THE FRONTIER AREAS OFFSHORE OF WESTERN AND NORTHERN ALASKA.
- o NATION NEEDS TO HAVE THESE AREAS EXPLORED TO EITHER CONFIRM OR DENY THE EXISTENCE OF THIS POTENTIAL.
- o THE AVAILABILITY OF THESE OFFSHORE BASINS FOR EXPLORATION AND DEVELOPMENT IS CONTROLLED BY FEDERAL GOVERNMENT.

## OCS LEASING RATES

PERIOD	LEASE SALES PER YEAR		
	GULF OF MEXICO	OTHER	TOTAL
1954-1973	0.6	0.2	0.8
1974-1976	3.0	1.0	4.0
1977	1.0	1.0	2.0

PERIOD	MILLION ACRES LEASED PER YEAR		
	GULF OF MEXICO	OTHER	TOTAL
1954-1973	.36	.06	.42
1974-1976	1.16	.42	1.58
1977	.60	.50	1.10

CHART 8 - HISTORY OF OFFSHORE LEASING

- o THIS TABLE SHOWS THE LIMITED AMOUNT OF OFFSHORE LEASING TO DATE IN THE U.S.
  - 1) LESS THAN 1 SALE AND 0.5 MM ACRES PER YEAR LEASED PRIOR TO 1974.
  - 2) AVERAGED 4 SALES AND 1.6 MM ACRES PER YEAR DURING 1974-1976.
  - 3) OVER 70% OF SALES SINCE 1954 HAVE BEEN IN GULF OF MEXICO.
  
- o FEDERAL GOVERNMENT ACTIONS REQUIRED TO ACHIEVE SIGNIFICANT PRODUCTION FROM THE FRONTIER AREAS BY LATE 1980'S.
  - 1) ACCELERATE LEASING BY A FACTOR OF TWO OR GREATER.
  - 2) EXPAND SALES OUTSIDE OF GULF OF MEXICO.
  - 3) REDUCE ENVIRONMENTAL DELAYS.

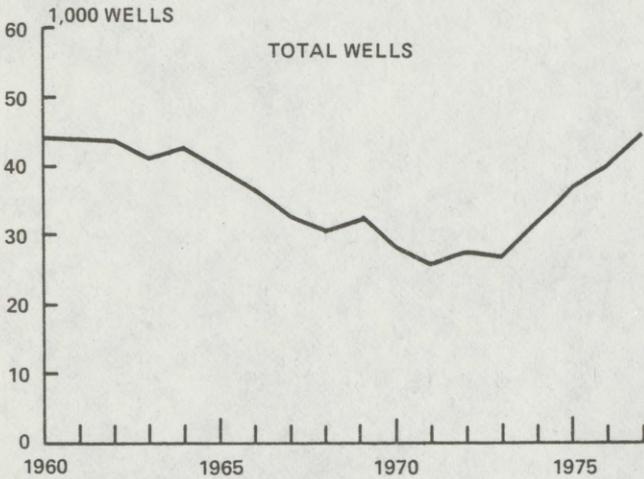
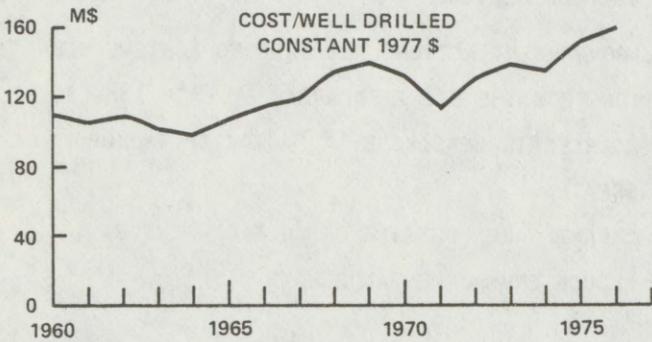
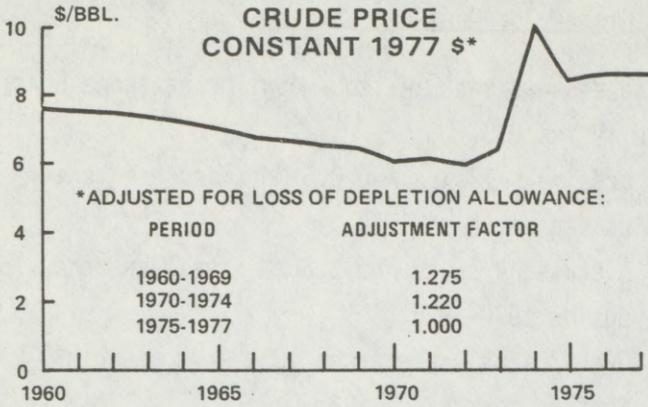


CHART 9 - INFLUENCE OF ECONOMIC FACTORS ON ACTIVITY

- o CHART DEMONSTRATES CORRELATION BETWEEN ECONOMICS AND ACTIVITY. IT COMPARES CRUDE PRICE AND WELL COST IN CONSTANT \$ AGAINST TOTAL NUMBER OF WELLS DRILLED EACH YEAR. THESE WELLS ARE ALMOST ENTIRELY (97%) ONSHORE LOWER 48.
  - 1) TOTAL WELLS DRILLED PER YEAR DECLINED BETWEEN 1960 AND 1973 AS CRUDE PRICE DECLINED AND WELL COST INCREASED.
  - 2) PRICE INCREASE IN 1974 HAS CAUSED NUMBER OF WELLS DRILLED PER YEAR TO INCREASE DURING 1974-1977.
- o FACTORS INFLUENCING ACTIVITY:
  - 1) ONSHORE: ECONOMICS IS PRIMARY FACTOR.
  - 2) OFFSHORE: ECONOMICS, LEASING RATES, AND ENVIRONMENTAL DELAYS ARE ALL IMPORTANT FACTORS.
- o FUTURE GROWTH IN WELLS DRILLED PER YEAR CAN BE INCREASED BY REMOVAL OF PRICE CONTROLS. REMOVAL OF PRICE CONTROLS WOULD ACCELERATE THE EXPLORATION, DEVELOPMENT, AND PRODUCTION OF BOTH ONSHORE AND OFFSHORE RESOURCES.
- o NOTE: CONSTANT \$ CRUDE PRICE IS RESTATED IN THIS CHART ON AN EQUIVALENT NO DEPLETION ALLOWANCE BASIS DURING 1960-1974.

# USA - CONVENTIONAL HYDROCARBON SUPPLY

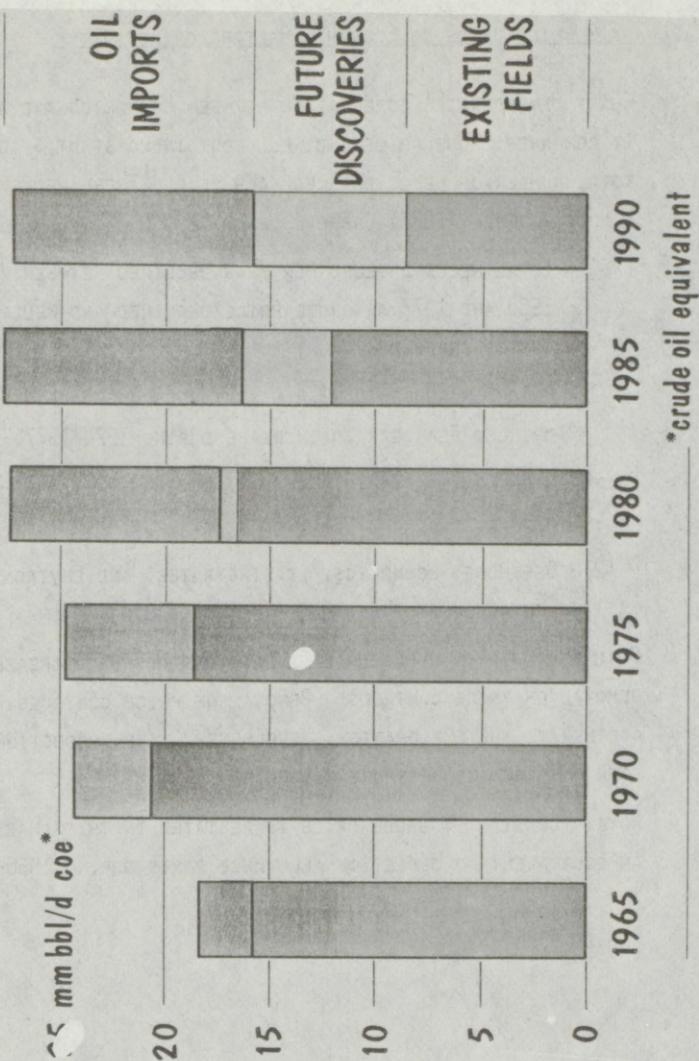


CHART 10 - CONVENTIONAL U.S.A. HYDROCARBON SUPPLY

- o THIS CHART ILLUSTRATES WHY WE BELIEVE THAT IT IS ESSENTIAL FOR THE NATION TO EXPLORE FOR AND DEVELOP THESE RESOURCES.
- o BASED ON SHELL'S "NATIONAL ENERGY OUTLOOK," CHART PROJECTS CONVENTIONAL OIL AND GAS SUPPLY IN CRUDE OIL EQUIVALENTS (1 BBL. = 5.8 MMBTU) AND OIL IMPORT LEVELS.
- o CONVENTIONAL FORECAST IS DIVIDED BETWEEN EXISTING FIELDS, DARK BLUE, AND FUTURE DISCOVERIES, LIGHT BLUE. THIS FORECAST WAS BASED ON GRADUAL REMOVAL OF PRICE CONTROLS, AN ACCELERATED LEASING SCHEDULE, AND RESOLUTION OF ENVIRONMENTAL CONFLICTS.
- o IN ORDER TO SUPPLY THIS DEMAND PROJECTION, OIL IMPORTS IN 1990 WOULD HAVE TO BE INCREASED FROM 11 MMB/D TO 19 MMB/D IF WE DO NOT CARRY OUT FUTURE EXPLORATION.
- o IT IS UNLIKELY THAT 8 MMB/D OF ADDITIONAL IMPORTS WOULD BE AVAILABLE IN 1990. THEREFORE, FAILURE TO CARRY OUT FUTURE EXPLORATION WOULD ALTER THE SUPPLY DEMAND BALANCE AND THE ECONOMIC ENVIRONMENT.
- o ONLY HOPE OF CONTROLLING IMPORTS TO AN ACCEPTABLE LEVEL IS TO AGGRESSIVELY EXPLORE AND DEVELOP IN THE FRONTIER AREAS.

## **THE ROLE OF GOVERNMENT IN U.S. OIL AND GAS SUPPLY**

- I. PRICING POLICY/LEGISLATION
- II. LEASING RATE FOR OCS ACREAGE
- III. RESOLUTION OF ENVIRONMENTAL CONFLICTS

CHART 11 - ROLE OF GOVERNMENT IN U.S. OIL AND  
GAS SUPPLY

- o IN SUMMARY, U.S. HAS A LARGE AND SIGNIFICANT POTENTIAL FOR FUTURE OIL AND GAS DISCOVERIES. THE RATE AND DEGREE OF REALIZATION OF THESE RESOURCES IS HIGHLY INFLUENCED BY GOVERNMENT ACTIONS.
  - 1) PRICE CONTROLS NEED TO BE REMOVED TO ACCELERATE ONSHORE EXPLORATION AND DEVELOPMENT AND TO ENCOURAGE EXPLORATION AND DEVELOPMENT IN HOSTILE ENVIRONMENTS.
  - 2) OFFSHORE LEASING HAS TO BE ACCELERATED AND LEASE SALES MUST BE HELD IN THE OFFSHORE FRONTIERS OF ALASKA.
  - 3) EVERY EFFORT SHOULD BE MADE TO ALLEVIATE THE PROBLEMS ARISING FROM ENVIRONMENTAL CONFLICTS AND TO MINIMIZE THE RESULTING DELAYS.
- o POSITIVE GOVERNMENT ACTIONS ARE REQUIRED TO PERMIT THE OIL AND GAS INDUSTRY TO GET ON WITH THE JOB OF EXPLORING AND DEVELOPING OUR OIL AND GAS RESOURCES WHEREVER THEY ARE.

## EXHIBIT C

Statement of Robert H. Kans,  
Vice President, Shell Oil Company,  
before the Ad Hoc Select Committee  
on the Outer Continental Shelf,  
U.S. House of Representatives -  
December 6, 1978

## OUTER CONTINENTAL SHELF LEASE SALE

		PROPOSED 5-YEAR SCHEDULE					
		1979	1980	1981	1982	1983	1984
GULF OF MEXICO		● ●	● ○	● ○*	○ ○	○	○
ATLANTIC COAST							
NORTH		●					
MIDDLE		●		○	○		○
SOUTH							
BLAKE					○		
PACIFIC COAST							
S. CALIFORNIA**		●	○			○	
C.&N. CALIFORNIA			○			○	
OREGON & WASH.						○	
ALASKA							
SOUTH	N.E. GULF OF ALASKA						
	KODIAK SHELF						
	ALEUTIAN SHELF						
CENTRAL	L. COOK INLET		○		○		
	BRISTOL BAY			○			○
	ST. GEORGE BASIN		○			○	
NORTH	NAVARIN BASIN					○	
	NORTON BASIN			●			○
	HOPE BASIN						
CHUKCHI SEA					○		○
BEAUFORT SEA		●		○			○
TOTAL SALES		6	6	6	6	6	6

● INCLUDED IN CURRENT DEPT. OF THE INTERIOR SCHEDULE.

○ RECOMMENDATIONS

\* INCLUDES MAFLA AREA AND FLORIDA STRAITS

\*\* INCLUDES SANTA BARBARA CHANNEL

ZR-12178

## Shell Oil Company

One Shell Plaza  
P. O. Box 2463  
Houston, Texas 77001

C. L. Blackburn  
Executive Vice President

## EXHIBIT D

Statement of Robert W. Manz,  
Vice President, Shell Oil Company,  
before the Ad Hoc Select Committee  
on the Outer Continental Shelf,  
U.S. House of Representatives -  
December 6, 1978

November 29, 1978

Director  
Office of OCS Program Coordination  
Office of Assistant Secretary - Policy,  
Budget & Administration  
Department of the Interior  
Room 4126  
18th and C Streets, NW  
Washington, D.C. 20240

Dear Sir:

SUBJECT: REQUEST FOR COMMENTS ON FIVE-YEAR OUTER CONTINENTAL  
SHELF OIL AND GAS PROGRAM

We are pleased to submit for your consideration our comments on the Five-Year Outer Continental Shelf Oil and Gas Program. We have directed our remarks to questions A(1) and A(4) to A(7) and question B. We have not commented directly on the environmental sensitivity and marine productivity but are including a listing of comprehensive reports on the subject prepared by industry and Shell Oil (Attachment 5). All of these reports have either been submitted to the Department of Interior or will be when completed. Our experience in the off-shore, which has been considerable, continues to demonstrate that significant conflicts between petroleum activities and other uses of the ocean in the past were few in number, and it is likely that problems in the future will occur infrequently and only in isolated cases.

Attachment 1 contains our ranking of the twenty-two areas of interest as requested in A(6); this ranking is based on our current assessment of oil and gas potential. We have grouped the areas into four major categories ranging from very high to low potential; within each of the categories the areas are listed in alphabetical order.

Attachment 2 contains our suggestions for the preferred order of sales. We are proposing two parallel and concurrent series of sales, one series in proven areas such as the Central and Western Gulf of Mexico, Southern California, and Beaufort Sea with the other series in frontier basins such as the St. George Basin, Bristol Basin, and the Atlantic Offshore. We do not believe that the sales in productive basins should be slowed down; instead they should be augmented by sales in the frontier areas taking into full account technological capabilities and their respective rankings by potential.

In Attachment 3 we have provided brief comments on the geological characteristics for each of the OCS areas.

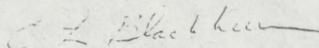
Attachment 4 lists Shell's views regarding the timing and feasibility of certain activities for the OCS areas. The time ranges shown for achieving initial production taking into account to a reasonable degree the known and anticipated governmental review processes in frontier areas. They also reflect variations in conditions which directly affect the development cycle, including location, depth of water, drilling times, oceanographic effects, transportation requirements, etc. These timing estimates do not include potential delays due to unusually long governmental reviews or litigation. The time required for achieving peak field production in all areas could vary from almost simultaneously with initial production to four or five years after initial production. This period is dependent upon such things as field characteristics; the type and number of platforms or alternative production systems employed and the storage and transportation facilities. The time required to achieve peak production from an area is even more uncertain, and may occur ten or more years after initial production.

With regard to oil and gas transportation, Attachment 4 also includes brief comments on alternatives available. Any large discovery in a frontier area will require specific transportation studies to supplement existing general, region studies to determine the most suitable means to move the production to market. When commercial reserves are discovered in frontier areas, site-specific studies should be undertaken as needed to provide for protection of the environment. Regional biological baseline and environmental impact assessments are of questionable benefit. Such broad area studies are expensive, time consuming, and generally produce inconclusive results. Further, archeological screening should be limited to proposed drilling and construction sites. Environmental impact statements should be prepared and general physical, chemical, and biological studies should be conducted only after discoveries have been made, and then focused in the vicinity of the tracts to be developed, i.e., these types of activities should be carried out because of a real need, not because the data might possibly be useful at some time in the future.

We appreciate the opportunity to participate in your planning process and will be happy to discuss further with you any questions you may have concerning this submittal, and hope that it will be of assistance to you.

As a final comment, we believe it is critical to the resolution of our Nation's energy supply problems that your planning process provides a leasing schedule such that two million acres per year will be awarded to industry consisting of a balanced mixture of high potential frontier and proven areas.

Yours very truly,



Attachments (1-5)

<sup>A</sup>(6) OCS RANKINGS BY OIL AND GAS POTENTIAL

<u>VERY HIGH POTENTIAL*</u>	<u>DOI NO.</u>
Beaufort Sea	22
St. George Basin	17
<u>HIGH POTENTIAL*</u>	
Blake Plateau	4
Bristol Basin	16
Central & Western Gulf	7
Chukchi Sea	21
Navarin Basin	18
Santa Barbara	9
<u>MODERATE POTENTIAL*</u>	
Eastern Gulf of Mexico	6
Mid Atlantic	2
Norton Basin	19
S. California	8
<u>LOW POTENTIAL*</u>	
Central & Northern California	10
Cook Inlet	12
Florida Straits	5
Gulf of Alaska	13
Hope Basin	20
Kodiak Basin	14
North Atlantic	1
South Aleutian Shelf	15
South Atlantic	3
Washington-Oregon	11

\*Areas of interest are listed alphabetically within four major categories.

A(7) PREFERRED ORDER OF SALESFrontier Areas

St. George Basin  
 Bristol Basin  
 Chukchi Sea  
 Norton Basin  
 Mid-Atlantic  
 Navarin Basin  
 Blake Plateau  
 Florida Straits  
 Central & Northern California  
 Washington-Oregon  
 North Atlantic  
 South Atlantic  
 Gulf of Alaska  
 Kodiak  
 Hope Basin  
 South Aleutian Shelf

Proven Areas

Beaufort Sea\*  
 Central & Western Gulf  
 Santa Barbara  
 Southern California  
 Eastern Gulf of Mexico\*  
 Cook Inlet

\*Included in proven because these areas are at least in part offshore extensions of onshore geologic provinces with demonstrated oil and gas accumulations.

<sup>A</sup>(1) Existing Information Concerning Geological Characteristics

North Atlantic Area (1) (Area outside Sale 42 tracts)

Area contains structural and stratigraphic traps in Cretaceous & Jurassic measures which are 5,000 to 15,000 feet thick. Disputed zone should be resolved and included in sales.

Mid Atlantic (2)

Major potential possible in large structural and reef traps in deeper water play seaward of existing sale areas. Conventional structural play in < 600' W.D. could be gutted by 1979 sale. Principal objectives are Lower Cretaceous clastics and Jurassic carbonates at depths ranging from 6,000 to 20,000 feet. Cape Fear area could be prospective for stratigraphic traps and flanking structures.

South Atlantic (3)

Area contains structural and stratigraphic traps. Primary objectives in S.E. Georgia Embayment are Lower Cretaceous clastics and carbonates. Area has fairly low remaining potential.

Blake Plateau (4)

Potential for large low relief structural-stratigraphic traps exists. Primary objectives are Lower Cretaceous carbonates and clastics, Jurassic carbonates, and the Lower Cretaceous shelf margin complex. Water depths vary from 2,000 to 4,000 feet. Prospective area is very large.

Florida Straits (5)

Area includes the South Florida basin and Cretaceous shelf margin complex. Fair probability that area contains some hydrocarbons. We have not yet received protraction diagrams for this area. Boundary issues must be settled. May involve deep water.

Eastern Gulf of Mexico (6)

Area is very large and contains two major arches, three discrete basins, and a Cretaceous shelf margin complex. Much pioneering exploration remains to be done, some of which will be in deep water. Objectives are Lower Cretaceous carbonates and clastics; secondary objectives are Upper Cretaceous and Jurassic measures. Withdrawn area should be included in future sales.

Central & Western Gulf of Mexico (7)

Exploration is in a mature stage, but significant hydrocarbons remain to be found. Effort will shift more and more to subtle and well hidden accumulations which will require the continued development of new exploration techniques and concepts. Primary emphasis will be on geopressured trends and exotic reservoir distributions. Industry has the capability to evaluate at least 250 tracts per year.

Southern California (8) (South of 34° N. Latitude)

Southern California is an area of active exploration. As a result of activity related to OCS Sale No. 35 and the upcoming OCS Sale No. 48, the industry has modern seismic control over most of the area and well control in the northern part. Sedimentary sections contain Tertiary and Late Mesozoic rocks, mostly deep marine sands and shales, are at least 12,000+ feet thick in several local basins, and are prospective for both oil and gas. Although only lightly drilled, the far offshore portion of the area is less attractive due to the outcome of recent industry drilling.

Santa Barbara (9) (North of 34° N. Latitude)

Santa Barbara Channel is an area of very active exploration. Drilling and development on leases from the 1968 OCS Sale and seismic and other data acquired for upcoming OCS Sale No. 48 give industry a good data set for exploration. A very thick sedimentary section (in excess of 25,000 feet in the eastern area) composed of mostly Tertiary deep marine sands and shales provides hydrocarbon charge and reservoirs for both known and anticipated oil and gas fields. If OCS Sale No. 48 is held as planned in 1979, most of the attractive blocks will have been leased in either 1968 or 1979 sales.

Central and Northern California (10)

While this area was sparsely explored in the mid-1960's without commercial success, improved oil and gas prices, advancing seismic technology, and more sophisticated stratigraphic interpretation have caused industry to refocus on this area. The data set available is fair. Older seismic and scattered well data are available as a result of the prior lease sale and some modern seismic has been shot in preparation for the upcoming OCS Sale No. 53. Most of the basins in the area are oil-prone with predominantly Tertiary deep marine sediments up to 15,000 feet thick. The northern-most Eel River Basin has a thinner fill of young Tertiary sands and shales and is gas prone.

Washington-Oregon (11)

Washington-Oregon was sparsely explored in the mid-1960's with discouraging results, but increased prices, advancing seismic technology, and more sophisticated stratigraphic interpretation make another look at this high risk area seem worthwhile. Older seismic and fairly widespread well control are available from the previous exploration effort. Because no sales have been scheduled, very little modern seismic or other new data have been acquired. Although there are local deep basins (up to 15,000 feet) containing mostly

Tertiary deep marine sands and shales, much of the area seems to have a relatively thin sedimentary section. Nonetheless, the area has potential for oil and gas as some of the wells and local areas onshore have shows or seeps. Some sedimentary intervals are over-pressured, although no severe problems were encountered in earlier exploration efforts.

#### Cook Inlet (12)

Lower Cook Inlet is an area of active exploration as a result of OCS Sale No. C.I. held in 1977. The industry has dense modern seismic control and is in the process of drilling a number of exploratory wells. The Inlet contains a number of shallow Tertiary structural prospects and large Mesozoic structures are also present. However, the thin Tertiary section, Mesozoic structural and stratigraphic concerns, and an uncertain hydrocarbon charge story make the Inlet a moderate to high risk province.

Almost no offshore data is available in the Shelikof Straits. All of the concerns in the Lower Cook Inlet are amplified in the Straits making this portion of the area very high risk.

#### Gulf of Alaska (13)

The Gulf of Alaska can be divided into three units, the Malaspina Block, Yakataga Basin, and Controller Basin.

The central unit, the Yakataga Basin, was leased in OCS Sale No. 39 in 1975. Industry has a dense net of modern seismic control and has drilled eleven dry holes on the most promising structures. The Yakataga Basin contains over 30,000 feet of Miocene-to-Recent clastic sediments, most of which are Plio-Pleistocene Yakataga Formation of glacio-marine origin. Most of the drilling encountered only the Yakataga Formation and the potential of older units is largely untested. However, depth to these older objectives, the very high geopressures encountered, and reservoir and stratigraphic concerns with the older units make the Yakataga Basin a very high risk.

The Controller Basin is similar to the Yakataga Basin except the Tertiary section is thinner, structural prospects are fewer, and the basin is cut by several highly deformed "basement (?) ridges. The industry has a moderate seismic control net and some well control (Middleton Island) which would indicate this area is very similar to the Yakataga Basin and would be classed high risk.

Less is known about the Malaspina Block largely because of lack of geologic information and only a reconnaissance grid of seismic data (five-mile grid). On the basis of this broad grid, the Tertiary and younger section is indicated to be up to 35,000 feet thick, but in general there appear to be a paucity of structural traps.

Kodiak (14)

This area is similar to the Yakatage and Controller Basins in that it is underlain by late Tertiary sediments which are deformed by compression related to subduction of the Pacific oceanic plate. A dense grid of modern seismic indicates numerous present-day structures which generally are small areally and with shallow depths to acoustic basement. On the basis of three industry core tests and three deep COST wells, the seismic reflective package is deficient in reservoir and consists of glacio-marine sediments.

Southern Aleutian Shelf (15)

This area is relatively narrow and underlain by a thin (up to 7,000 feet) Tertiary sedimentary section cut by igneous intrusive bodies. Only a reconnaissance seismic grid is available, but based on these data and outcrop information, the Tertiary section is thought to be similar in age and reservoir characteristics to that in the Kodiak Shelf. Few structural closures are evident. It is probably underlain by volcanics and highly deformed metasediments. The lack of structural leads and the thin sedimentary section would indicate the Southern Aleutian Shelf is a very high risk province.

Bristol Basin (16)

Bristol Basin is a large sedimentary wedge thickening toward the Alaska Peninsula, on which the sediments are abruptly uplifted and exposed. Several wells have tested this section onshore along the northwest coast of the peninsula indicating numerous Tertiary sandstone reservoirs. These sediments can be projected offshore. Seismic indicates numerous structural prospects.

St. George Basin (17)

This basin is located west of Bristol Basin and has a prospective area of ten million acres. The Tertiary section, up to 25,000 feet thick, contains deep water sandstones of good reservoir quality on the basis of a COST well drilled in the basin. A good net of detailed seismic data indicates numerous medium to large prospects which include simple anticlines, horsts, and tilted fault blocks. Hydrocarbon charge is an unknown.

Navarin Basin (18)

Navarin Basin is located on the outer shelf and is perhaps the largest but the most difficult operationally in the Bering Shelf due to the distance from shore and the seasonal presence of ice. The only data available is a loose seismic grid (eleven-mile spacing) which indicates a thick sedimentary section possibly in excess of 30,000 feet (presumably Tertiary age) and some large structural leads. This basin appears to be a continuation of the Khatyrka Basin on the Russian side of the assumed position of the International Boundary.

Norton Basin (19)

Norton Basin contains a prospective area of about five million acres with the nearshore portion relatively free of ice hazards and with water depths generally less than 100 feet. The basin contains no wells and no exposures of the objective section in adjacent onshore areas. Tertiary sandstones of non-marine deltaic and shallow marine origin are presumed to be present in a seismic reflective section. A relatively good modern seismic grid indicates trap geometries including both simple and fault closures over a block faulted "basement." Hydrocarbon charge is an unknown, but gas seep anomalies have been seen.

West of Norton Sound, very limited seismic coverage indicates fewer structures, and the ice hazard problem may be an important factor in drilling and development of hydrocarbons.

Hope Basin (20)

Little is known about the Hope Basin, but a small amount of reconnaissance seismic indicates a thin sedimentary section (Tertiary ?) over acoustic "basement".

Chukchi Sea (21)

A reconnaissance seismic grid indicates the Chukchi Sea is underlain by a western extension of the Arctic Slope Basin. The Arctic Slope Basin contains multiple rich source rocks, multiple reservoirs, and a wide variety of structural-stratigraphic traps, all of which should be present in the Chukchi Sea. Pack ice will be a major problem in the northern Chukchi Sea although there usually is an ice free period each year in the southern part. This area is a difficult and costly one in which to operate. Water depths over much of the Chukchi Sea are greater than 60 feet, and some of the development technology has still to be developed.

Beaufort Sea (22)

The inner nearshore part of the Beaufort Sea with water depths less than 60 feet has a nearly complete stratigraphic section from upper Devonian to Tertiary which provides multiple rich source rocks, multiple reservoirs, and a variety of structural-stratigraphic traps. It is anticipated that significant commercial accumulations of hydrocarbons will be found in the Mesozoic and pre-Mesozoic similar to those in the adjacent onshore. In spite of modern to severe ice problems, the industry has a net of high quality modern seismic data.

On the Beaufort Outer Shelf, a thick Cretaceous-Tertiary clastic wedge constitutes the objective. A good reconnaissance net of seismic indicates major structural features in this thick wedge. Because of ice problems, the acquisition of adequate coverage of high quality seismic data in a timely manner will be difficult. Development technology is still to be developed for water depths greater than the 60 feet present over most of this area. This will be a difficult and costly area in which to work.

## ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	Exploration	Development	Initial Production	Peak Production	B. Transportation Networks to Bring Oil & Gas Supplies to Demand Areas-Current and Projected Basis
1. North Atlantic (Area outside Sale No. 42 Tracts)	Moderately explored geophysically to date. Geological and geophysical technology is adequate. Feasible now to drill in water depths to 6000'.	Fixed platforms presently feasible to at least 800 feet. Subsea and/or compliant structure systems are feasible to 2,000-3,000 feet.	(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made Conventional platform. Initial production 6-8 years after discovery. Subsea and/or compliant structure systems will require 6-10 years.	Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.	011 - Offshore loading with offshore storage most likely. Gas - Pipeline to shore to existing systems.
2. Mid-Atlantic	Hydrocarbons established in basin. Geology fairly well known. Geophysical technology well established. Operational bases have been established. Deep water production technology would have to be implemented. Feasible now to drill in water depths to 6,000 feet.	Fixed platforms presently feasible to at least 800 feet. Subsea and/or compliant structure systems are feasible to 2,000-3,000 feet.	Conventional platform development. Initial production 5-7 years. Subsea and/or compliant structure systems will require 6-10 years.	Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.	011 - Pipeline to shore and to refineries for large production rates. Offshore loading with offshore storage for smaller rates. Gas - Pipeline to shore to existing systems.

ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	Exploration	Development	Initial Production	Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	Peak Production	Transportation Networks to Bring Oil & Gas Supplies to Demand Areas-Current and Projected Basis
3. South Atlantic	<p>A. (4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods</p> <p>Area fairly well explored geophysically. Initial evaluation drilling underway soon. All technologies adequate. Feasible now to drill in water depths to 6,000 feet.</p>	<p>Fixed platforms presently feasible to at least 800 feet. Subsea and/or compliant structure systems are feasible to 2,000-3,000 feet.</p>	<p>Conventional platform. Initial production 5-7 years. Subsea and/or compliant structure systems will require 6-10 years.</p>	<p>Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.</p>	<p>B. Transportation Networks to Bring Oil &amp; Gas Supplies to Demand Areas-Current and Projected Basis</p> <p>Oil - Pipeline to shore terminal for tanker shipment to demand areas. Offshore storage and loading may be more attractive in some cases. Gas - Pipeline to shore to existing system.</p>	
4. Blake Plateau	<p>Area lightly explored. Geological and geophysical technologies adequate. Operational bases are being established now. Deep water production capabilities would have to be implemented. Feasible now to drill in water depths to 6,000 feet.</p>	<p>Fixed platforms presently feasible to at least 800 feet. Subsea and/or compliant structure systems are feasible to 2,000-3,000 feet.</p>	<p>Conventional platform development. Initial production 6-8 years. Subsea and/or compliant structure systems will require 6-10 years.</p>	<p>Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.</p>	<p>Oil - Offshore storage and loading. Gas - Pipeline to shore to existing systems.</p>	

## ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	Exploration and Development Within Specific Time Periods	Initial Production	Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	Peak Production	and Projected Basis
5. Florida Straits	<p>(4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods</p> <p>Exploration</p> <p>Area very lightly explored. Geological and geophysical technologies are probably adequate. Extension of eastern Gulf of Mexico play. Feasible now to drill in water depths to 6,000 feet.</p>	<p>Development</p> <p>Fixed platforms presently feasible to 800 feet. Subsea and/or compliant structure systems are feasible to 2,000-3,000 feet.</p>	<p>(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made</p> <p>Conventional platform development. Initial production 5-7 years. Subsea and/or compliant structure systems will require 6-10 years.</p>	<p>Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.</p>	<p>B. Transportation Networks to Bring Oil &amp; Gas Supplies to Demand Areas-Current and Projected Basis</p> <p>011 - Probably pipelines to shore with tanker to demand areas or offshore loading. Gas - Pipeline to shore to existing systems.</p>
6. Eastern Gulf of Mexico	<p>Initial exploration done. Geology well known in some areas. Geophysical technology well established in some areas, less so in others. Production bases already well established in Central Gulf of Mexico. Feasible now to drill in water depths to 6,000 feet.</p>	<p>Fixed platforms presently feasible to 1,200 feet. Subsea and/or compliant structure systems to 2,000-3,000 feet are feasible.</p>	<p>Initial production 5-7 years. For conventional platforms. Subsea and/or compliant structure systems will require 6-10 years.</p>	<p>Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.</p>	<p>011 - Pipeline connection to existing systems. Offshore loading with offshore storage may be more attractive in some cases. Pipeline to shore to existing systems.</p>

## ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	A. (4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods	(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	B. Transportation Networks to Bring Oil & Gas Supplies to Demand Areas—Current and Projected Basis
	Exploration	Initial Production	
	Development	Peak Production	
7. Central and Western Gulf of Mexico	<p>Mature Province. Geology well known. Geophysical technology well established. Production capabilities well established. Feasible now to drill in water depths to 6,000 feet.</p>	<p>Conventional platform development. Initial production 2-3 years on shelf and 3-6 years on slope. Subsea and/or compliant structure systems will require 6-10 years.</p>	<p>011 - Pipeline to shore through tie-in to existing pipeline networks. Gas - Same</p>
8. So. Calif.	<p>Feasible now to drill in water depths to 6,000 feet.</p>	4-10 years	<p>011 - Pipeline to shore in some cases to existing systems. Off-shore loading with either off-shore storage or onshore storage may be more attractive in some cases. Gas - Pipeline to shore to existing systems.</p>
9. Santa Barbara	<p>Fixed platform feasible to at least 1,200 feet. Compliant structure systems and/or subsea systems are feasible to 2,000-3,000 feet.</p>	4-10 years	
10. Central & Northern California		5-10 years	
11. Washington-Oregon		5-10 years	

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COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	A. (4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods	(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	B. Transportation Networks to Bring Oil & Gas Supplies to Demand Areas-Current and Projected Basis
	Exploration	Initial Production	
12. Cook Inlet	Feasible	4-6 years	Oil - Pipeline to shore and tanker to demand areas as is now being done. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.
13. Gulf of Alaska	Feasible now to drill in water depths to 6,000 feet. Fixed platforms feasible to 800 feet. Compliant structure systems and/or subsea systems feasible to 2,000-3,000 feet.	6-10 years	Oil - Pipeline to shore terminal for tanker shipment to demand areas. Offshore storage and loading may be applicable in a few cases. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.
14. Kodiak	Feasible now to drill in water depths to 6,000 feet. Fixed platforms feasible to 800 feet. Compliant structure systems and/or subsea systems feasible to 2,000-3,000 feet.	6-10 years	Oil - Pipeline to shore terminal for tanker shipment to demand areas. Offshore storage and loading may be applicable in a few cases. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.

## ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	A. (4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods		(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	B. Transportation Networks to Bring Oil & Gas Supplies to Demand Areas—Current and Projected Basis
	Exploration	Development		
15. Southern Aleutian Shelf	Feasible now to drill in water depths to 6,000 feet.	Fixed platforms feasible to 800 feet. Compliant structure systems and/or subsea systems feasible to 2,000-3,000 feet.	6-10 years	011 - Pipeline to shore for tanker shipment to demand areas. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.
16. Bristol Basin	Seasonally feasible with mobile rigs.	Fixed platforms feasible in all water depths. (Ice resistant)	6-9 years	011 - Pipeline to south side of Aleutians for tanker shipment to demand areas. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.
17. St. George	Seasonally feasible with mobile rigs.	Fixed platforms feasible to 800 feet. Compliant structure systems and/or subsea systems feasible to 2,000-3,000 feet.	6-10 years	011 - Offshore storage and loading tankers to demand areas. Pipeline to Aleutians for tanker shipment to demand areas may be applicable for very high production rates. Gas - If sufficient quantity, pipeline to shore and liquify for shipment to demand areas.

ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	Exploration	Development	Initial Production	Peak Production	Other
18. Navarin Basin	<p>A. (4) Technological Feasibility of Conducting Exploration and Development Within Specific Time Periods</p> <p>Seasonally feasible with mobile rigs.</p>	<p>Fixed platforms feasible to 300 feet. (Ice resistant). Feasibility may be extended to 600 feet by mid-1980's.</p>	<p>8-10 years</p>	<p>Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.</p>	<p>B. Transportation Networks to Bring Oil &amp; Gas Supplies to Demand Areas—Current and Projected Basis</p> <p>011 - Offshore loading to ice breaking tankers—storage may be offshore or on an island. Gas - Pipeline to an island &amp; liquify for shipment to demand areas if sufficient quantity. (Ice breaking LNG carrier).</p>
19. Norton Basin	<p>Seasonally feasible with mobile rigs.</p>	<p>Gravel Islands feasible to 60+ feet. Ice resistant structures feasible to 200 feet.</p>	<p>8-10 years</p>		<p>011 - Pipeline to shore for storage and ice breaking tanker to demand areas (possible tanker trans-shipment point from ice breaking tanker to normal tanker in Southern Alaska). Gas - Pipeline to shore and liquify for shipment to demand areas if sufficient quantity. (Ice breaking LNG Carrier).</p>
20. Hope Basin	<p>Seasonally feasible with mobile rigs.</p>	<p>Gravel Islands feasible to 60+ feet. Ice resistant structure should be feasible to 200 feet by the early 1980's.</p>	<p>8-10 years</p>		<p>011 - Pipeline to shore for storage and ice breaking tanker to demand areas (possible tanker trans-shipment point from ice breaking tanker to normal tanker in Southern Alaska). Gas - Pipeline to shore and liquify for shipment to demand areas if sufficient quantity. (Ice breaking LNG Carrier).</p>

## ATTACHMENT 4

COMMENTS ON FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM  
(Federal Register, October 26, 1978)

Area	Exploration	Development	(5) Estimated Time Periods Required to Achieve Initial and Peak Production After a Discovery is Made	B. Transportation Networks to Bring Oil & Gas Supplies to Demand Areas-Current and Projected Basis
21. Chukchi Sea	Seasonally feasible with mobile rigs.	Gravel Islands feasible to 60+ feet. Ice resistant structure should be feasible to 200 feet by the early 1980's.	Normally 1-5 years after initial production. Quite dependent on field size, number of structures, etc.	Oil - Pipeline to shore for storage and ice breaking tanker to demand areas (possible tanker trans-shipment point from ice breaking tanker to normal tanker in Southern Alaska). Gas - Probably line to tie to Alaska Pipeline near Prudhoe Bay.
22. Beaufort Sea	Gravel Islands feasible to 60 feet. Feasibility expected to be extended to 200 feet by the early 1980's with ice resistant structure. Ice islands feasible to 20 feet in areas of minimal ice movement.	Gravel Islands feasible to 60+ feet. Ice resistant structure should be feasible to 200 feet by the early 1980's.	8-10 years	Oil - Alyeska Pipeline System. Gas - Alaska Highway Gas Pipeline System.

LISTING OF REPORTS ON MARINE PRODUCTIVITY, ENVIRONMENTAL  
SENSITIVITY AND SOCIO-ECONOMIC IMPACTS

- Mid-Atlantic Regional Study - An Assessment of the Onshore Effects  
of Offshore Oil and Gas Development, Woodward-Clyde Consultants,  
October 1975.
- Clean Atlantic Associates (Oil Spill Cooperative) Oil Spill Contingency  
Manual - reference for oil sensitive areas of the Atlantic East  
Coast (Maine to Florida).
- The Fish and Wildlife Resources of the Georges Bank Region, William F.  
Gusey, Shell Oil Company, February 1977.
- The Fish and Wildlife Resources of the Middle Atlantic Bight, William F.  
Gusey, Shell Oil Company, Revised May 1976.
- The Fish and Wildlife Resources of the South Atlantic Coast, William F.  
Gusey, Shell Oil Company, to be published about October 1979.
- Petroleum Production and Fish and Wildlife Resources - The Gulf of  
Mexico, William F. Gusey, Shell Oil Company, 1973.
- Critique of U.S. Geological Survey Draft Environmental Statement for  
Santa Barbara Channel Outer Continental Shelf Oil and Gas  
Development (DES 75-3), Dames and Moore, August 1975.
- The Fish and Wildlife Resources of the Gulf of Alaska, William F. Gusey,  
Shell Oil Company, April 1978,
- The Fish and Wildlife Resources of the Bering Sea, William F. Gusey, Shell  
Oil Company, to be published about April 1979.
- An Economic and Social Impact Study of Oil Related Activities in the  
Gulf of Alaska (Conclusions and Options for Consideration),  
Mathematical Sciences Northwest, Inc., May 1975.
- Offshore Alaska Seismic Exposure Study, Woodward-Clyde Consultants,  
March 1978, 5 vols.

## EXHIBIT E

Statement of Robert H. Wanz,  
Vice President, Shell Oil Company,  
before the Ad Hoc Select Committee  
on the Outer Continental Shelf,  
U.S. House of Representatives -  
December 6, 1978

OCS SALES

INDUSTRY PREFERRED ORDER OCS LEASE SALES (SOURCE O.&G. JOUR. - 8/22/77)	DEPT. OF INTERIOR PROPOSED OCS PLANNING SCHEDULE (AUGUST - 1977)
1. Gulf of Mexico - Central	Sale held - #45
2A. Beaufort Sea - East	Planned December 1979 (with STATE)
2B. Beaufort Sea - West	<u>NOT SCHEDULED</u>
3. Bristol Bay - Alaska	<u>NOT SCHEDULED</u>
4. Santa Barbara Channel	Planned June 1979 (#48)
5A*. Bering Sea Shelf - St. George	<u>NOT SCHEDULED</u>
5B*. Bering Sea Shelf - Navarin	<u>NOT SCHEDULED</u>
5C*. Bering Sea Shelf - Norton	Planned December 1981 (#57)
5D*. Bering Sea Shelf - Hope	<u>NOT SCHEDULED</u>
6. Mid-Atlantic	Planned February 1979 (#49)
7. Gulf of Mexico - East Tie	Planned July 1979 (#58)
8. Gulf of Mexico - West	Planned August 1980 (#62)
9. North Atlantic Tie	First Sale (#42) Cancelled: Second Sale (#52) Planned October 1980
10. Southern California Borderland	Planned June 1979 (#48)
11. North & Central California	Planned February 1981 (#53)
12. Chukchi Sea	<u>NOT SCHEDULED</u>
13. Gulf of Alaska	Planned June 1980 (#55)
14. Cook Inlet	Planned March 1981 (#60)
15. Kodiak Basin	Planned October 1980 (#46)
16. South Atlantic	First Sale (#43) Held: Second Sale (#54) Planned November 1979
17. Southern Aleutian Shelf	<u>NOT SCHEDULED</u>
18. Washington - Oregon	<u>NOT SCHEDULED</u>

\*No preferred order within Bering Sea Shelf indicated.

Mr. BREAUX. Thank you, Mr. Nanz.  
Mr. Skedgell?

**STATEMENT OF DAVID SKEDGELL, ACCOMPANIED BY ROBERT  
KALISCH**

Mr. SKEDGELL. Thank you, Mr. Chairman.

With me today is Mr. Robert Kalisch who is the Associate Director of Gas Supply for the American Gas Association. He will be available to respond to questions with respect to one or two of your attachments, if necessary.

On behalf of AGA and its 300 member companies which provide natural gas distribution and transmission services to 160 million consumers in all 50 States, the following statement is submitted regarding implementing regulations to the Outer Continental Shelf Lands Amendments Act of 1978 Public Law 95-372. AGA member companies currently provide almost 85 percent of the nation's natural gas utility sales.

AGA expresses its appreciation to the committee for this opportunity to review the ability of the new Outer Continental Shelf amendments to properly govern the exploration, development, and production of energy resources from the Outer Continental Shelf.

This also is an opportune time to examine the current status of the regulatory process to implement the Outer Continental Shelf amendments. AGA worked very closely with this committee and other committees of the Congress while this legislation was being considered in both the 94th and 95th Congress to provide insights regarding different issues reviewed during the legislative process.

We also wish to commend this committee in particular for its excellent efforts during consideration of numerous amendments to Outer Continental Shelf legislation in both the 94th and 95th Congresses.

However, as this committee has recognized, there is a continuing need for oversight of those Federal regulatory actions necessary to implement this complex and comprehensive piece of legislation. Such oversight could facilitate compliance with the stated objectives of the act while insuring compliance and cooperation among the Federal agencies and States that have specific roles to perform in Outer Continental Shelf development.

I would add that I think the American Gas Association would take a very strong position that it is critical for this committee to remain in business while these regulations are put into place because I think we agree with some of the other panelists that if the committee does not remain, the chances are that much of the concern might fall through the cracks between the various jurisdictional overlaps of other committees of the House and of the Senate.

Now let me summarize three very quick points in our prepared testimony.

First, as you have heard from others here today, AGA has expressed its concern on numerous occasions before this committee and the Congress as a whole regarding the fragmented decision-making, particularly with respect to Outer Continental Shelf leasing issues, between the Department of Energy and the Department of the Interior. This split of authority is counterproductive to expeditious Outer Continental Shelf development.

We have also favored leaving the jurisdiction with the Secretary of the Interior. However, we have urged that the Secretary of Energy should be the sole decisionmaker on Outer Continental Shelf decisions and authority. This, this one authority, the Secretary of Energy, could make vital decisions without conflicting sets of responsibilities with the other Federal interests.

We think that this would also be in consonance with the stated goal of the Department of Energy Organization Act of 1977 which was interested in consolidating energy decisionmaking in one executive level department.

AGA urges that implementing regulations for section 204 of the act be issued as expeditiously as possible to remove this uncertainty regarding Outer Continental Shelf development that has existed since the passage of the Department of Energy Organization Act.

The absence of regulations important for the natural gas utility industry is adversely impacting Outer Continental Shelf development. Many crucial management decisions regarding Outer Continental Shelf development and the investment of substantial capital cannot be made until the requirements and constraints of new regulations are known.

Federal Energy Regulatory Commission has not yet published even the first draft of its policy statement to carry out the purposes of section 603 of the act. This policy is crucial to establish the standards under which FERC will consider applications for and issue certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act for interstate transportation of Outer Continental Shelf natural gas, owned wholly or partly by a local distribution company, from the Outer Continental Shelf to the distribution company's service area.

The natural gas utility industry has supported such a "finders-keepers" provision for many years. Although this provision is more complex than comparable provisions in S. 9 and H.R. 1614 considered during the 95th Congress, gas distribution companies that wish to participate individually or as part of a joint venture in development and production of Outer Continental Shelf gas must in effect await this FERC statement of policy.

In general, State PUC's will not approve such expenditures by distribution companies without adequate assurances that such Outer Continental Shelf gas will be available in those distribution companies' service area.

Also, regulations to implement section 205 of the act which authorizes alternate bidding systems have not been released. This has created an awkward situation since the Department has already given formal notice of some Outer Continental Shelf sales providing for alternative bidding systems without the benefit of regulations governing the new systems in advance of the sale notice. (See 43 Federal Regulation 52531; November 13, 1978).

American Gas Association has continually supported the concept of a mandated minimum use of these systems and, consequently, less reliance on the traditional cash-bonus bidding system which is perceived as limiting the role of smaller entrepreneurs in Outer Continental Shelf development. AGA urges that these implementing regulations be issued expeditiously to permit smaller entrepre-

neurs to take a more active role in Outer Continental Shelf development.

The Department of the Interior has already published a rule governing leasing program procedures required by section 18 of the act. (See 43 Federal Regulation 49983; October 26, 1978.) The proposed procedures outlined by DOI appear consistent with the requirements of the act, and AGA supports those procedures.

Department of Interior has also published a notice regarding the Outer Continental Shelf lease sale planning schedule for the next 5 years (See 43 Federal Regulation 50055; October 26, 1978), with a request for detailed information about 22 designated Outer Continental Shelf areas.

AGA has filed comments with the Department of the Interior which are included as an attachment to this statement (See attachment 1).

AGA submits that the offshore proportion of U.S. gas resources will increase relative to onshore resources as drilling technology permits deeper waters to be explored and developed.

Further, almost 26 percent of our Nation's undiscovered natural gas lies in offshore areas under 200 meters of water or less. Almost one-fourth of this potential gas lies off the Atlantic and Pacific coastlines. Thus, the volume of deep water sediments there is far greater than in the Gulf of Mexico.

In order to maximize production of offshore gas, the appropriate leasing policy to pursue requires development of the Atlantic and Pacific as frontier areas in proportion to their expected gas reserves, accompanied by continued active lease sales in the Gulf of Mexico.

The immediate implementation of this type of leasing policy would result in 30 Tcf greater cumulative gas reserve additions by the year 2000 than a policy that disfavored development of offshore frontiers (see attachment 2).

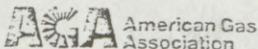
Cumulative production under this approach would be 18 Tcf greater through the year 2000 than under a no frontier development policy, directly preventing the need for 3.1 billion barrels of oil imports cumulatively by the year 2000. Thus, the benefits of diversifying U.S. offshore development into our frontier regions are substantial.

Further, AGA emphasizes that the maximum production level falls off as the number of annual sales is reduced. A reduction in the number of lease sales from six per year to three per year as I noted before would result in a loss of 18 Tcf of cumulative production.

Finally, AGA also hopes that the Department of the Interior will encourage prelease sale geological and geophysical exploration (nondrilling) through selecting large numbers of tracts for potential future lease sales. I should say we do not intend that to be drilling exploration but nondrilling exploration. This type of predrilling exploration is critical to tract evaluation and ultimate nominations.

On behalf of the American Gas Association and its member companies, I want to thank the committee for the opportunity to testify today. We would be pleased to answer any questions you may have.

[The attachments follow:]



1515 Wilson Boulevard, Arlington, Va. 22209  
Telephone (703) 524 2000

George H. Lawrence  
President

December 1, 1978

Director  
Office of OCS Program Coordination  
Office of Assistant Secretary-Policy,  
Budget and Administration  
Department of the Interior  
18th and C Streets, N.W. - Room 4126  
Washington, D.C. 20240

Dear Sir:

On behalf of the American Gas Association and its 300 member natural gas transmission and distribution companies, the following written comments are filed pursuant to the Department's request for comment on the 5-year OCS oil and gas leasing program (43 Fed. Reg. 50055 et. seq., October 26, 1978). A.G.A. member companies currently provide almost 85% of the nation's natural gas utility sales while serving 160 million consumers in all 50 states.

Our comments focus on three critical issues regarding the 5-year OCS oil and gas leasing program:

- 1) Based upon our analysis of gas resource potential for OCS lands lying at depths up to 200 meters, the appropriate leasing policy to pursue, in order to maximize OCS production, requires development of the Atlantic and Pacific OCS frontier areas in proportion to their expected gas reserves, accompanied by continued active lease sales in the Gulf of Mexico.
- 2) Any reduction in the number of annual lease sales will yield diminished OCS production. In other words, the adverse effect on production would increase with each reduction in the number of sales.
- 3) There are no significant constraints regarding the availability of transportation networks to bring gas supplies to demand areas, both on a current and projected basis.

While these comments and the details following specifically exclude OCS areas off Alaska, principally due to lack of information differentiating Alaskan resources between onshore and offshore, we do feel that Alaskan OCS areas have significant potential and that their development should be encouraged as well as developing the lower 48 state OCS regions.

Impact on Natural Gas Production of Developing Offshore Frontiers

A.G.A. has conducted a detailed analysis of three lease sale options currently available to the Department of the Interior for the OCS covering Gulf of Mexico lease sales only, leasing in proportion to remaining reserves, and leasing based on an equal number of lease sales per region (See Attachment 1). Each hypothesis assumes that the Department of Interior will hold six lease sales annually in alternative U.S. lower 48 offshore areas from 1980 through 2000. This analysis was conducted utilizing the A.G.A. Total Energy Resource Analysis (TERA) Offshore Gas and Oil Supply Model. This model simulates impacts of leasing, pricing, and other factors on offshore drilling, reserve additions, and production.

Almost 26% of U.S. lower 48 undiscovered natural gas lies in offshore areas under 200 meters of water or less. Almost one-fourth of this potential gas lies off the Atlantic and Pacific coastlines alone. Nearly all of the additional gas deeper than 200 meters will come from the Atlantic and Pacific areas, since there are far greater volumes of untested deep-water sediments off the Atlantic and Pacific coasts than there are in the Gulf of Mexico.

From a viewpoint of maximizing production of offshore gas, a policy of developing the Atlantic and Pacific OCS frontier areas in proportion to their expected gas reserves, accompanied by continued active development of the Gulf of Mexico, appears to be optimal. The immediate implementation of this type of leasing policy would result in 30 Tcf greater cumulative gas reserve additions by the year 2000 than a policy that disfavored development of offshore frontiers. Cumulative production under this approach would be 18 Tcf greater through the year 2000 than under a no-frontier development policy. This approach would directly prevent the need for 3.1 billion barrels of oil imports cumulatively by the year 2000.

Further, A.G.A. emphasizes that the maximum production level falls off more and more rapidly as the number of annual sales is reduced. A reduction in the number of lease sales from six per year to three per year would result in a loss of 18 Tcf of cumulative production. Thus, the benefits of diversifying U.S. offshore development into our frontier regions are substantial, although the Gulf of Mexico will continue to be the most prolific region through the year 2000.

Availability of Transportation Networks to Bring Gas Supplies to Demand AreasGeneral Pipeline Transportation Availability

In 1972 the natural gas consumption in the U.S. peaked at 22.7 quadrillion Btus. In contrast, consumption in 1977 was only 19.6 quadrillion Btus. This decreased consumption was in large measure due to the loss of certain industrial customers. Annual consumption could rise again to over 22 quadrillion Btus by the return of these customers, and little or no additional pipeline construction would be necessary to accommodate them.

Gulf of Mexico

Field and gathering systems for natural gas in the Gulf of Mexico have been steadily growing since the mid 1960's. Most recently the High Island Offshore System has been completed and now provides a major improvement in the capability to gather the gas produced offshore and enter it into the onshore pipeline system.

In 1977 annual production of natural gas from the Gulf of Mexico reached 4.38 trillion cubic feet and is now supplying more than one fifth of the total national supply of natural gas. As a result there is a well developed pipeline system in place. Future drilling and production in the Gulf of Mexico would require new offshore pipeline systems to link the onshore pipelines to the new platforms further out in the Gulf, but the major portion of the pipeline equipment required to bring gas from the wellhead to the end user is already in place.

Atlantic

Drilling in the Atlantic has been limited to the waters off the coast of New Jersey. However, other promising regions off Georgia and Massachusetts will be tested and could produce gas within the next decade.

Gathering systems to support any commercial discoveries of natural gas will probably be integrated to deliver this gas to the onshore interstate pipelines. Such delivery points would probably be centralized for each producing region. Some augmentation of east coast pipeline capacities might be required if large volumes of gas were delivered from offshore. However, within the next decade relatively little augmentation to the interstate pipeline system should be required because of the proximity of high consumption regions to the production areas.

Pacific

Oil and gas discoveries off the coast of California have been very promising. To date, however, the discoveries have been primarily oil with relatively little natural gas. As future discoveries of natural gas are developed, gathering systems will be established such that the offshore gas can be delivered into the California gas network. Again, the proximity of large consumption areas to the coast make it unlikely that extensive pipeline construction will be required onshore.

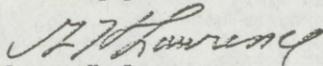
Alaska

Significant constraints regarding transportation of OCS resources from Alaskan OCS areas can be avoided by construction of the Alaska Highway Pipeline Project. Approval of that project last November will make available a transportation network to bring potentially large new sources of gas supply to the lower 48 states.

Significant key events still must occur within the next five years. (See Attachment 2) Project sponsors are already involved in design planning and pre-construction testing. Other major testing will occur, including "burst" and "frost-heave" studies for the Alaskan and Yukon portions of the pipeline. Thorough planning and testing by the companies, with review and approval by the regulatory agencies, hopefully will result in uninterrupted installation of the pipeline and related facilities once construction begins.

On behalf of the A.G.A. and its member companies, we thank you for the opportunity to comment on the Department's 5-year OCS oil and gas leasing program. If I or my staff can provide further information, please do not hesitate to contact me further.

Sincerely yours,



George H. Lawrence

GHL/dlm

Attachments

## ENERGY ANALYSIS

*Layer* 7-B  
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1978-16

December 1, 1978

THE IMPACT ON NATURAL GAS PRODUCTION OF DEVELOPING  
OFFSHORE FRONTIERS

A. Introduction

Approximately 26 percent of U.S. lower 48 undiscovered natural gas lies in offshore areas under 200 meters of water or less, according to the Potential Gas Committee. Nearly 23 percent of this potential gas (i.e., 6% of total gas resources) lies off the Atlantic and Pacific coastlines. In addition, production of natural gas from offshore will increase relative to onshore production as drilling technology permits deeper waters to be explored and developed. Based upon very large untested deep water sediments off the Atlantic and Pacific coasts -- as compared to smaller deep water sediments in the Gulf -- it is expected that the bulk of additional deep water gas supplies will come from the Atlantic and Pacific regions.

The issue of which OCS regions should be stressed in future lease sales is, therefore, of national concern. This analysis examines this issue by comparing the impacts in terms of future offshore gas production of three possible OCS lease sale policies available to the Department of the Interior Office of OCS Program Coordination: (1) Gulf of Mexico lease sales only (a "no frontier development" policy), (2) lease sales in proportion to remaining resources (a "proportional development" policy), and (3) equal number of lease sales per OCS region (an "equal development" policy).

B. Executive Summary

From a viewpoint of maximizing production of offshore gas, a policy of developing the Atlantic and Pacific OCS frontier areas in proportion to their expected gas reserves, accompanied by continued active development of the Gulf of Mexico, appears to be optimal.

- The immediate implementation of a proportional development leasing policy would result in 30 Trillion cubic feet (Tcf) greater cumulative gas reserve additions by the year 2000 than a no frontier development policy (167 Tcf vs. 137 Tcf).
- Cumulative production under a proportional development policy would be 18 Tcf greater through the year 2000 than under a no frontier development policy (150 Tcf vs. 132 Tcf), which would mean a direct savings of some 3.1 billion barrels in oil imports cumulative by 2000.
- Annual production would be 1 Tcf higher in 1990 (7.7 Tcf vs. 6.7 Tcf) and 1.4 Tcf higher in 2000 (6.6 Tcf vs. 5.2 Tcf) under a proportional development policy compared to a no frontier development policy.
- The maximum production level falls off more and more rapidly as the number of annual sales is reduced. For example, 18 Tcf of cumulative production would be lost by reducing the number of lease sales from six per year to three per year (150 Tcf vs. 132 Tcf) under a proportional development policy.

It is concluded that the benefits of diversifying U.S. offshore development into our frontier regions are substantial, although the Gulf of Mexico will continue to be the most prolific region through the year 2000.

#### C. Alternative Leasing Strategies

Three alternative leasing strategies are compared. Each assumes that the U.S. Department of the Interior, Office of OCS Program Coordination will hold six lease sales annually in alternative U.S. Lower 48 offshore areas from 1980 through 2000. (See Table 1).

#### D. Simulations and Results

This analysis considered only gas resources under 200 meters or less of water. The analysis was conducted utilizing the A.G.A.'s Total Energy Resource Analysis (TERA) Offshore Gas and Oil Supply Model which simulates impacts of leasing, pricing, and other factors on offshore drilling, reserve additions,

Table 1

THREE LEASE SALE STRATEGIES

<u>Lease Sale Strategy</u>	<u>Description of Strategy</u>	<u>Number of Annual Lease Sales</u>			
		<u>Atlantic</u>	<u>Gulf of Mexico</u>	<u>Pacific</u>	<u>Total</u>
<u>No Frontier Development</u>	All sales each year held in the Gulf of Mexico	0	6	0	6
<u>Proportional Development</u>	The number of annual sales in each region approximately proportional to remaining gas resources available	2	3	1	6
<u>Equal Development</u>	An equal number of sales held each year in each region	2	2	2	6

and production. In order to evaluate the three cases outlined above, the following six TERA simulation runs were conducted: Gulf of Mexico at 6 lease sales annually, Gulf of Mexico at 3 lease sales annually, Gulf of Mexico at 2 lease sales annually, Atlantic Coast at 2 lease sales annually, Pacific Coast at 2 lease sales annually, and Pacific Coast at 1 lease sale annually. The results of these runs were combined to produce the overall outcomes of the three alternative lease policies.

Table 2 shows reserve additions which are projected under each lease sale strategy. Table 3 shows projected production under each lease sale strategy.

As seen in Tables 2 and 3, lease sale strategy decisions made now are crucial in determining offshore additions and production after 1985. Through 1985, both additions and production are determined largely by lease sales already held or already included in the August 1977 Bureau of Land Management lease sale schedule.

Under all lease sale strategies, the Gulf of Mexico is expected to be the most prolific source of reserve additions and production. Under all strategies, reserve additions are expected to peak before 1990, and production is expected to peak before 2000.

There are, however, major differences among the strategies. Firstly, increasing the number of lease sales in the Gulf from two to three to six sales annually is clearly subject to the "law of diminishing returns". Cumulative reserve additions in the Gulf rise by 13 Tcf (from 118 Tcf to 131 Tcf) when the number of annual sales are increased from two to three. They rise by only 6 Tcf (from 131 Tcf to 137 Tcf) when the number of lease sales is again increased from three to six sales annually in the Gulf. Cumulative production in the Gulf responds similarly: rising from 114 Tcf to 124 Tcf (10 Tcf increase) when a third annual sale is added; but only to 132 Tcf (8 Tcf additional increase) when fourth, fifth, and six annual sales are added in the Gulf. Furthermore, premature depletion of the Gulf of Mexico's resources under the no frontiers strategy is indicated by the rapid decline of expected reserve additions from 7.5 Tcf in 1990 to 1.9 Tcf in 2000. From 2000 onwards, reserve additions are expected to be higher if fewer than six annual lease sales are held in the Gulf between 1980 and the end of the century.

Secondly, shifting some lease sales from the Gulf to the Atlantic and Pacific frontiers results in expected

Table 2

FORECASTED RESERVE ADDITIONS OCCURING UNDER  
ALTERNATIVE OFFSHORE LEASING STRATEGIES  
(Tcf)

		<u>Atlantic</u>	<u>Gulf of Mexico</u>	<u>Pacific</u>	<u>Total</u>
<u>No Frontiers Development</u>	1977 Actual	--	4.8	--	4.8
	1980 Projected	--	6.0	--	6.0
	1985 Projected	--	8.7	--	8.7
	1990 Projected	--	7.5	--	7.5
	2000 Projected	--	1.9	--	1.9
	<u>1977 - 2000</u>	<u>--</u>	<u>137</u>	<u>--</u>	<u>137</u>
<u>Proportional Development</u>	1977 Actual	--	4.8	--	4.8
	1980 Projected	.6	6.0	.1	6.7
	1985 Projected	2.4	7.4	.8	10.6
	1990 Projected	1.5	6.4	.3	8.2
	2000 Projected	.4	2.9	.2	3.5
	<u>1977 - 2000</u>	<u>27</u>	<u>131</u>	<u>9</u>	<u>167</u>
<u>Equal Development</u>	1977 Actual	--	4.8	--	4.8
	1980 Projected	.6	6.0	.1	6.7
	1985 Projected	2.4	6.1	.8	9.3
	1990 Projected	1.5	5.4	.6	7.5
	2000 Projected	.4	3.1	.2	3.7
	<u>1977 - 2000</u>	<u>27</u>	<u>118</u>	<u>10</u>	<u>155</u>

Actual: Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas in the United States and Canada as of December 31, 1977, (Arlington, VA, American Gas Association, and Washington, D.C., American Petroleum Institute, June 1978), p. 112.

Projections: TERA Offshore Gas and Oil Supply Model; Runs dated 11/22/78

Table 3

FORECASTED PRODUCTION OCCURRING UNDER  
ALTERNATIVE OFFSHORE LEASING STRATEGIES  
(Tcf)

		<u>Atlantic</u>	<u>Gulf of Mexico</u>	<u>Pacific</u>	<u>Total</u>
<u>No Frontiers Development</u>	1977 Actual	--	4.4	--	4.4
	1980 Projected	--	4.5	--	4.5
	1985 Projected	--	5.2	--	5.2
	1990 Projected	--	6.7	--	6.7
	2000 Projected	--	5.2	--	5.2
	1977 - 2000		--	132	--
<u>Proportional Development</u>	1977 Actual	--	4.4	--	4.4
	1980 Projected	--	4.5	--	4.5
	1985 Projected	.5	5.0	.1	5.6
	1990 Projected	1.3	6.0	.4	7.7
	2000 Projected	1.1	5.0	.5	6.6
	1977 - 2000		20	124	6
<u>Equal Development</u>	1977 Actual	--	4.4	--	4.4
	1980 Projected	--	4.5	--	4.5
	1985 Projected	.5	4.9	.1	5.5
	1990 Projected	1.3	5.4	.5	7.2
	2000 Projected	1.1	4.5	.4	6.0
	1977 - 2000		20	114	6

Actual: Op Cit.

Projections: TERA Offshore Gas and Oil Supply Model; Runs dated 11/22/78.

reserve additions and production in those regions which more than offset the gas supplies which would be foregone in the Gulf.

- Reserve Additions: Even though the Gulf of Mexico is expected to be the most prolific area for gas, (producing 76 percent of overall additions even under equal leasing of all three areas) the no frontiers strategy generates lower overall reserve additions than either of the alternatives with some non-Gulf leasing. Shifting two sales to the Atlantic and one to the Pacific decreases additions in the Gulf by only 6 Tcf, but increases those elsewhere by 36 Tcf. Shifting a third lease sale, however, results in more loss in Gulf than gain in other regions.
- Production: The proportional strategy (with half the sales outside the Gulf of Mexico) generates 7.7 Tcf of production in 1990, and 150 Tcf between 1977 and 2000. The no frontiers strategy is less productive -- adding but 8 Tcf total from the Gulf while giving up 26 Tcf in the Atlantic and Pacific.

#### E. Implications of Deep Water Resources

This analysis suggests there are benefits with regard to gas production from holding half the annual lease sales in areas outside the Gulf of Mexico. These results were obtained considering only gas resources under 200 meters or less of water. Based upon very large untested deep water sediments off the Atlantic and Pacific coasts -- as compared to smaller deep water sediments in the Gulf -- it is expected that the bulk of additional deep water gas supplies will come from the Atlantic and Pacific regions.

Substantial gas resources may exist in deeper Atlantic waters. If so, then the results presented here are conservative. It is concluded that the benefits of diversifying U.S. offshore development into our frontier regions are substantial. Conversely, the costs of concentrating all of our efforts upon exploiting the Gulf of Mexico are great, although as Tables 1 and 2 show, the Gulf will continue to be the most prolific region through 2000.

#### F. Costs of Decelerated Leasing

The lease rate assumed in this analysis -- six sales per year -- is higher than rates attained in the past. Accordingly, less rapid rates have also been simulated. At each leasing level, a mixture of Gulf and non-Gulf sales proves superior to a pure no frontiers strategy. The

maximum production level attained from a mixed strategy falls off (as shown in Table 4) more and more rapidly as the total number of annual lease sales is reduced.

#### G. Methodology and Key Assumptions

The TERA Offshore Gas and Oil Supply Model generates projections based on such key factors as:

- Acres offered for leasing each year.
- Remaining undiscovered gas and oil resources.
- Wellhead prices of gas and oil -- present and future.
- Costs and inflation rates.

The basic methodology of the model is described in Appendix A, the "Overview" chapter from its documentation volume.<sup>1/</sup>

Acres per Year: Each of the runs made for this analysis began with an assumed number of sales annually in a given region from 1980 through 2000. Each sale was represented in the model's inputs by an offer of the historical average of 750,000 acres per sale (e.g., four sales per year in the Gulf was entered into a Gulf of Mexico run as 3,000,000 acres per year).

Remaining Resources: The gas resources embedded in the model's parameters in each offshore area reflect estimates by the Potential Gas Committee (PGC) as of December 31, 1976. Probable, possible, and speculative resources were included.

Wellhead Prices: The basic "new gas" prices set forth in the National Energy Act have been used through 1985. Thereafter, prices reflecting burner-tip parity with oil to industrial customers in the south-western U.S. have been used as the measure of deregulated prices.

Costs and Inflation: Base-year (1976) costs have been estimated from a variety of sources, including the Joint Association Survey (JAS). Future domestic inflation has been conservatively projected at 5.5 percent annually.

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<sup>1/</sup> TERA Documentation, Volume I; Offshore Gas and Oil Supply Model; American Gas Association; 1515 Wilson Blvd., Arlington, VA 22209; Catalogue Number F-30078; \$15.00.

Table 4

ESTIMATED GAS PRODUCTION FORECASTS WITH VARYING  
SALES-PER-YEAR

		Number of Annual Sales (Atlantic-Gulf-Pacific)		
		3 Sales Annually (1-2-0)	4 Sales Annually (1-2-1)	6 Sales Annually (2-3-1)
<u>Year</u>	1977 Actual	4.4	4.4	4.4
	1980 Projected	4.5	4.5	4.5
	1985 Projected	5.4	5.5	5.6
	1990 Projected	6.6	7.0	7.7
	2000 Projected	<u>5.7</u>	<u>6.2</u>	<u>6.6</u>
	Cum. 1977-1985	37	37	38
	Cum. 1985-2000	<u>95</u>	<u>101</u>	<u>112</u>
	Cum. 1977-2000	132	138	150

Actual: Op Cit.

Projections: TERA Offshore Gas and Oil Supply Model; Runs dated 11/22/78.

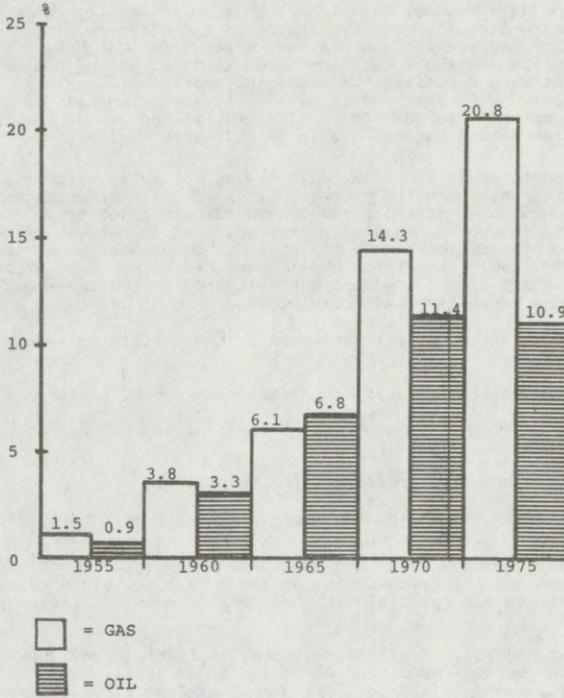
## APPENDIX A.—OVERVIEW OF THE TERA OFFSHORE GAS AND OIL SUPPLY MODEL

	<b>TERA - Total Energy Resource Analysis Model</b> <b>OFFSHORE SUPPLY MODEL</b> <b>SECTION 1 - INTRODUCTION</b>	DATE 11-1-77
		PAGE 1-1
<p>SECTION 1</p> <p>INTRODUCTION</p> <p>1.1 <u>BACKGROUND AND PURPOSE OF THE MODEL</u></p> <p>1.1.1 <u>Overview</u></p> <p>The United States today depends upon its Outer Continental Shelf (OCS) regions for a significant portion of its natural gas and crude oil. In 1976, for example, offshore natural gas production totaled 4.2 Trillion cubic feet (Tcf), approximately 22% of the Nation's total gas production for the year. Offshore oil production of 295 million barrels in 1976 represented more than 10% of total U. S. oil production.</p> <p>Development of our offshore resources has occurred only in recent years. Whereas natural gas and oil were produced from onshore fields in the latter decades of the 19th Century, the advent of offshore drilling is a generally post-World War II phenomenon. From wells sunk in tidal marshes in the 1930's, offshore technology developed rapidly after 1945. In 1954, as basic legal agreements were being reached concerning the demarcation between shallow water state lands and deeper water Federal lands in the Gulf of Mexico, a Federal lease sale was held by the Department of the Interior, and the pace of offshore exploration gained momentum. The growth of offshore natural gas production since that time is illustrated by Figure 1-1.</p> <p>Today, there is a record of more than 20 years of exploration and development in the Gulf of Mexico. Basically a shallow sea with a relatively non-hostile environment (except during hurricane season), the Gulf has encouraged evolutionary advances in offshore drilling technology. By now, drilling platforms can be found in hundreds of feet of water and more than a hundred miles from the Texas and Louisiana shorelines.</p> <p>Offshore development of U. S. natural gas and oil resources is by no means complete. Even in the Gulf of Mexico, deeper waters are as yet largely untapped, presenting an unexplored frontier. The Atlantic and Pacific Outer Continental Shelves, both thought to contain significant resources, represent additional frontier regions with far deeper water and more hostile climates than those found in the Gulf. Development of these frontiers is of great importance to the United States.</p>		

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TERA - Total Energy Resource Analysis Model  
OFFSHORE SUPPLY MODEL  
SECTION 1 - INTRODUCTION

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Figure 1-1. Offshore Percentage of U.S.  
Gas and Oil Production

	TERA - Total Energy Resource Analysis Model OFFSHORE SUPPLY MODEL SECTION 1 - INTRODUCTION	DATE 11-1-77 PAGE 1-3
<p>A measure of this importance is given by estimates of yet-undiscovered U. S. resources published by several authoritative bodies. Of the Nation's remaining undiscovered crude oil, 20% (USGS Circular 725) to 34% (National Petroleum Council U. S. Energy Outlook) is thought to lie offshore. Estimates of the offshore proportion of remaining undiscovered natural gas range from 15% (USGS Circular 725) to 28% (National Petroleum Council U. S. Energy Outlook).*</p> <p>The most recent estimate of remaining undiscovered natural gas resources, as of year-end 1976, made by the Potential Gas Committee at the Colorado School of Mines, placed 26% of the lower 48 states future natural gas in the offshore regions.</p> <p>Development of offshore natural gas and oil is an extremely time-consuming and expensive process. There are key differences between the mechanics of offshore resource development and typical onshore procedures. A basic understanding of the stages of offshore gas and oil development is important to comprehension of the offshore supply simulation model described below. No natural gas or crude oil can be produced and delivered to consumers until the following steps have been completed:</p> <ul style="list-style-type: none"> <li>● Acquisition of a lease-tract during a state or Federal lease sale</li> <li>● Exploration by drilling (often from a mobile rig)</li> <li>● Construction of a permanent drilling and production platform</li> <li>● Developmental drilling from the platform</li> <li>● Construction of connecting pipelines to onshore facilities</li> </ul> <p>Typically, several years are required, and many millions of dollars spent, before production can begin on a new piece of land. These stages are described in more detail in the following paragraphs.</p> <p>The vast majority of offshore acreage is Federal land, under jurisdiction of the Department of the Interior (DOI). Within Interior, responsibility for development of Federal resources rests with the Bureau of Land Management (BLM). Another unit within Interior, the United States Geological Survey (USGS), is responsible for assessing potential Federal resources, and for maintaining accounts of production from Federal leases. The Department of</p> <hr/> <p>* These percentages exclude Alaskan hydrocarbon resources.</p>		

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PAGE 1-4	SECTION 1 - INTRODUCTION	
<p>the Interior, in conjunction with BLM and USGS, releases schedules of future offshore lease sales for two to four year periods. There is usually a period of two or more years between initiation of a sale and the lease awards. Processes which occur during this period include: opportunity for industry to nominate acreage which it would like to see offered; preparation of draft and final environmental impact statements; public hearings; and submission of sealed bids. Leases for gas and oil exploration and development are then awarded to the highest bidders, provided that these bids were regarded by DOI as adequate in comparison to their own evaluation of tract worth. Winning bidders have five years from the date of issue to explore and develop their acreage and begin production. Otherwise, the leases expire automatically and the lands return to their original status.</p> <p>Exploratory drilling, which cannot begin until after lease acquisition, requires underwater seismic surveys to select precise locations for test holes. A suitable mobile rig (jack-up in shallow water, semi-submersible in deeper water, and drillship in still deeper water) must be found, chartered, and positioned on the drill-site. Rig acquisition can be a problem in and of itself. The number of rigs available is limited, construction of new exploratory rigs is expensive and time consuming (and justified only if economic outlooks indicate high usage levels over the equipment's productive lifespan), and shipyard capacity itself limits the rate of rig-feet expansion. Consequently, depending on the level of exploratory activity currently underway on previous leases, it may or may not be possible to find a suitable rig that is immediately available for transportation to the new lease.</p> <p>When a rig is positioned on site, exploratory wells are drilled which may result in findings of natural gas or crude oil deposits. If a well does result in such findings, it is not necessarily considered a successful well for reporting purposes. Unless the deposits are substantial enough to economically justify their development, the exploratory well will be plugged, abandoned, classified as a dry hole, and the lease allowed to expire. Even if the deposits are regarded as warranting further investments in their development, the exploratory well does not normally result in immediate reports of discoveries and may even be reported as a "dry hole".</p> <p>This counter-intuitive result is a consequence of Federal tax law and of offshore economics. A well is unsuccessful for Federal tax purposes (and expensed on the company's tax ledgers) if it is not completed and equipped for production. Offshore exploration in all but the most shallow water is, for economic reasons, typically accomplished through small caliber boreholes that do not allow emplacement of production casings and other equipment. Such wells</p>		

	<p style="text-align: center;">TERA - Total Energy Resource Analysis Model OFFSHORE SUPPLY MODEL SECTION 1 - INTRODUCTION</p>	<p>DATE 11-1-77 PAGE 1-5</p>
<p>will be plugged and abandoned, and reported as unsuccessful wells for Federal tax purposes, even if they find gas or oil which is subsequently developed and produced. Furthermore, as mentioned above, the resources found by such wells are generally not reported immediately as discoveries (a form of addition to proven reserves). Rather, reports of their "discovery" will generally be deferred until the conclusion of the developmental drilling program and commencement of actual production.</p> <p>The development process begins with determination that gas or oil deposits have been identified in exploration which justify investments in a permanent drilling and production platform, and in drilling the development wells necessary for production. Plans are selected for an appropriate platform, its construction ordered, and the completed structure towed to the lease site and sunk into its permanent location. Then actual developmental drilling begins. A platform may, depending upon water depth and other factors, contain slots for one or two wells, or as many as several dozen. However, no production begins from any well on the platform until all have been drilled. While drilling takes place, the necessary pipelines are installed to carry the gas or oil to shore.</p> <p>Not all tracts leased at any one time will progress at the same rate. Some will be explored immediately, others will suffer delays caused by unavailability of a suitable rig. Some will be in development while others are not yet explored. Therefore, production from any bid year will begin by stages over several years.</p> <p>When drilling is complete, the valves are opened, production started, and the resources reported as reserve additions. By then, several years have passed since the tract was nominated for leasing in a lease sale. Production on the tract may continue for a generation, or even longer.</p> <p>As time passes and production experience is accumulated, the remaining reserves are periodically re-estimated. These revisions are often positive (for initial estimates of discovered resources are usually on the conservative side), and are reported as further reserve additions. Some revisions are negative, and are reported as negative reserve additions.</p> <p>With this simplified overview of the offshore resource development process in mind, it is important to realize that the magnitude of natural gas and crude oil resources which are developed is affected by several factors:</p>		

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- Overall resources of any region are ultimately finite in total quantity.
- Resources available for development at any given lease sale are finite; they are determined by the level of remaining undiscovered resources of the region, and by the quantity and quality of acres offered for lease.
- Industry participation in tract selection implies that, at any given lease sale, acreage perceived to have the greatest likelihood of significant resources (on the basis of very limited initial information) will have a high probability of being offered.
- Preliminary information regarding likely levels of gas and oil resources is not completely accurate; expected resource levels of acreage offered for leasing are often revised as a result of additional detailed seismic surveys during the bidding and site-selection processes, and consequently range from above to well below initial expectations.
- Bidding and exploratory drilling investment decisions are based on initial expectations of probable resource levels.
- The formal theory of optimal investment decisions under uncertainty, as developed by Dr. C. Jackson Grayson, Jr., and others of the Bayesian school of statistical decision-making, often plays an explicit role in determining bidding and drilling strategy.
- Actual resource discovery and development is the end result of interactions among these factors.

Regional geological factors play an extremely significant role in determining the rate of resource development. Deposits may be abundant or scanty, gas-prone or oil-prone, in few large formations or many small ones, or spread out at one depth level or stacked at many depths. One way of conceptualizing several of these many factors is to mentally rank all acres in a given region, in descending order, by the level of resources contained per acre (which could only be done with perfect prior information about the whole region). This concept is illustrated below by rankings of oil and gas resources for an imaginary region of ten acres.\*

\* For the purposes of this illustration, gas and oil have been assumed to occur separately, although they also frequently occur together in the same formations.



TERA - Total Energy Resource Analysis Model  
 OFFSHORE SUPPLY MODEL  
 SECTION 1 - INTRODUCTION

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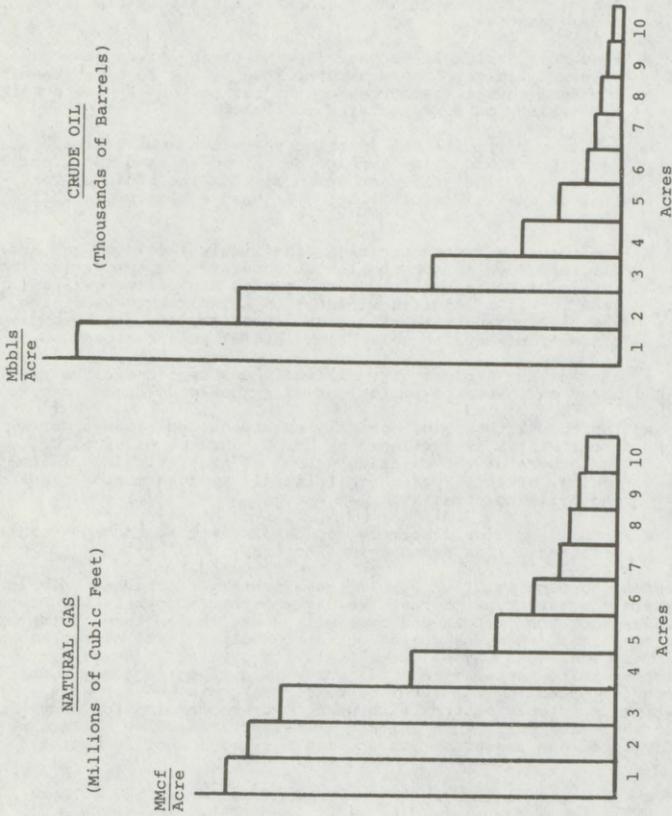


Figure 1-2. Gas and Oil Resource Profiles for an Imaginary Region

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<p>Regions with different geologies might, for example, be depicted with taller bars indicating higher levels of resources per acre, with more rapid fall-off of bar height indicating resources more tightly concentrated in small areas, with different relationships between gas and oil resources, or with additional bars indicating a larger region. Such differences would affect: economic incentives for industry to make investments in resource development, sensitivity to gas prices as opposed to oil prices, additional incentives required to make an increment of resources economically attractive after a given level of initial development has occurred, and the pace of lease offerings consistent with an effective full regional development program over a given timespan.</p> <p>Less than perfect initial information about a region would prevent construction of explicit actual resource profiles. However, it would be possible to construct similar profiles in which expected resource levels replaced actual levels. Additional information would reduce the variance between expected and actual resources per acre, and result in re-rankings which improve the resemblance between initial perceptions and reality. To the extent that industry does have at least limited initial information, the order in which acres are nominated for sale and leased will tend to roughly follow their expected ranking by resources contained per acre, and a declining rate of observed average resources developed per acre will tend to approximate the contours of the region's resource profiles.</p> <p>Methods for investment decision-making under uncertainty have grown more systematic in the decades following World War II. An increasing number of major corporations are employing sophisticated quantitative tools as aids in reaching investment decisions. The fundamental decision criterion of most such tools is discounted after-tax income (net present value), based on current expectations of probabilities of future events. Development of such tools for gas and oil exploration decision-making is well documented (see Appendix F for several examples). Given a knowledge of typical industry accounting practices for decision-making, and a reasonably accurate and up-to-date picture of potential resources as currently perceived, it is possible to construct a structural model of the basic decision-making process.</p> <p>Since continued development of U. S. lower 48 offshore resources is of vital importance, and presents many features which set it apart from onshore natural gas and crude oil supply, a special offshore model has been constructed as part of the American Gas Association's Total Energy Resource Analysis (TERA) model. This offshore gas and oil model treats the supply process structurally, and simulates the physical factors, investment decisions, and stages of activity involved in offshore oil and gas resource development.</p>		



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The quantities of physical resources thought to be contained in an OCS region are represented by the parameters of a set of functions called Long-Term Finding Rates (LTFR's). These resources are adjusted for cumulative discoveries and production throughout the simulation process. The model operates on a series of annual lease sales in which offshore acreage is offered by the Federal Government. Each annual lease sale constitutes a "bid year" whose lifespan from lease sale through exploration, development, and production is detailed by the model. Investment decision-making is simulated by a realistic discounted cash flow calculation which considers anticipated resource availability, costs, prices, taxes, and accounting practices. Future offshore supplies of natural gas and crude oil are computed annually from simulation of a series of bid years. Figure 1-3 depicts the overall model structure and its internal logic flow.

Users of this model can readily evaluate the potential impact on offshore gas and oil supplies of such factors as:

- Leasing schedules
- Government energy policy, especially pricing
- New technology
- The general economy, especially the rate of inflation
- Resource base estimates
- Tax laws
- Shipyard production and delivery schedules for offshore drilling rigs

#### 1.1.2 Model Outputs

Summary information on key variables such as drilling, gas volumes, and financial data (in terms of net revenues and prices) is brought together on a summary page. Thus, at a glance, the user can observe the broad implications of a given scenario.

In addition to the summary, further reports describe the detailed information on gas and oil for the given scenario. Specifically, the output provides information on:

- Exploratory and developmental footage drilled

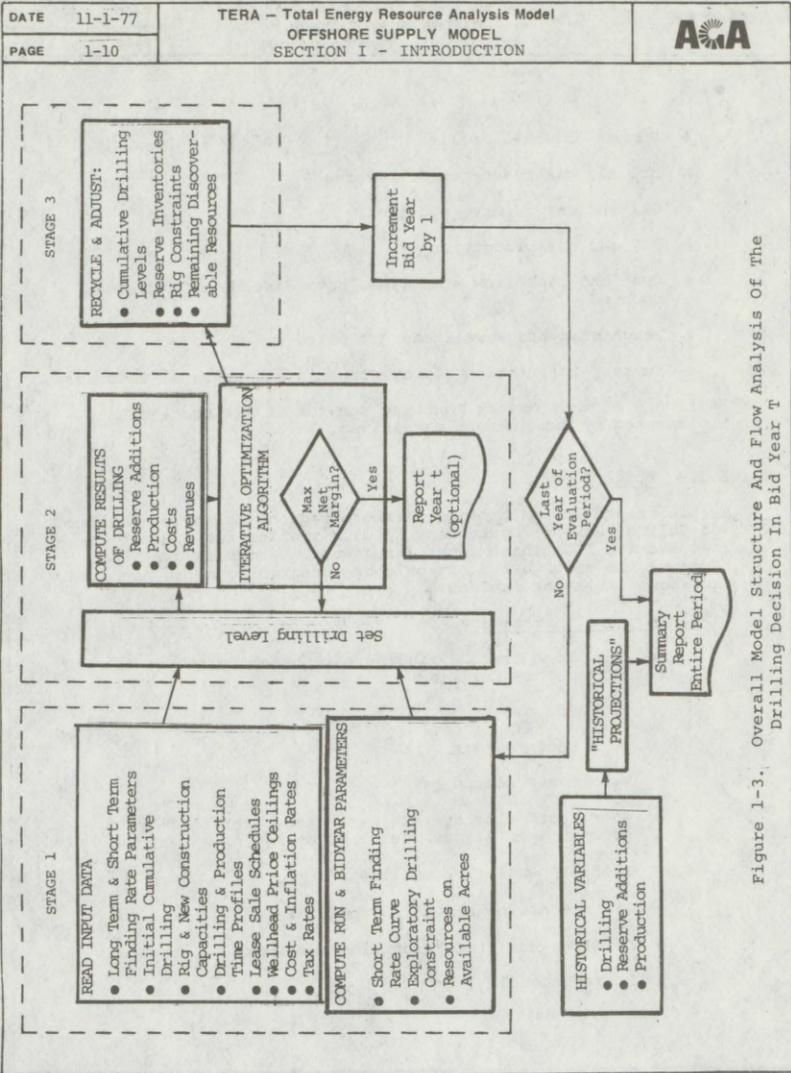


Figure 1-3. Overall Model Structure And Flow Analysis Of The Drilling Decision In Bid Year T



- Number of wells drilled
- Oil and gas resources discovered
- Oil and gas reserve additions
- Oil and gas production
- Cost and cash flow summaries, both discounted and undiscounted
- Weighted average wellhead gas price
- Summary information of key economic and physical input data

Section 3 of this manual contains samples of all model output accompanied by explanatory narratives.

### 1.1.3 Model Inputs

A file exists for each major offshore region (Atlantic, Pacific and Gulf of Mexico) containing input variables for a base case (see Section 3). These input (exogenous) variables can be altered by the user when a new case or scenario is being prepared. Exogenous variables include:

#### a. Physical Parameters

- Long term average finding rate parameters (per foot of exploratory drilling)
  - Crude oil
  - Associated gas
  - Non-associated gas
- Short term finding rate parameters (variability of prospects in a given lease offering)
- Initial cumulative drilling
- Rig and new construction constraints
- Drilling and production time profiles
- Lease schedule

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b. Economic Parameters

- Oil and gas prices and escalation
- Exploration and development costs
- Production costs
- Cost escalation factors
- Discount rate (desired minimum ROR)
- Tax rates
- Intangibles rate

1.1.4 Model Assumptions

There are several assumptions implicit in the Offshore Model. These include:

- The total levels of ultimately discoverable resources of gas and oil - including those not economic at current prices or with current technology - are at least approximately known.
- The levels of resource concentration per acre, and their variations from richest to poorest acres, are known.
- Industry and government will act in such a manner that those acres thought to be most resource-rich will be offered for leasing before others.
- Viewed in the aggregate, industry will behave in a manner which maximizes discounted expected net after-tax income (net present value).
- Future developmental drilling will continue to be a stable multiple of exploratory footage, estimated by their historical relationship.
- Future timing factors for exploratory and developmental drilling on acreage obtained during any given bid year will be stable, estimated by historical patterns and policy assumptions.
- Production and extensions and revisions timing factors will be stable, estimated from historical patterns.

Mr. BREAUX. Thank you, Mr. Skedgell. We appreciate your statement.

Mr. Gipson.

#### STATEMENT OF WILLIAM GIPSON

Mr. GIPSON. Thank you, Mr. Chairman.

By way of introduction, I am president of Pogo Producing Co. which is active in oil and gas exploration on the Outer Continental Shelf. I am a geologist by profession and I have been engaged in petroleum exploration and development since 1949.

I am also chairman of the American Petroleum Institute's General Committee of Exploration Affairs and it is in that capacity that I am here today to present—in response to your chairman's invitation—the views of the API as to Public Law 95-372.

My statement is also cosponsored by the Mid-Continent Oil and Gas Association and the Western Oil and Gas Association as well as my company.

The petroleum industry appreciates the chairman's invitation to express its views on "the ability of the new Outer Continental Shelf law to regulate properly Outer Continental Shelf exploration, development and production" and on how well the executive branch is implementing the regulations required by the Outer Continental Shelf Amendments, Public Law 95-372. Those views are set out in detail in our statement which has been submitted for the record.

Although the petroleum industry continues to believe that the Outer Continental Shelf Lands Act of 1953 has served our Nation well in terms of oil and gas produced, fair return to the Government and environmental protection—and therefore did not require major revisions—we want to cooperate fully with this committee in its efforts to insure that the revised Outer Continental Shelf law is implemented and administered so that its intended purposes will be accomplished.

All departments and agencies involved in Outer Continental Shelf development must simplify their regulations and orders, accelerate the processing of permit applications, eliminate needless and redundant environmental impact studies and shorten the periods for review and consideration of exploration and development plans and programs. If they do not, the potential resources of the Outer Continental Shelf will become victims of paralysis by analysis and regulatory rigor mortis.

The industry's basic concern about this legislation was—and still is—that instead of facilitating and expediting environmentally safe development of the Outer Continental Shelf it would needlessly delay the leasing, exploration and development and production processes.

Although the Outer Continental Shelf amendments have been on the books for only 11 weeks, it is already evident that delays—and uncertainties—are indeed occurring in all three of these activities.

The "first wave" of these delays lies in the fact that of the more than 40 sets of regulations which must be issued or reissued, only three or four have surfaced to date. There are as yet no regulations implementing such major parts of the act as the terms and conditions surrounding lease suspensions, cancellations and compensa-

tion, air quality standards, safety procedures, financial liability and the maintenance of the confidentiality of proprietary data and information.

Management decisions affecting all aspects of Outer Continental Shelf development are being strongly influenced by the absence of these and other major regulations.

Among the delays and problems we are encountering under the Outer Continental Shelf Act are these:

First, the leasing process. Contrary to the hopes and expectations of the bill's sponsors, its enactment has not reduced or eliminated the threat of lawsuits against Outer Continental Shelf lease sales. Despite the fact that its successful court action to block the Georges Bank lease sale was based on the need for the Outer Continental Shelf amendments, the State of Massachusetts has declined to drop this suit. The result is that this sale, which was to have been held nearly a year ago, continues to be delayed despite the enactment of the Outer Continental Shelf Act.

Moreover, the State of California is giving indications that it may go to court over sales 48 and 53.

Some of the major delays and difficulties we foresee in all Outer Continental Shelf activities—leasing, exploration and development and production—are attributable more to the Coastal Zone Management Act than to the Outer Continental Shelf amendments; in fact, in several instances the CZM Act serves to frustrate the goals and purposes of the Outer Continental Shelf Act.

While we recognize that oversight of the CZM Act may not be this committee's responsibility, we believe the record should point to this conflict. My statement recommends some amendments to CZMA which speak to this concern and which seem appropriate for your committee to consider.

Still further delays in lease sales, including one scheduled for February in the mid-Atlantic area, are inherent in the expressed desires of California, Massachusetts and New Jersey to review them for "Federal consistency" under the Coastal Zone Management Act.

Given the fact that the OCS amendments give coastal States ample opportunity to review and make recommendations on both the new 5-year leasing program and on the size, timing and location of individual lease sales, the CZM Act should be amended to eliminate any possibility that sales will be subject to further State review under that act.

There also appears to be a possibility of legal action to make the issuance of Outer Continental Shelf leases subject to State consistency review and certification. To avoid the possibility that all pending lease sales would be held in abeyance pending settlement of this issue, the CZMA should also be amended to make it clear that OCS leases are not subject to this process.

More importantly, perhaps, the Secretary's recent decision to permit on-structure drilling on unleased tracts could significantly delay the leasing of potentially promising areas while they are being tested under this program.

Some companies question whether the Secretary has the clear authority to embark on this program. A provision mandating it was stricken before the Outer Continental Shelf Act was enacted

because it was closely related to another provision—also deleted—mandating a program of Federal exploration. I think this subject has been pretty thoroughly gone over by previous industry witnesses.

I will now go to the exploration process. Although the Outer Continental Shelf amendments seek to expedite exploration by requiring approval of exploration plans within 30 days, section 307 of the CZM Act permits States with CZM programs to delay the implementation of such plans for periods which can extend to a year or more where full use is made of that section's "Federal consistency" procedures. To the extent that this happens, expectations that the Outer Continental Shelf law would expedite exploration will not be met.

CZMA should be amended to provide for a much shorter State review period, especially since the Outer Continental Shelf Act itself does not authorize any State review of exploration plans.

Although the supervision of exploration lands is the Secretary of the Interior's responsibility under OCSLA, the CZM Act gives the Secretary of Commerce the authority to decide, in some circumstances, whether an operator is in compliance with an exploration plan.

We are also concerned that, under section 26, certain proprietary and confidential data will be disclosed despite that section's provisions intended to preserve such confidentiality. This concern could have a chilling effect on exploration activity.

Next, the development and production process. Regulations establishing the ground rules for development and production plans—as well as exploration plans—are currently being revised in accordance with the requirements of the Outer Continental Shelf Act, and parts of the present regulations (30 CFR 250.34) have been suspended. Meantime, prospective bidders are on notice that they will have to abide by new regulations yet to be issued.

This concerns our industry because significant delays in development and production have occurred under the 30 CFR 250.34 rules as promulgated last January. We hope that the revised regulations will be more supportive of the intent in the Outer Continental Shelf law to expedite development and production.

Quite aside from what the Outer Continental Shelf Act and the regulations say on this point, however, development and production delays are certain to result from the "Federal consistency" provisions in section 307 of CZMA.

As is the case with exploration plans, the implementation of development and production plans can be held up for a year or longer by the CZM States despite the fact that the Outer Continental Shelf law requires approval or modification of D. & P. plans within 60 days.

This is a significant factor because "Federal consistency" is now enforceable in OCS waters off the coasts of California, Massachusetts, Rhode Island, New Jersey, and Maryland—all areas where exploration and/or development and production are now taking place.

We again propose that CZMA be amended to allow the States only 2 or 3 months to review development and production plans for "Federal consistency." A 2-month review period would be consist-

ent with sections 19 and 25 of the Outer Continental Shelf Lands Act amendments.

Thus, here again we see the probability that the revised Outer Continental Shelf Lands Act will not achieve its stated purposes. Section 102 says that one purpose is to "establish policies and procedures \* \* \* which are intended to result in expedited exploration and development \* \* \*" of the Outer Continental Shelf.

There are some other areas of concern, and I will just mention a couple of examples. The history of the Clean Air Act's implementation demonstrates that too often unworkable, overly costly and unnecessary regulations are imposed upon industry. If that happens with respect to the air quality regulations required by section 5(a)(8), there can be a distinct and adverse impact on leasing, exploration and production.

According to reports in the trade press, the Department of Energy is now preparing regulations which are contrary to the Outer Continental Shelf laws provisions for competition reviews by the Attorney General and the Federal Trade Commission. These regulations would instruct the Department of the Interior to conduct its own presale and postsale competitive review and to use such reviews as the basis for rejecting bids. We hope your committee will question the Department of Energy closely on these reports.

Thank you. I would like to express appreciation for the chairman's earlier comments that this committee is committed to insure that the implementation of the 1978 Outer Continental Shelf amendments is carried out smoothly and with dispatch.

Speaking for our company, we would certainly like to see this committee continue in existence.

Mr. BREAUX. Thank you very much, and I thank the members of the panel. The committee appreciates the testimony and the presentations. I would like to ask anyone who would want to comment to do so. I think Mr. Foster brought up the question about the onstructure drilling regulations the Department of Energy has promulgated, calling for onstructure drilling before leasing. I know that the committee and the result of the final work of the committees is clear that we were not authorizing specifically any onstructure drilling, yet the Interior Department has come forth with regulations authorizing onstructure drilling. Are any of the companies or are any of your companies in particular planning to challenge the proposed regulations on the basis of lack of authorization?

Mr. FOSTER. We hve no specific plans to do that now. We are looking into it but we have no plans to make that challenge as of now.

Mr. NANZ. I have the same answer.

Mr. BREAUX. Anybody else? Mr. Gipson?

Mr. GIPSON. I am sorry.

Mr. BREAUX. The question is on structured drilling, specifically the regulation the Interior Department has proposed citing sections of the Outer Continental Shelf as their authority. Does your company plan to challenge authority for the Secretary to issue those regulations?

Mr. GIPSON. We are looking at it but we have no plans right now.

Mr. BREAUX. If the regulations are adopted and finalized, would your companies participate in an on-structure drilling program?

Mr. GIPSON. Speaking for myself and Pogo, we are not, as stated earlier, for onstructure drilling. We would prefer to see the regulations that went with it and a lot of other factors there prior to answering your question here.

Mr. BREAUX. Does anyone else have any comments about his or her company's indication of whether or not they would participate?

Mr. FOSTER. I think I have to concur that there is more to be seen about how the regulations would be implemented. We would also be affected by what other people in the industry might do. We might be forced to protect ourselves competitively, to participate in such a program even though we might feel it was not in the best interests of the country.

Mr. NANZ. I have the same problem. Since we do not have anything but just the general principle that the Secretary favors it, we would like to see who is going to decide where it is going to be drilled, who is going to pay for it, who will do the drilling, and what would happen to the data. These are the things we have to know, how many wells are going to be drilled, for example. We may not even want to participate in the offshore sale if they are going to drill a whole lot of holes. It just would not be worth it.

Mr. BREAUX. The committee did not receive a lot of comment regarding alternative bid systems that the new legislation authorizes. Do any of you gentlemen care to comment about alternative bid systems? How do you think they are going to be operated?

Mr. NANZ. I would like to make this comment, that we thought a lot about it. We did not use our time here for that purpose because we think first things first. If we do not have an accelerated lease sales schedule, we won't have the production to get us through this period until we get alternate energy sources. So I do not think it would make a lot of difference what the bid system is if we do not get the accelerated lease sales schedule.

Second, I think this committee probably knows we think the bonus system has served the Nation imminently well in the past, and I would say with regard to all other systems, if there is no opportunity in that system to do a little better than average or to compete against one-time speculators, then I think it is bad for the Nation.

Mr. BREAUX. I think your association was in favor of it. Do you have any comments?

Mr. SKEDGELL. We are, Mr. Chairman. We have focused most of our attention on the leasing schedule itself because we think that has to come first. We think a misdirected program of issuing leases and holding lease sales in areas where potential may not be as great as others is a mistake. But, frankly, we have not had the opportunity to run econometric studies looking at alternative bidding systems. It is our view, to the extent that smaller companies can participate in Outer Continental Shelf leasing and E. & D.—exploration and development—more gas would certainly be forthcoming, which is our members' prime interest.

Mr. BREAUX. What is the problem with proposed lease schedule? I was under the impression that the Secretary had ordered the present schedule to go forward, pending adoption of the regula-

tions. I know some would like to see all leasing stopped until the regulations are completed. I think the Secretary had decided to go forward with the existing lease schedule. I thought you all would have been in favor of that. Any comments?

Mr. NANZ. Well, I think I am in favor of that general idea, but we were hoping that from just today or actually from yesterday, the preparation was being made for a proper 5-year schedule including recommendations next June, for our proposed schedule, in order for a sale to take place, for example, in Bristol Basin or St. George Basin, the mandated time to prepare for that is 2 years. As I understand, this 5-year plan won't be approved until January of 1980, so what is on the present schedule I would say probably have it, but we ought to begin right now trying to get these new areas into the pattern.

Mr. FOSTER. For the near future we feel good about the lease schedule we are working with. We would like to see the Georges Bank sale scheduled and held. In order for us to run our business and use our people and capital properly, we have to plan two to four years in advance. So we need to be allocating people and dollars to those areas where sales are going to be held and we need to be able to do that with the assurance that the sales will be held as scheduled. That is why we are emphasizing the need for some sort of lease sale schedule. We are looking forward to 1979.

Mr. BREAUX. Your concern is a long-term lease schedule, over the next 24 over months?

Mr. FOSTER. That would be our position, yes.

Mr. GIPSON. I do not think I can add a lot except concurrence, Mr. Congressman.

The CHAIRMAN. Mr. Foster, I understand that the Department of the Interior has asked companies that have been bidding on certain leases to bid at one time under different systems, in effect bidding against each other. Is that correct?

Mr. FOSTER. I am afraid I do not understand the question.

The CHAIRMAN. In other words, say one system would be a bonus bid system and then in order to try out other systems, they would have the companies also bid using an alternate bidding system.

Mr. FOSTER. On the same block?

The CHAIRMAN. Yes.

Mr. FOSTER. I am not familiar with instances where that has been done.

Mr. NANZ. I wonder, how would the lease be awarded? I am not familiar with that. I do not see how it could work. You would have to select one system. That is my understanding. We would be happy to discuss the details as to how you evaluate the lease under a different system.

The CHAIRMAN. That was one of the questions we asked when that first came up.

Mr. Belsky.

Mr. BELSKY. I would like to ask a question of the Gas Association. You indicated that in general, State utilities were not able to bid on leases today, obviously implying there are exceptions to that general statement. Are there exceptions?

Mr. SKEDGELL. I know of no exceptions, Mr. Belsky. My point was simply in all the instances I am aware of local gas distribution

utility companies who would have to rely are not so capital-intensively fixed that they could engage in the capital-intensive exploration and development programs without the use of some of their ratepayers' money. It is precisely at that point at which obviously any state commission would become involved. One of the keys—I believe section 604 of the act—one of the keys is obviously the finders-keepers principle, which would allow and sanctify that any gas discovered by a distribution company would indeed find its way to a service area, so in fact the customers of the utility, who to some extent might have subsidized the operation and paid for that operation, would reap the benefits of that gas, and that it does not go elsewhere in some national allocation scheme, for example. I know of no specific instance in which a state commission has denied a company's ability to go forward.

Mr. BELSKY. I would like to ask the next question of the entire panel, if I may. One of the things Mr. Murphy, the chairman of the committee, was and is concerned with in the last Congress and the Congress before was that Outer Continental Shelf activities be conducted by American citizens and that Outer Continental Shelf rigs and vessels be constructed by U.S. companies using American workers on U.S. land.

Section 30 of the bill, as a result of this interest, provides for U.S. documentation, with certain exceptions. Could we go along the line here and could everybody tell us, one, do you hire and do you have presently operating on the Outer Continental Shelf foreign workers; approximately how many; and what are your plans about the building of platforms and rigs and mobile units; where are they going to be built; and what kind of foreign assistance are you getting as far as building?

We will start with Mr. Gipson.

Mr. GIPSON. Mr. Belsky, that question will be easy for me to answer because Pogo does not operate physically any properties right now in the Gulf of Mexico. Pogo was a part of Penzoil at one time, but it is now a completely independent company. We are not now currently operating physically on the Outer Continental Shelf.

Mr. BELSKY. Do you expect to go into Outer Continental Shelf activities?

Mr. GIPSON. We are in Outer Continental Shelf activities right now. We own interests anywhere from 3 percent to 75 percent of various leases, but our personnel do not physically operate or hire drilling contractors on those tracts. We will comply with the law of the land, certainly. I am not personally aware of any cases where our partners may be using non-U.S. citizens or foreign built rigs.

Mr. FOSTER. We have about 12 rigs in the Gulf of Mexico. All of them were built in the United States and use American workers. All of our platforms are constructed in this country. We are about to use a rig in the Baltimore Canyon area that is being brought back from the North Sea. It is operated by an American contractor, was built in a U.S. shipyard, but there are some people coming back from the North Sea on that rig, you are familiar with the rig, that are not U.S. citizens. Not very many. We will be hiring U.S. citizens to work on that rig as we get it over here. That is the only instance I am aware of Tenneco is using not U.S. citizens.

Mr. NANZ. I am not aware of any noncitizen Shell employees. Most of our work is done contract, and I am not familiar with their personnel. The rigs are all contracted. As far as construction of platforms or any other equipment, we, to whatever degree possible, have that done in the United States.

The CHAIRMAN. Do you have any platforms that are being built overseas?

Mr. NANZ. Part of our Beta platforms are built in foreign countries. One in Japan. Part of it is built in the United States.

Mr. BELSKY. Are there any plans by companies you represent to operate or lease, and if so, do you plan to use American workers?

Mr. SKEDGELL. I do not believe so, Mr. Belsky. Most of our member companies would approach a lease deal as a partner with one of these gentlemen, for example. I do not believe any of our member companies, even though some have substantial exploration and development budgets of their own, act as operators in the Gulf. I think that would be unusual.

The CHAIRMAN. Mr. Nanz, this question may be a bit speculative. If the difficulties in Iran increased and we had a cutoff of oil from that source, what would be the effect on United States supply?

Mr. NANZ. I am afraid I am not competent to answer that. I asked the same question. My impression is it is not a direct supply, but with world trade it could affect us in other ways. But I am sorry, I am not competent to answer the question.

The CHAIRMAN. Mr. Gipson, do you have a comment on it?

Mr. GIPSON. I do not have one, Mr. Chairman.

The CHAIRMAN. It certainly would indicate we ought to get moving on the outer continental shelf and get those reserves discovered, in fact.

Mr. NANZ. We could not agree more with that. The API and the other trade associations' testimony here is to implement and get going. We tried to present that.

The CHAIRMAN. Yes, thank you very much.

Our next group will be Mr. Keating V. Zeppa, president, Delta Drilling Co., and representing the International Association of Drilling Contractors; and Mr. Jon Bednerik, director of government affairs, International Association of Drilling Contractors.

Mr. Zeppa, if you will proceed.

#### STATEMENT OF KEATING V. ZEPPA, PRESIDENT, DELTA DRILLING CO., AND INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

Mr. ZEPPA. Thank you, Congressman Murphy, and the committee. Indeed, we do appreciate this opportunity. We will be, I hope, suitably brief. We have filed for the record a written statement which I will attempt to review orally.

My name is Keating V. Zeppa, and I am the president of the International Association of Drilling Contractors (IADC) for the year 1978. In addition to this volunteer activity, I am president of Delta Drilling Co. located in Tyler, Tex. Accompanying me today is the director of government affairs for IADC, Jon Bednerik, who is director of government affairs for the association.

Our membership basically consists of some 575 contractor firms who are responsible for virtually all of the oil and gas exploratory

drilling work performed on the American Outer Continental Shelf and around the world. Our member companies work under specific service contracts for major oil companies, independent producers and governmental agencies. In addition to contractor members, IADC also includes some 450 service and supply companies involved in the manufacture of drilling equipment and related activities. Over 160 exploration departments of oil companies of all sizes also maintain membership in our association.

Addressing the regulatory implementation of the newly-enacted series of amendments to the Outer Continental Shelf Lands Act, we are in a posture of "wait-and-see." To date, there have been no regulations proposed as a result of the legislation which we find directly impacting upon our industry as drilling contractors.

No doubt there will be proposed regulations issued shortly in areas such as U.S. flag requirements, U.S. manning provisions; offshore safety; prelease exploratory drilling and the like. We trust that the regulatory approach will comport with the congressional intention that offshore exploration and development will be fostered and that regulation will not exceed or alter the basic thrust of the congressional mandate to balance controls with development.

There is one specific example that we can cite as indicative of the generally good working relationship that has existed even prior to the legislation with some agencies of the Government charged with offshore safety and review. The matter of well control—blowout prevention, control and anti-pollution—has been in the forefront of industry and public attention since offshore operations began. In fact, the IADC has cosponsored well-control training for key employees since 1972. We are proud of the efforts and the success of these programs.

The IADC cosponsorship of schools has included Louisiana State University, University of Oklahoma, University of Southern Louisiana and Lamar Tech in Beaumont, Tex. These schools have already trained more than 5,000 students. Overall, the industry has trained over 18,000 people in well-control procedures.

During 1978, the U.S. Geological Survey has been active in standardizing the curriculum and procedures for the various levels of training appropriate for different categories of supervisory and operating personnel. IADC has fully cooperated with the USGS, and several of the established industry schools have already received formal accreditation under the new regulations. Since the formats and details of the accreditation are new, there have been some minor difficulties in meeting the requirements set forth by the USGS.

We understand that within the next few days an interpretative guideline will be published in the Federal Register to allow existing and future schools to conform their programs to the standards set out. A cooperative effort by government and industry has effectively commenced a reasonable program to assure uniformly high-quality training of the large number of persons involved.

IADC supported those provisions of the Outer Continental Shelf amendments—title VI, section 607—calling for the appropriate agencies to come forward with plans for formalizing the preexisting practices initiated by industry over the years.

Another example which IADC believes is a positive action by a Federal regulatory agency is the recent training program for U.S. Coast Guard personnel providing them with information on drilling. This should aid them in carrying out the full range of responsibilities which are delineated in title II, section 208, adding section 21 and section 22. IADC supported the clarification made by the Congress that offshore safety responsibility should be placed in the hands of the U.S. Coast Guard.

On other questions of delay and disruption created by new requirements established by the Outer Continental Shelf amendments, IADC awaits the issuance of proposed regulation, the development of legal challenges and the agency implementation before commenting upon their effect on our own industry. We are apprehensive that prelease onstructure drilling will not provide information sufficient for the Government to truly set actual values on leases which could have a chilling effect on some plans for private enterprise development. As we stated before, our industry's members would receive any contracts for drilling whether by the Federal Government or from private companies, but we do not believe the limited results and possible delays in granting leases would be useful to the valuation of new areas prior to the opening of widespread multifaceted exploratory drilling by a variety of companies with diverse exploration approaches.

We appreciate the opportunity to appear here today to discuss with this committee the status of operations under the Outer Continental Shelf Lands Act, as amended, and look forward to utilize this type of forum in the future as more details evolve from the legislation and agency action.

We will be happy to answer any questions that you wish to raise.

**STATEMENT OF JON BEDNERIK, DIRECTOR OF GOVERNMENT AFFAIRS, INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS**

Mr. BEDNERIK. Thank you, Mr. Chairman. Just two brief comments.

One is that, in anticipation of the question that might be asked us concerning the continued existence of the Outer Continental Shelf Committee, while generally our membership favors the reduction of Government and the elimination of temporary bodies when their mission has been completed, we would agree at this point that there is still much work to be done in the oversight area on the Outer Continental Shelf and that the expertise developed by this committee, its members and staff, should probably be the continued focal point for that oversight function.

So we would endorse the continuation of this ad hoc committee.

The second point is one that is fairly technical in nature. There was discussion during the colloquy in the conference on the question of customs tariffs for imported equipment onto the Outer Continental Shelf.

It was our understanding from the legislation and from that discussion that the application of appropriate customs duties would be made applicable to permanent installation brought to the Outer Continental Shelf, principally production platforms which might be constructed abroad and located here.

In an attempt to clarify that, we attempted to contact Congressman Miller's staff which had been working on this issue and discovered they had been referring to information they had regarding the possible importation of production platforms.

With that in mind we did not address it in our statement today because we don't believe it will be a problem in connection with mobile offshore drilling units. But if this should prove to be a problem of interpretation, we might very well be back to this committee to seek further clarification as it is certainly our understanding that there was no intent to cover a vessel-like mobile drilling unit that might temporarily be engaged in drilling in the American Outer Continental Shelf.

These are the only two additions that I would make. We welcome your questions.

The CHAIRMAN. In section 607 of the 1978 amendments, the Secretary of the Interior, in consultation with the Secretary of Transportation is directed to submit a list of directives for employees who operate pollution prevention equipment.

Is there any information that you have regarding this particular program?

Mr. ZEPPA. Congressman Murphy, in answer to your question I would say our association, both as an association and also member companies of the association, has been working very closely with the Geological Survey as well as the U.S. Coast Guard in the development of—well, I should say, the formalization as well as development of training programs which will satisfy the requirements of that section as well as be consonant with generally accepted good practices.

Several schools, as I pointed out, have been accredited by Geological Survey personnel. We do find that there are some differences from school to school, but we feel that uniformity will be forthcoming as all of us gain more experience.

The CHAIRMAN. As the spokesman for the IADC, do you believe many of your members would be interested in taking a prelease or onstructure drilling contract?

Mr. ZEPPA. You bet. We will take a contract anywhere we can find it, if it is profitable, Mr. Congressman.

If I might, I would add that many of our member companies, including my own, have worked at various times around the world for United States-based firms as well as for Government oil companies. I think it is safe to say that in general, whereas we may disagree with the philosophy of Government control over the exploration and development of natural resources, almost without exception contracting for government oil companies tends to be more profitable than contracting for private enterprise.

The CHAIRMAN. Do any of your constituent members oppose onstructure drilling?

Mr. ZEPPA. Yes, sir.

The CHAIRMAN. Why would they oppose it?

Mr. ZEPPA. Philosophy. It is a philosophical opposition based on a very definite desire on the part of most of our members to avoid further encroachment by Federal Government in that province which is considered to be best suited to private enterprise development.

Mr. BEDNERIK. Mr. Chairman, if I might add, in addition there is a strong belief by members of the industry that this will create unnecessary delay in what should be a multifaceted approach to exploration. If the decision is made to drill onstructure, it requires: First, a determination of where those structures are; second, where specifically within that structure to drill; third, the leadtime needed to actually make the hole in the ground and presumably the analysis of what was or was not discovered.

Currently, when private enterprise goes out into a lease area, each company with its own unique approach to exploration and its own values as to how best to reach the resources that might be there, these companies will approach it from multifaceted approaches and will simultaneously be developing a lease area.

If there is a time delay built in while the Government makes a determination of where to drill and then drills, or if there is a delay in lease sales while one consortium of companies is allowed to drill onstructure, it will probably ultimately delay the overall exploration phase for that lease area.

So it has practical consequences. There is added to that that one hole does not tell you all you need to know about a lease area.

The CHAIRMAN. Mr. Belsky?

Mr. BELSKY. I have a couple of questions.

Could you give us some estimate of the number of Americans, compared to non-Americans, presently involved in Outer Continental Shelf exploration with some of your member companies?

Mr. ZEPPA. Are you referring to drilling units or individual personnel?

Mr. BELSKY. Both.

Mr. BEDNERIK. We submitted information on the construction site and the documentation of mobile units on the Outer Continental Shelf last June when we appeared before the committee, and those numbers have not substantially altered as far as I know. Virtually all the personnel on the units working in the Outer Continental Shelf are Americans. The immigration and naturalization laws require anyone working out there to be a resident alien or have a work permit.

There is no major impact by foreigners on our OCS activities. Quite the contrary, we dominate the industry even abroad, even in the coastal areas of other countries. The predominant number of skilled employees working tends to be American citizens.

Mr. ZEPPA. I would hazard a guess, Mr. Belsky, and I qualify this as a guess. In fact, it might even further be qualified as a swag, but I would say in excess of 85 percent of the devices or drilling rigs working on the Outer Continental Shelf are of American manufacture, either in their entirety or substantially in their entirety.

As to the personnel, I would have to estimate that in excess of 95 percent of the personnel presently employed in the Outer Continental Shelf are American citizens.

Mr. BELSKY. My second question is: Mr. Bednerik mentioned the idea that there is some indication from customs that they would include mobile rigs as part of a custom fee requirement regulation. Has this been formalized or is it just a fear?

Mr. BEDNERIK. This is a concern that we have heard of. We have no formal indication that they will do so. That is why we had

checked with the people involved in the colloquy during the conference to see what they had been specifically discussing at that time.

Apparently, those references were made to production platforms which might be constructed abroad and brought to this country.

Mr. BELSKY. Has the Coast Guard, on the hire American provision, contacted you for suggestions on proposed regulations?

Mr. BEDNERIK. They have not.

Mr. BELSKY. Not at this point at all?

Mr. BEDNERIK. No, sir.

The CHAIRMAN. Could you give us the approximate anticipated cost of extracting a barrel of oil from the Baltimore Canyon?

Mr. ZEPPA. That is way out of our province, Congressman, but I suspect it will be high.

The CHAIRMAN. How high is high? In October the Department of Interior issued a notice requesting comments from all interested groups as an aid in developing the 5-year leasing program required by the Outer Continental Shelf Act.

Have you submitted any comments in that regard?

Mr. BEDNERIK. No, we have not.

The CHAIRMAN. Thank you very much, gentlemen.

Mr. ZEPPA. Thank you, Congressman.

The CHAIRMAN. Our next witness is Charles H. Lyles, executive director, Gulf States Marine Fisheries Council.

#### STATEMENT OF CHARLES H. LYLES, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COUNCIL

Mr. LYLES. Thank you, Mr. Chairman.

Gentlemen of the committee, I want to thank you for this opportunity to comment on title IV commonly known as the Fisherman's Contingency Fund of the Outer Continental Shelf bill.

First, let me say our fishermen are grateful for this piece of legislation since we hope it will bring some order to an operation where little order has previously existed. Even those fishermen who have complained about this piece of legislation will in my opinion come to appreciate the act once it is functioning.

There are, however, some concerns about the administration of the act and I will simply list these in the order that they have arisen in discussions with fishermen around the Gulf.

Fishermen are concerned, first, about the area encompassed by this act. Will the boundary begin 3 miles offshore, 9 miles in the case of Florida and Texas, or will it begin at the shoreline, and will the bays and sounds be covered by the act?

Fishermen are concerned about the amount of redtape required to complete a claim. We hope that a simplified form and a simplified system of processing these claims can be effected.

Furthermore, we would hope that the office for filing and processing these claims can be located in the area where the problem exists. Even though I have been associated with the problem since the location of the first well off Morgan City, La., in 1946, I do not consider myself an expert on the problem.

However, there is considerable expertise in the area, in the oil companies, in State officials, and in the fishermen themselves. We believe it would be prudent for the Government to draw on this

expertise. It can best be done by location near the source of knowledge in the area of expertise.

There is also concern about the method of confirming and proving a hangup. We need a practical method of confirming this. The ocean can be a frightening place, particularly at night, when one is fastened to an obstruction and another and larger vessel is bearing down on you.

The Gulf of Mexico has become a large junk yard with enormous quantities of discarded litter all over the bottom. Each trip a fisherman is confronted with such items as 55-gallon drums, parts of oil rigs, and finally the permanent obstructions.

A fisherman might be able to live with some of this trash, but his concern is what is to be done about the heavier pieces of material that plague his efforts to produce food and to make a living. Will these items be removed?

Next, what authority will the examiners have in determining who is at fault in a particular case? For example, as I understand the law, the fund will pay in those cases where it cannot be determined what oil company is at fault. When that company at fault has been identified by the examiner, what then will be necessary to obtain payment from that oil company?

There are a number of unlighted buoys marking obstructions in the Gulf of Mexico. I have reason to believe that most of these are not Coast Guard-approved buoys. Will a hangup on these buoys be compensated for?

Finally, gentlemen, the fishermen realize that we must harvest both the oil and fish. We need oil to keep our fleets running and to keep the Government solvent. We do believe, however, that this system of government under which we live provides machinery so that when an individual is damaged, the one who is damaged should be paid.

We hope this legislation will materially aid in providing this justice to the fishermen.

I will be happy to answer any questions I can.

The CHAIRMAN. Thank you, Mr. Lyles.

Of course, our initial hearing 4 years ago was in New Orleans where we had these very concerns brought out to us and we tried to address them in the legislation as it was finally enacted.

I understand you headed a study for the Gulf States Marine Fisheries Commission on the problems of underwater obstructions, in which representatives of both the fishing and oil industries participated.

What were the results of that study?

Mr. LYLES. Well, it is just about summed up in these items here, Mr. Chairman. They are concerned about the administration of the act. The implementing rules by which the act will be administered have not yet been written and there have been a number of hangups.

In my estimation, there are probably three hangups a day occurring in the Gulf of Mexico. Some of these are substantial losses, up in the five figure category. Fishermen are just simply not able to stand this. They are concerned that the act get underway as quickly as possible and that these items that I have listed here be covered in it.

The CHAIRMAN. Of course, if a fisherman makes a valid claim against a specific oil company and he cannot get paid, then the fund will pay him and the fund will take the matter up with the oil company. You are aware of that?

Mr. LYLES. Well, sir, we didn't really get that reply from the Department of Commerce. They attended the meeting that we held in conjunction with the fishermen and they were not quite certain at that point. It was one of the questions brought up and we really did not get an answer. That is no criticism, but I am saying they did not have an answer for us.

The CHAIRMAN. Section 407 of the act requires a survey of off-shore obstructions. Have you had any interaction with the Federal entities responsible for implementing that provision?

Mr. LYLES. They have contacted me once, I believe, Mr. Chairman, and I have forgotten the questions.

Now I am not able to say exactly what they asked me. I answered as best I could the questions at that time. That is the last I have heard from them. I suppose they are preparing now to do the work.

The CHAIRMAN. Mr. Belsky?

Mr. BELSKY. The Chairman asked me, if I can, to respond to some of these questions. Maybe we can achieve some clarification. As you might be aware, Mr. Treen contacted the staff and asked us to respond to some of these questions. I would like to go over them.

The first question had to do with the scope of the fishermen fund accounts, that is, would they handle activities within 3 miles?

The legislative history and statute are very explicit, that it involves OCS activities which would mean beyond State lands, but it would cover impacts if the Outer Continental Shelf impacts were within State lands.

For example, if it is a vessel undertaking OCS activities where the actual injury occurred within 3 miles, it would still be covered as long as it was an OCS vessel.

Mr. LYLES. Suppose you have a wellhead within the 3 miles and he hangs up on the wellhead?

Mr. BELSKY. It is not an OCS wellhead and it would not be covered.

Next, the purpose of the bill is to set up "area" accounts, which was the compromise established by the OCS committee and it was particularly to have them located regionally or even closer than regionally, so hopefully there would be administrative machinery close to home to deal with problems.

The question of trash and the question of junk is not specifically covered by the Fisherman's Fund title unless it is determined to be a hazard or an obstruction which is why we asked for the study of obstructions and hazards.

There is no provision specifically covering these unless it can be shown by the fishermen that these materials are a danger, and if they are, they will be covered, and if they are not, they will not be.

I would think the heavier, larger pieces would be and the smaller pieces of true trash would not be.

The standard for fault is tied to the evidence standard in the Administrative Procedures Act. This is very specific and I think it is very important.

Mr. Murphy pointed out that the bill is explicit that there is a certain period of time to secure satisfaction from the company which is supposedly at fault. If that period of time elapses and you don't get a recovery, you go against the fund and then the fund has the responsibility to go against the particular person. In specific response to this issue and your particular concern, that was put in.

The hangup on the buoy would be compensated if the buoy is owned by the company and if it is related to OCS activities. I would assume that these are put up generally and because of Outer Continental Shelf jurisdiction only, it would probably not be covered.

Again, if the staff can be of any service, minority or majority staff, we will try to be as helpful as we can.

The CHAIRMAN. Thank you very much, Mr. Lyles.

The committee will recess until the time we set for the National Ocean Industries Association Panel at 2:30 p.m.

#### AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

We have the National Ocean Industries Association Panel, Mr. E. C. Broun, president, Petroleum Services Group, Dresser Industries, Inc. and Chairman, NOIA; Mr. Paul Kelly, senior vice president, Zapata Corp.; Mr. Carl Savit, senior vice president, Western Geophysical Co.; Mr. T. C. Rogers, president, National Supply Co., and Mr. J. David Gooch, vice president, Houston Oil and Minerals.

Mr. Broun, if you would proceed.

**STATEMENT OF E. C. BROUN, PRESIDENT, PETROLEUM SERVICES GROUP, DRESSER INDUSTRIES INC., CHAIRMAN, NOIA; PAUL L. KELLY, SENIOR VICE PRESIDENT, ZAPATA CORP.; CARL H. SAVIT, SENIOR VICE PRESIDENT, WESTERN GEOPHYSICAL CO.; T. C. ROGERS, PRESIDENT, NATIONAL SUPPLY CO., AND J. DAVID GOOCH, VICE PRESIDENT, HOUSTON OIL & MINERALS**

Mr. BROUN. Thank you, Mr. Chairman.

Good afternoon. I am E. C. Ned Broun, current chairman of NOIA. It is with great pleasure that we, as members of the National Ocean Industries Association, come before you today to assist in providing firsthand industry information necessary in developing regulations designed to implement and administer the Outer Continental Shelf Lands Act amendments. We welcome the opportunity to share our views with you.

For those of you who may not be familiar with NOIA, we are the only trade association that exists to represent all facets of the offshore and ocean-related industries on the national level. Founded in 1972, with only 35 member companies, NOIA now boasts nearly 400 members, and the list is still growing. Any company with an economic interest in developing or using the ocean's resources, or engaged in ocean-related activities, is eligible for membership.

Our association exists with the goal in mind of expanding the vital oceanic frontiers and utilizing this critical natural resource for the benefit of mankind.

In the field of onshore, offshore and other marine construction, we represent world leadership, from design to management to construction of drilling, production and other marine platforms and vessels, to construction of piers, loading docks, submarine and land pipelines, and ship repair facilities. And, we are world leaders in diving technology.

NOIA member firms are engaged in a wide variety of marine-related engineering and consulting services, instrumentation, control system design, computer simulation and modeling, industrial production, pollution control, resource recovery, design and engineering of offshore production and support structures, ocean equipment design, and naval architecture, as well as engineering of geotechnic, electromagnet, acoustic and seismic systems.

Some of our NOIA members are significantly involved in the commercial fishing industry. Several of our NOIA members are financial institutions involved in marine-related activities and investments, including insurance underwriters. Geophysical contractors, manufacturers, drilling contractors, and petroleum exploration and production companies, as well as research and technological development companies and service, support and supply companies are also NOIA members.

Shipbuilders and other members of the transportation segment of the marine industries make up another percentage of the NOIA membership. To dispell any illusion that NOIA is principally an arm of major oil companies, I refer you to two facts. (1) The handout of our Small Business Committee makeup and our National Fish Meal and Oil Association Committee and (2) our annual budget is based on a dues structure that allows a maximum of 2 percent dues contribution for any one company.

As president of the Oilfield Equipment Group of Dresser Industries, with me today are four other NOIA members who represent the major segments of our industry most directly affected by the OCSLA Amendments:

Mr. Paul Kelly of the Zapata Corp. will give the point of view of the offshore drilling and supply vessel business.

Mr. Carl Savit of the Western Geophysical Co. will discuss the requirements of the geophysical exploration companies.

Mr. David Gooch of Houston Oil and Minerals Corp. will act as spokesman for independent producers, and if he gets here, he is in the air, Mr. Ted Rogers of the National Supply Division of the Armco Steel will act as a spokesman for the supply and equipment companies.

And I will report to you on regulation environment required for technical offshore oilfield service companies.

On behalf of the oilfield offshore service industry, I again thank you, gentlemen, for this chance to discuss the OCSLA Amendments as they relate to our business.

First, let me explain the nature of the service companies' role in the offshore oil and gas industry. We could be likened to the medical profession in that we "doctor" wells, using everything from preventive medicine to pep tonics to emergency remedial procedures.

Not only that, but we also maintain, test, research, analyze, compute, diagnose, prescribe, operate, keep records, and otherwise

find cures for both everyday problems and big emergencies, to keep our customers wells healthy and productive. And like doctors we are on call 24 hours a day, 7 days a week, 365 days a year.

But the general practitioner in our industry is a thing of the past, as it is in medicine today. Drilling and production services are so complex, so highly technical, and so costly to equip, maintain and operate, that no one company, such as an oil and gas producer, could provide its own services in-house. Specialization is necessary to provide the optimum value for the services rendered.

Hence, the more technically specialized the service, the more efficient it should be, and thus, more valuable to the operator and for the service company.

To give you an idea of what we mean by specialized services beginning with the geophysical and associated supplier's, let me briefly list some of the services necessary to most or all oil and gas drilling and production. They are drilling rig services, drilling fluid services, open hole logging, cased hole logging, open hole coring, sidewall coring, core analysis, drill stem testing, wireline formation testing, directional drilling, directional surveying, casing services, cementing services, perforating services, acidizing services, oil well fracturing services, blowout remedies, oil well fishing, catering and housing, workover of old wells, scale removal, fluid level sounding, chemical analysis, protective coating, drilling fluid loggers, production testing, gas lifting, downhole packing and plugging, paraffin cleaning, pipe inspection, downhole pressure testing, downhole temperature surveys, cathodic protection, and sophisticated satellite and other communications systems, as well as transportation services, such as boats and helicopters. And the list goes on.

It is plain to see that the proper drilling, completion and exploitation of an offshore oil or gas well is a complicated, time-consuming and costly procedure. Many competitive service companies are necessary to maintain the high efficiency of recovery and advance our technology as we are required to drill deeper, hotter, and higher pressured wells.

We believe that any regulation of our business must be so designed as to allow us to continue to do the most efficient job possible while remaining within the prescribed guidelines. While much of the OCSLA amendments do not affect the service companies themselves directly, they do affect our customers which indirectly affects the way we conduct our business.

But any regulation that would cut down our flexibility or impede our ability to respond on short notice or restrict the easy movement and access of our supplies and personnel would be met by great opposition from the service industry.

As it now stands, the operations of the service companies fall under the regulation of a myriad of governmental agencies, including the Department of the Interior, Department of Treasury, Office of Equal Employment Opportunity, the Department of Energy, the Department of Labor, the Department of Transportation, the Department of Commerce, and their various arms, such as the Coast Guard, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Corps of Engineers, and the Federal Energy Regulatory Commission. We spend millions of dol-

lars and millions of man-hours have been spent complying with the regulations edicts handed down.

Section 206, which deals with the filing of an exploration plan, will affect many service companies whose input will be required to formulate the exploration report. Precise predictions of equipment and services required will be difficult because oil and gas wells can be extremely unpredictable. I think we are witnessing that in the present day news from the Baltimore Canyon.

The cancellation of a lease or the institution of separate exploration and production leases would both have grave effects on the service industry as would the disapproval of certain permits and licenses that would inhibit us from doing business properly, including the guidelines of the Coastal Zone Management Act.

We believe that our record of offshore drilling and production in the Gulf of Mexico over the last 30 years speaks well for the fact that service companies are leaders in technology and can be depended upon, through their own expertise, to provide the "best available and safest technologies" economically feasible where failure of equipment could result in injury to health or environment.

Offshore working conditions are hazardous, even at best, and this fact has long been recognized by the industry, as evidenced by our working to meet special standards set up on our own initiative, to protect our personnel, our equipment and our investments.

Environmentally, we must again point out our established record in the Gulf of Mexico Outer Continental Shelf development. There, we work hand in hand with the local industries to meet their requirements as well as State, regional and national considerations.

We welcome periodic surprise inspections because we're proud of the strides we've made in environmental, safety and health protection technology. We support the Offshore Oil Spill Emergency Fund and the Fishermen's Contingency Fund, particularly because the greater percentage of damages are caused by other sources than the oil and gas industry.

Labor regulations concerning the manning of offshore installations must be flexible enough to allow for the speediest, most efficient service possible from our personnel. Comprehensive and extensive training programs have always been a prerequisite for the personnel of service companies since their jobs are highly specialized and technical. And, of course, we're all Equal Opportunity Employers.

In short, the service companies would like to see no new regulations that would in any way impede our progress on the job, in the laboratories, on the drawing boards, and in the factories. Our business involves long lead times, many calculated risks, and many, many dollars and man-hours of investment.

We must have the freedom to create and execute newer and newer ideas, and to concentrate our efforts in productive areas that will benefit each and every one of us. If regulations prove disruptive, I know of 55,000 Dresser employees who will be adversely affected, and can only imagine the effects on not only the hundreds of thousands of other service company employees, but all of our suppliers as well.

Thank you.

Now I would like to turn the testimony over to Mr. Kelly.

[The information follows:]

## NATIONAL FISH MEAL &amp; OIL ASSOCIATION

(A Division of National Ocean Industries Association)

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Ed Swindell, Jr.  
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New Orleans, Louisiana

Borden Wallace  
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Empire, Louisiana

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Wallace Menhaden Products, Inc.  
New Orleans, Louisiana

## SMALL BUSINESS COMMITTEE

NOIA membership is also composed of a large number of relatively small businesses which have unique problems in dealing with the federal government, the larger ocean enterprises, and each other. To assist these companies in attaining their proper place in the ocean industries, NOIA has established a Small Business Committee with the responsibility for assuring the protection of their interests in federal affairs.

Frank B. Lynott, Executive Committeeman  
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Phillip Eisenberg, Chairman  
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President  
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Tulsa, Oklahoma

The CHAIRMAN. Mr. Kelly.

## STATEMENT OF PAUL L. KELLY

Mr. KELLY. Thank you, Mr. Chairman.

I am here today representing the offshore drilling and supply vessel members of NOIA. We certainly appreciate this opportunity to present this testimony to the committee and we wish to commend the committee for its several years of hard work in attempting to enact legislation which, as expressed in section 102 of the amendments, will:

Establish policies and procedures for managing oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve economic and national energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade.

Considering the present status of the U.S. economy these goals are even more urgent than they were when this committee first expressed them, and in order that they be achieved, we wish to urge the committee to insure: First, that the Interior Department and the other responsible Federal departments and agencies avoid further delays in the implementation of the act through timely promulgation of regulations;

Second, that the regulations themselves be drafted in such a manner as to stay within the framework of the legislation rather than enlarge upon it; and

Third, that such regulations mitigate rather than compound the delays caused by their implementation.

From the standpoint of the drilling contractor and the vessel supply contractor, every delay affects our company adversely.

Why are we concerned about the delays?

First, as other witnesses have stated, offshore areas offer one of our most hopeful opportunities to develop domestic sources of oil and gas and improve our position in world trade. It is urgent that the Nation find out if and where these new reserves exist, and this can only be done with certainty by drilling expeditiously.

Second, we should be concerned about the inflationary impact of delays. Postponed purchases of capital and deferred employment of labor require that these inputs be purchased at higher costs than they otherwise would be. However laudable one may consider the 1978 amendments, the delays built into the various new approval procedures contained in the law do have inflationary consequences.

Environmental litigation has had and is having a similar effect. Further inflationary consequences should be minimized by promulgating and implementing regulations on a timely basis.

Third, section 102 of the act also states that one of its purposes is to "encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments." If we want industry to invest the large amounts of capital required for the best and safest available technology on the Outer Continental Shelf, there must be predictability and reliability in the leasing and exploration process.

My own company recently constructed four new semi-submersible drilling rigs which incorporate such technology at a cost of \$38 million each. The cost of one day's delay is \$10,000 per rig in interest expense alone. We have six new offshore tug/supply vessels operating in the Baltimore Canyon area out of Davisville, R.I. These units also represent the technological state of the art in this type of vessel and each cost \$5.5 million. We have come a long way from the original small tug boat or the converted shrimper.

How can we be expected to go to the bank to borrow these amounts of capital or justify the investment to our stockholders when potential work scheduling for the equipment is indefinite? Delays not only serve as a disincentive for investment in new equipment, but also adversely impact the economics of existing equipment by reducing the size of a planned for market and reducing day rates often to breakeven or unprofitable levels.

Further regarding exploratory drilling, we feel that environmental groups and coastal States in frontier areas such as the Atlantic Coast and Alaska should give greater recognition to the fact that there is a great difference in the degree of environmental risk in offshore exploration versus offshore production and development. In the national interest we should let exploration in these areas go on.

Although private operators poured out some \$2.4 billion in cash bonuses alone for leases in the eastern Gulf of Mexico—(Mafla area—the far out Tanner Banks in California, and the Gulf of Alaska, they have yet to complete a commercial producer. In fact, these areas have pretty well been condemned. Exploration in all these areas was opposed in environmental litigation even though, as it turns out, there isn't a drop of oil or gas there.

Secretary Andrus already has assumed the authority to require a second environmental impact statement in frontier areas prior to development and production. The new Outer Continental Shelf Lands Act amendments will reinforce this authority. Thus, there will be time to examine the environmental and economic impact of production once discoveries are made. But why hold up exploratory drilling, the safest phase of offshore activity, at a point in time

when it is impossible to determine whether the results will be commercial discoveries or dry holes?

Also, consideration should be given to the costs of this complex litigation. Literally millions of dollars have been spent by environmental groups, State and local governments, and the offshore industry in lease sale areas which it later turns out contain no appreciable amounts of oil or gas. Certainly none of us, including the members of environmental groups, wishes to waste financial resources like this. Why waste valuable time, money and effort before we know whether a real threat to the environment exists?

Today our Nation is nearly 50 percent dependent on foreign oil imports. This is wreaking havoc in our economy and in its relationship to the world economy. There is just too much at stake to hold back any longer from finding out where additional domestic petroleum reserves may be located. The fact is that the environmental risk involved in confirming whether or not oil or gas is present in a particular location is absolutely minimal.

Perhaps the most disappointing feature of the act is its tacit, if not explicit, invitation for persons to institute delay-causing lawsuits. Although section 23 contains provisions related to the restriction of such suits, nowhere does it limit the right to institute suits under the National Environmental Policy Act—NEPA—heretofore associated with the environmental impact statement—EIS—prepared prior to lease sales.

Additionally, the act provides opportunities for NEPA suits challenging the EIS required by subsection 25(c) between the exploration phase and the development and production phase at least once in all areas of the Outer Continental Shelf except the Gulf of Mexico.

It had been the hope of everyone involved in the passage of the Outer Continental Lands Act Amendments of 1978, including both the proponents and opponents of the bill, that its enactment into law would reduce or eliminate the time-consuming and costly litigation which has so far held up the leasing of frontier offshore areas.

The Interior Department has done its best to hold to the leasing schedule established by Secretary Andrus. If the experience in Massachusetts is any indication, however, obstructive litigation will not cease.

On several occasions in recent months Massachusetts Governor Michael Dukakis stated publicly that once the Outer Continental Shelf Lands Act amendments were enacted into law, the Commonwealth would withdraw from the Georges Bank lease sale litigation now pending before the U.S. Court of Appeals for the First Circuit.

However, contrary to this expressed intention, on October 30, 1979, Massachusetts filed a brief in the first circuit which gives no indication whatsoever that the Commonwealth has any intention of withdrawing from the case or lessening its opposition to the Georges Bank sale.

Quite to the contrary, the brief represents a very distinct broadening of the grounds of opposition to the sale when compared to the grounds previously cited by Massachusetts. In its earlier brief the Commonwealth concentrated upon Secretary Andrus' duties to

await enactment of the Outer Continental Shelf Lands Act amendments.

Having had that aspect of its argument satisfied, the Commonwealth now seems to be seeking to develop new lines of argument to allow it to maintain a posture of opposition to the Georges Bank sale. This is unnecessary, wasteful, and I submit not in the best national interest. Massachusetts is joined in this action by environmental groups led by the Conservation Law Foundation of New England.

Notwithstanding the fact that most of the members of this committee and of the others in the Congress who voted for the 1978 amendments believed that they would lessen delays in offshore leasing, Massachusetts and the Conservation Law Foundation have seized upon the passage of the amendments to argue for still further delays in Georges Bank leasing.

They contend that various portions of the findings and purposes recited in title I of the amendments demonstrate that the Secretary of the Interior has an overriding duty to protect offshore fisheries, such that he must halt or at least substantially delay offshore leasing proposals in areas with significant fishery resources.

We recognize that the amendments call for a careful balancing by the Secretary of the harms which might befall fishery and other marine resources, on the one hand, against the benefits that can be anticipated from exploration and development of new offshore areas, on the other hand.

But as to Georges Bank, the Secretary has already struck that balance by eliminating 23 of the 24 most critical fishery tracts and by further imposing conditions and limitations on oil and gas operations which go far beyond those proposed for any previous OCS sale.

It would be most instructive to have the views of the members of the committee concerning whether the absolute position taken by the plaintiffs in the Georges Bank litigation represents a correct interpretation of the 1978 amendments or whether, as we argue, those amendments impose a requirement upon the Secretary to balance fishery and oil or gas operations.

The plaintiffs in the Georges Bank case also argue that the Secretary is duty bound to promulgate the leasing schedule contemplated by new section 18—Section 208 of the amendments—of the OCS Lands Act prior to conducting the Georges Bank lease sale, notwithstanding the fact that section 18(d)(3) clearly provides that leasing can continue for at least 18 months in the absence of a leasing program. Once again, this committee's view in this regard would be most useful.

As a further part of the efforts to delay the Georges Bank sale, plaintiffs argue that under new section 20(a)(2), environmental studies of Georges Bank must commence six months prior to the lease sale, notwithstanding the fact that the section provides such studies can be commenced within 6 months after enactment of the amendments.

With respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before such date of enactment \* \* \*.

As to Georges Bank, of course, a lease sale was announced by such publication in December 1977, well before enactment of the amendments.

Finally, notwithstanding the consensus expressed by the framers of the amendments to provide a coordinated legal and administrative structure to govern OCS leasing, the Georges Bank plaintiffs contend that the Secretary of the Interior's leasing jurisdiction, under the OCS Lands Act, as amended, is seriously limited by the Secretary of Commerce's jurisdiction under the Marine Sanctuaries Act and the Fishery Conservation and Management Act.

There is, of course, nothing in the voluminous legislative record underlying the 1978 amendments to support this theory, and we do not believe that any such limitation was intended by this committee or the Congress.

On the contrary, the absence of any mechanism in the amendments to coordinate Commerce's jurisdiction under these two statutes with Interior's OCS Lands Act jurisdiction strongly suggests plaintiffs have fundamentally misconstrued the Marine Sanctuaries and Fishery Conservation and Management Acts. An expression of views from the committee putting this issue to rest would also be most helpful.

Increasingly voluminous environmental impact statements prepared by the Department of the Interior and a series of strong Federal Appeals Court decisions permitting offshore lease sales to go forward in Alaska, California, the Gulf of Mexico, and most recently, the Baltimore Canyon area, have blunted the traditional arguments of EIS deficiencies made by plaintiffs' lawyer in these cases.

Thus, in the Georges Bank case, they have been forced to use their imagination to construct new theories and new arguments to try to block the leasing process. The OCS Lands Act Amendments were enacted as a balanced piece of legislation after years of discussions and debate in order that the Nation's leasing program can go forward on an expedited basis. These amendments should not now be permitted to be used for the opposite purpose—to further obstruct the program.

We were pleased that fishermen's concerns were reasonably resolved in title IV of the act dealing with the fishermen's contingency fund.

One of Zapata's major businesses is fishing, which began over 100 years ago in the Chesapeake Bay, when sail and steam-powered craft fished for menhaden. Today we operate one of the largest nongovernmentally owned fishing companies in the world with a gross investment of more than \$130 million, and over 2,000 employees.

More important, Zapata's menhaden, anchovy and tuna operations offer unique corporate proof of the successful coexistence of the fishing and offshore oil industries. Management of the environment shared by fishing and offshore petroleum operations is something we have to resolve even within Zapata, as financial and human resources are allocated to the different businesses.

We have proof of such coexistence in Zapata's own backyard. In 1978 the Nation's No. 1 port in terms of commercial fish landings has been the small town of Cameron, Louisiana where Zapata has

a menhaden fishing and processing operation. This is in Mr. Breaux' district. That also happens to be located in one of the heaviest concentrations of offshore oil and gas production facilities in the Gulf of Mexico or in the world for that matter.

We are confident of the productive way in which the two industries can interact. In fact, Zapata right now is pursuing new fishing interests which may soon put us into operation in the Georges Bank area. With our long experience in both fishing and offshore oil, we would not commit investment capital for a fishing business in the path of a new oil and gas exploration area if we had any doubts about their compatibility.

We hope that these comments have been constructive and useful to the committee and that the committee will diligently continue to oversee the implementation of this act so that delays will be restricted to the fullest possible extent and, along with the adverse economic, employment and inflationary impact, will also be reduced wherever and whenever possible.

Unless you have any questions at this time, Mr. Carl Savit, senior vice president of Western Geophysical Co. of America, will address the committee next.

The CHAIRMAN. Mr Savit.

**STATEMENT OF CARL H. SAVIT, SENIOR VICE PRESIDENT,  
WESTERN GEOPHYSICAL CO.**

Mr. SAVIT. Thank you, Mr. Chairman, ladies and gentlemen. With the leave of the chairman, I shall not read my statement. I will ask that it be put into the record and I will confine myself to summarizing and supplementing the written material.

The CHAIRMAN. Without objection, your statement will be included in the record.

[The statement follows:]

STATEMENT OF CARL H. SAVIT, SENIOR VICE PRESIDENT, WESTERN GEOPHYSICAL  
CO. OF AMERICA, ON BEHALF OF THE NATIONAL OCEAN INDUSTRIES ASSOCIATION

Mr. Chairman, honorable members, I am Carl H. Savit, Senior Vice President of Western Geophysical Co. of America. I am here today not only on behalf of the National Ocean Industries Association but of the International Association of Geophysical Contractors.

The members of the IAGC do substantially all of the pre-drilling exploration for oil and gas on the outer continental shelf of the United States. As such, we have both an intimate knowledge of, and a vital interest in, the exploration of our nation's submerged lands.

Our principal concern with the implementation of Public Law 95-372 devolves upon section 18, Outer Continental Shelf Leasing Program. In this section the Secretary is required to establish and implement a five-year leasing plan.

The Secretary has great latitude in his planning of the leasing program. We note with considerable apprehension, however, that to this date the Secretary has been scheduling leasing programs at a level that will provide only a minimal complement of newly leased lands. If all of the proposed lease sales are, in fact, conducted on schedule, the exploration industry would not be required to increase its U.S. capacity over the next five years. As a matter of fact, it is possible that some reduction in exploration capacity may actually ensue because of the generally slow pace of leasing.

A constant or decreasing level of U.S. offshore exploration would represent a totally unnecessary cutback in the potential capacity of our industry to explore for domestic resources. We have the capability to expand our facilities by 20 to 30 percent per year. In addition, if opportunity and incentives could be increased to a

level competitive with overseas opportunities, many U.S. exploration crews now operating in foreign waters would return.

More disturbing even than the meager leasing schedules being planned, however, is the moral certainty that even those meager schedules will be drastically curtailed as a result of acquiescence to withdrawal requests, the need to wait for a host of mandated approvals, and an interminable succession of lawsuits and injunctions. Until quite recently it had been assumed by the more sanguine members of the Administration and the Congress that newly legislated measures to ensure adequate environmental consideration in the leasing program would halt the inevitable lawsuits ostensibly based on environmental concerns. Recent developments, however, strongly suggest that the lawsuits can be expected to continue unabated in both frequency and intensity of prosecution.

In the interest of an orderly and effective development of our OCS resources, it would be not only prudent but urgent to augment the leasing program with supplementary or alternate sales to provide an adequate reserve to compensate for the contingencies that must surely occur.

Continuation of the present pace of leasing would mean that we will not have adequately explored our continental shelves before the middle of the next century. Unfortunately, we need the oil and gas now to tide us over until the next generation of energy technology can be developed.

The second concern of the offshore geophysical exploration industry relates to section 26, Outer Continental Shelf Oil and Gas Information Program, and most particularly to Paragraph (b)(2) thereof.

We are concerned that the expectations of some of the possibly affected States have been raised by this provision to an unrealistic level. Some States have already interpreted this section to mean that the Secretary, in advance of a proposed leasing program, must furnish them with numerical estimates of the amount and location of the hydrocarbons that will be produced off their shores. As a result they are not convinced by assertions that the Secretary cannot furnish them such information because such information does not exist. They are demanding to see the proprietary data available to the Secretary on the assumption that the specific information they seek can be derived from the withheld data. In the absence of such access to all data, proprietary and otherwise, in the Secretary's possession, those States strongly imply that they will withhold their program approvals and will take other obstructionist measures.

Within the past two weeks, the Department of Interior has begun a series of workshops in which responsible State officials meet and confer with Department officials and appropriate representatives of industry to discuss the needs of the States in the light of the realities of present day exploration technology. The first of these meetings took place in Annapolis, Maryland on November 24. As a result of this meeting, most States in attendance came away with a working understanding of the kinds of data or information that actually exist. They were indeed satisfied that they would receive information that would be both timely and adequate for planning purposes.

It is to be hoped that those States whose representatives were unable to participate in the entire workshop may be reached in separate meetings at which they may moderate their views.

If demands for extensive access by the States to large amounts of proprietary data were to be satisfied, the geophysical industry would hesitate to conduct further surveys. It has been industry experience that at least some States are incapable of protecting proprietary data. If such data are disclosed or compromised, their value is lost and the investment of the geophysical contractor and his clients in those data is destroyed.

We, as geophysical contractors, express our appreciation of the efforts being made by the Geological Survey and the Bureau of Land Management of the Department of Interior to carry out the provisions of Section 26 in their endeavors. Only by such activities can we avert or mitigate the polarization of positions, the polemics, and the litigation that have prevailed in the past.

Thank you for affording us the opportunity to express our views on some of the important and complex issues arising from the implementation of Public Law 95-372.

Mr. SAVIT. Mr. Chairman, honorable members, I am Carl H. Savit, senior vice president of Western Geophysical Co. of America. I am here today not only on behalf of the National Ocean Industries Association but of the International Association of Geophysical Contractors. The International Association of Geophysical Con-

tractors represents virtually all of the exploration that is done on the Outer Continental Shelf before the drilling begins. So our interests are primarily in having as much opportunity as possible to do as adequate an exploration job as is technically feasible in advance of the leasing. Everyone will then have the opportunity to have the maximum amount of information in order to be able to perform an intelligent job of bidding, setting out lease areas for bid and drilling.

In some of the frontier area that we explore in the Outer Continental Shelf of the United States, 5 years is just barely enough lead time to perform all of the necessary predrilling exploration. In particular, in the more northern areas of the U.S. waters, one has a very short operating season during summertime, and it takes several different summers quite frequently to put together an adequate amount of data to be able to proceed.

In some areas there is only a small chance that one can get a ship into an area and out during the summer season. Someplaces where the Shelf ice and pack ice come in, it is very difficult, if not impossible, to do any exploration at all. So it is to the interest of the Nation and of the industry to provide as much notice as possible, and one of our principal concerns with the implementation of the Outer Continental Shelf Lands Act amendment is that the implementation of this amendment will not provide in normal circumstances an adequate opportunity to explore the Shelf.

In particular, the 5-year lease sale announcements generally cannot be relied upon as a complete and reliable catalog of those areas which will be made available for lease for a number of reasons. Some of the other witnesses here have been touching upon the subject of lawsuits and other impediments to the continuation of lease sale programs. We would strongly suggest that the Secretary of Interior be asked to increase the number of leases that he proposes for a 5-year period, particularly the number of leases he proposes into the more distant future, to provide an adequate reserve to cover those leases which will have to be withdrawn for environmental reasons, those leases which will be held up by litigation, and for a number of other contingencies which we can construct from past events and project as possible future events.

Even if every lease that the Secretary is proposing to have now were to be carried out as scheduled, it would take well into the middle of the next century before we would adequately explore our shelves. In the national interest, even if every lease could be conducted as planned, we would suggest a much larger number of potential leases be contemplated, that a gradually increasing number of leases be proposed at about a level the industry would be able to cope with in an orderly expansion program.

The kinds of programs that have been suggested are absolutely stagnant; they do not call for any expansion at all. And because of the various contingencies, actually a great number of ships and a great deal of technology has simply either disappeared or gone overseas. At the present time there are between 25 and 30 seismic exploration vessels operating on the Outer Continental Shelves of the United States, about half the number that were out there in the middle 1950's. We would expect if a reasonable increase in the leasing capability existed, that the industry would begin to bring

ships back from overseas or create new ships and would proceed to explore at a greatly expanded level. That, of course, is one of our primary concerns with the way the act has affected the exploration program.

Another and somewhat less intense concern deals with the section of the law which specifies that the United States Government, the Secretary of Interior shall furnish summary information or data to the States to enable them to plan their programs. The States by and large do not have the expertise and technical background to understand which data exist and how much information they can have. Some States do have excellent geological surveys but most do not, with the result that many of them in reading the bill have come to the conclusion that the Secretary of the Interior could in fact furnish them with hard planning information that could enable them to decide about how many people will be employed, about where the oil will come ashore, how much of it will exist. Some informal discussions started about 2 weeks ago by the Interior and Geological Survey, between Federal Government and industry, and there is some indication that a real understanding of the nature of the uncertainty that exists at an early stage in exploration data is going to be disseminated to the States.

Not all States were able to be present to enter into the dialogue. We hope that this type of information can be exchanged among the States, the industry and Federal Government, and I believe their program is about the best way of assuring at the present time that the intent of the Congress will be carried out in furnishing the best available information to the States that they might require for their plan.

There is a third area of interest to the geophysical contractor not covered in my prepared statement and has just occurred to my company in planning some ship movements for the forthcoming year. It turns out that under section 30 a rather incongruous situation will occur a year from now. If a ship is operating outside the United States in foreign waters doing seismic geophysical surveys, and that ship is a foreign-flag vessel, it will not be able to operate in U.S. waters and will not be able to come up to U.S. waters to do a short survey if that ship is more than 50 percent ultimately owned by U.S. people.

On the other hand, if the ship flies a foreign flag and is owned by foreign owners, that ship can come in and do a survey. So that the opportunities for U.S.-owned companies, or U.S.-owned ships of foreign flag which generally are ships in which the hulls may or may not have been constructed outside the United States—but in which all of the technical equipment is U.S. made and all of the technical employees on board are U.S. citizens, those ships would be forbidden to operate in U.S. waters while, on the other hand, a foreign-flag vessel owned by foreigners, crewed by foreigners, operated by foreigners with foreign instruments on board, would be free to operate in U.S. waters.

It has been suggested that U.S. companies should operate only U.S.-flag vessels with U.S. crews, in which case they would be noncompetitive in many foreign areas, so that U.S. companies by and large operate the vessels that are both U.S. flag and non-U.S. flag for the ability to compete in foreign areas.

The geophysical industry has been getting less and less U.S. dominated over the recent years with the emergence of foreign organizations that are able to do this work and are increasingly competitive in foreign markets. So we feel that there is an anomaly, a situation which reduces the effectiveness of American companies in section 30 as it applies to geophysical survey vessels.

I think that summarizes our feelings concerning the application of the act as it stands, and with your leave we will pass the testimony to Mr. David Gooch, the vice president and chief counsel of Houston Oil and Minerals Corp.

The CHAIRMAN. Mr. Gooch.

**STATEMENT OF J. DAVID GOOCH, VICE PRESIDENT, HOUSTON  
OIL & MINERALS CORP.**

Mr. GOOCH. Thank you, Mr. Chairman. I am here on behalf of Houston Oil & Minerals Corp. and representing the Small Producers Center, and National Ocean Industries Association. I am also here on behalf of Mr. John Walters, who was originally scheduled to testify but because of other commitments could not make it.

[The statement follows:]

STATEMENT OF JON DAVID GOOCH, VICE PRESIDENT AND GENERAL COUNSEL, HOUSTON OIL & MINERALS CORP., ON BEHALF OF THE NATIONAL OCEAN INDUSTRIES ASSOCIATION

My name is Jon David Gooch. I am a Vice President and General Counsel of Houston Oil & Minerals Corporation (HO&M), an independent producer. HO&M is engaged primarily in domestic exploration, development and production of oil and gas on undeveloped properties.

HO&M has been and continues to be one of the most active independent explorers for oil and gas as well as one of the most active operators in the Gulf Coast.

In August, 1976, HO&M participated in the Baltimore Canyon Lease Sale and had the distinction of being the only independent individually to nominate acreage in that sale. Bidding alone, the Company was high bidder and was awarded four blocks covering 22,772 acres. The bonus paid for these leases was \$8.2 million.

Recently released Oil and Gas Journal ratings show HO&M 4th among 51 independents in net profits for the first one-half of 1978 and first in exploratory spending for 1977 and 1978, figures reflecting the aggressive exploration program of the Company.

This aggressive posture was assumed and maintained by the Company despite the uncertainties which abounded in the legislative and regulatory arenas, such as whether or not intrastate gas would be brought under Federal controls and what increases in costs and time would result on the OCS.

The confusion enveloping the legislative atmosphere has now largely dissipated as the bills are now realities. It is on the subject of implementing the 1978 OCS Amendments that the Company is here to testify today. Areas of concern to HO&M and proposals for mitigating the adverse consequences emanating therefrom are set forth below.

1. Maintaining a proper balance between resource development and energy conservation in order to comply with the mandates of the legislation.

HO&M has been and continues to be concerned about protecting the environment in which we live and work as much as the members of this Committee and all citizens. We, too, want our families to enjoy a safe and pleasant environment. From our position as an oil and gas producer, however, we are acutely aware of the need to increase our domestic energy resources - especially at this time when the dollar is experiencing its first significant rise in a number of years and the OPEC nations are talking about maintaining the current crude oil price ceilings.

The clearly enunciated purposes of the 1978 Amendments set forth the Congressionally-intended policy of striking a balance between the need to develop OCS oil and gas resources rapidly and efficiently and the need to protect the environment. Our concern is that in the implementation of the legislation through the promulgation of regulations, the development objective may well be downplayed to the point of nearly being forgotten. Without belaboring the point, we would suggest to the Committee that it express its views to the various departmental officials which will appear here that the Committee wishes to see the developmental objective stressed with the same vigor as is being accorded the environmental objective - so that a real balance is in fact achieved. The Committee may wish to ask the Department to prepare for the Committee a "developmental impact statement" which would accompany each regulation promulgated under the 1978 OCS Amendments. As a justification for its necessity, such a developmental impact statement could identify and assess the

extent of delays and other impediments to the expeditious exploration, development and production of offshore oil and gas which is contained in the proposed regulations.

Such a plan would be consistent with Executive Order No. 12044 issued by the President on March 23, 1978, calling for needed reforms in the regulatory process by requiring, among other things, that the agencies prepare a regulatory analysis of each proposed regulation having significant or major economic consequences on the general economy and on individual industries. We feel very strongly that if this procedure is followed, the few weeks of additional time it would take in the long run would save months and maybe even years of delay, of forfeited development, and of lost opportunity to foster improved competition on the OCS.

2. Restricting implementation of the "necessary and proper" clause in order to eliminate superfluous requirements.

As the Committee is well aware, certain of the provisions set forth in the 1978 OCS Amendments have the potential of being implemented beyond their intended scope to achieve relatively unnecessary and superfluous ends. In Section 204 of the Amendments providing the Interior Secretary with authority to administer OCS leasing, the Secretary is given the discretionary authority to prescribe rules and regulations which he deems "necessary and proper" to prevent waste and conserve natural resources. Using this implied authority, the potential for conflict between resource development and conservation goes without saying. Although much of the language of the legislation is so specific that many of the implementing regulations are likely to quote verbatim the provisions of the legislation, it is provisions such as the one stated

above, endowing the Interior Secretary with seemingly unbounded discretionary or implied authorities, that present the basis for our primary concern that the pendulum not swing too far in the direction of either resource development or environmental protection. We would urge the Interior Department to consider carefully the mandated provisions with which the operators must presently or in the near future comply before adding to that regulatory burden by the issuance of even more regulations pursuant to the Secretary's discretionary or implied authorities. Any expanded use of such discretionary authorities can only be expected to lead to delays. The more the delays, the more the development objective becomes frustrated.

3. Utilizing to a minimum degree alternative bidding systems in order to foster competition on the OCS.

The authorities granted to the Interior Secretary in implementing and/or requiring the use of new and alternative bidding systems is another area of great concern to HO&M. Improper handling of this area could actually hinder competition, contrary to the stated purposes of the legislation calling for the fostering of competition on the OCS. As devised, it is anticipated that responsibility for bidding systems will be divided between the Secretary of Energy and the Secretary of Interior, which, in itself, has the potential for much conflict based on the very nature of the authorities and goals of those two particular departments, i.e. resource conservation vs. resource development. While Interior would still issue leases, it appears that Energy would be responsible for implementation of the bidding systems. Although the Department of Energy Act provides for the transfer of authority from the Interior to

the Energy Departments to issue regulations related to cultivation of competition through the implementation of alternative bidding systems, Section 205 (a)(1) of the 1978 Amendments could be interpreted as retaining that authority in the Interior Department. Disputes over the conflicting provisions continue. We would urge that the uncertainties over which agency will actually be responsible for implementation of the bidding systems be resolved as expeditiously as possible in order to add a greater amount of certainty to the system under which we must operate.

Although under the legislation the two bidding systems authorized by the original OCS Lands Act were retained, five new bidding systems were authorized, with a directive that the Interior Secretary utilize his discretion in devising even more systems, albeit Congress may prevent their use if disapproved within 30 days of submission.

HO&M feels that modification of the existing system to require the submission of bids according to more than one bidding system will be burdensome, especially on the independent operator. Independents are restricted in their financial resources and support staff and, therefore, are the least likely to be able to modify their operations to incorporate new and untested bidding systems. You can thus see that for the smaller companies to respond to various and/or new bidding procedures places a disproportionate burden on their cash and personnel. It seems clear, given their financial and manpower resources, that the majors will be more capable of modifying their current operations to implement the new bidding systems through the infusion of increased capital or new staff. At any rate, by placing a greater proportionate burden on the independents, the stated purpose of furthering competition would be thwarted. In short, we predict that it will take smaller companies longer to gear up

to respond to the new bidding systems, thereby minimizing the impact of reductions in cash outlay for initial lease acquisition which might otherwise be realized. We further suggest that the OCS may ultimately become the preserve of the majors, particularly if compliance with the regulations in response to the bidding systems becomes much more costly or ridden with delay. I know we are seriously considering confining our future exploration activities to either state waters or lands, and foreign concessions.

Implementation of alternative bidding systems, however, is not discretionary. The legislation mandates that one or more of the authorized bidding systems, except the cash bonus bid-fixed royalty system, be used in not less than 20% nor more than 60% of the total OCS acreage offered for lease each year.

We would, however, urge that implementation of alternative bidding systems on specific tracts be limited to the bare minimum required under the legislation until such time as the effects on competition can be analyzed, for example, by comparing the revenues received and reserves found in the past and those received and found, respectively, under the new bidding systems. Contrary to the apparent opinion of many members of the Committee, alternative bidding systems are not a panacea for independent producers.

Another way in which the effects on competition can be accomplished is by invoking Subsection 205 (a)(5)(A) of the Amendments, which specifically authorizes the Interior Secretary to require the use of alternative bidding systems in order to gather statistical data demonstrative of which bidding systems are most likely to result in an increase in resource

development and an increase in competition. Under that Subsection, the Interior Secretary may require each bidder to submit bids under more than one of the listed systems. This discretionary authority is more restrictive than the 20%-60% provision described above in that it may be applied to not more than 10% of the total lease tracts offered for sale each year. Although we would suggest that testing of the bidding systems be accomplished by invoking this more restrictive section rather than by utilizing that previously mentioned, again we would urge that this discretionary authority be exercised to the bare minimum required for such testing purposes.

Insofar as the individual bidding systems themselves are concerned, it is our opinion that royalty bidding will not stimulate exploration activity or increase competition in the degree desired or perhaps expected - in fact we would anticipate that it would encourage irresponsible bidding since no capital is involved. For the same reason royalty bidding can also encourage waste of natural resources. In many instances, the producer may find it economically impracticable to develop a reserve if the royalty to be paid on the production is too high.

4. Restricting use of discretionary authorities providing for review in order to minimize delay.

Again, we must reiterate that it is the "gray" areas of the legislation vesting in the Interior Secretary seemingly unlimited discretionary

and implied authorities which constitute our primary concern. Because the legislation is, for the most part, very specific, extended use of the discretionary or implied authorities could very well result in overlapping and perhaps totally unnecessary regulations. Requiring the operator to comply with such regulations will create needless expense and delay resulting in an impediment to competition.

The mandated procedure to be followed in the awarding of bids in itself involves a lengthy, time-consuming process allowing input by a number of entities, including state and local governments, the Federal Trade Commission and any "interested party". The timetable involved in submitting exploration and development and production plans and in securing their approval is equally time-consuming and likely to have a negative effect on competition on the OCS.

The delays created may very well be impossible or financially impracticable for the independent operator to absorb who has to operate within a framework of relatively finite funds. Where an operator is required to seek financing from debt and equity markets, as is customary practice within the industry, interest accrues on the amount financed regardless of the use or, as the case may be, non-use of the funds as delays continue. From a purely economic standpoint, the operator cannot afford to have those funds tied up on an unproductive basis indefinitely. In 1977, HO&M spent a record \$229 million on capital expenditures, with \$102 million earmarked for oil and gas activities. That figure was expected to increase to \$280 million in 1978 for oil and gas exploration and development, comprising approximately 80% of the total projected 1978 budget.

If utilized to its highest potential with an optimum of efficiency, the framework within which the operator operates also requires timely execution of activities. Failure to complete in a timely manner each step of the permitting or other processes will ultimately result in delays "downstream" - both in that particular project and in others which might commence but for the delays in other activities. This predicament has the potential of resulting in a vicious cycle - coping with the delays requires additional staff members which requires additional capital which requires additional production which requires additional exploration which, it appears, requires additional delays. The ironies abound.

In order to stabilize the required framework in which we must operate, if we are to operate efficiently and to the highest and best potential, we urge that the Interior Department and other entities proceed with fulfilling their review requirements as expeditiously as possible and in a time period shorter than that actually allotted in the Amendments, and that input by the general public be restricted.

5. Defining due diligence requirements in order to alleviate uncertainties.

Equally disturbing as the prospect of undue delay is the potential for uncertainty, another malady currently plaguing the OCS operator. The potential for uncertainty can best be demonstrated by the "due diligence" requirements set forth throughout the legislation. One such provision stipulates that prior to a lease sale, a potential lessee may be disqualified from being awarded a lease if the Interior Secretary determines that that potential lessee has not met diligence requirements

on other leases held. This provision, set forth in Section 205 of the Amendments, requires the Secretary of the Interior to issue notice and conduct a hearing prior to disqualification. While the concepts of (i) requiring timely development and (ii) denying those guilty of not meeting diligence requirements of the right to participate in future lease sales are perfectly justifiable and commendable, the term "diligence" is not defined and could possibly be misconstrued and thus misapplied in any given situation under investigation, to the detriment of the lessee. If such were the case, it appears that any such decision of the Secretary could be appealed only by invoking the expensive, time-consuming judicial process. This seeming inequity could be ameliorated by providing some recourse through administrative appeal in lieu of proceeding directly to the courts, if appropriate time frames for such an appeal process can be established.

The uncertainties in the prospective implementation of the due diligence requirements could be mitigated by promulgating regulations setting forth specific criteria for exactly what does or does not constitute "due diligence". Not only would the industry, as a member of the general public, be afforded an opportunity to comment on such regulations, when proposed, but in addition, the industry would be on notice of the due diligence criteria, thus removing a good deal of the uncertainty.

6. Modifying FTC review authorities in order to mitigate delays.

Another area which we consider to be worthy of note is the Federal Trade Commission's (FTC) involvement in the final issuance of bids mentioned briefly above. Under Section 205 of the Amendments, after a lease sale but before actual acceptance of bids, the FTC is allotted a 30-day period to review the bids for possible anti-trust implications.

Under this scheme, the Interior Secretary would be allotted an additional 30-day period to review the bids, thus extending the waiting period to 60 days, during which time the potential lessee will be subjected to the uncertainty of not knowing if his bid will or will not be accepted. Thus, for a two month period, the exploratory money earmarked for that particular sale must sit idly pending the outcome of the investigation and issuance of the bidding results. Money which could be used for other exploratory purposes should not be required to be maintained for such unproductive purposes, creating nothing but debt service. This dilemma becomes even more apparent upon a brief overview of the financial posture of most independents. The cost of exploration for companies such as HO&M requires not only a rapid return on investments due to the Company's heavy reliance on revenues from production and development of discoveries to finance future exploration, but also extensive borrowings from financial institutions. The interest accruing at the rate of 12% on money borrowed to finance, for example, a \$20 million bid would approximate \$40,000 during the two-month waiting period. Thus it is apparent that the competitive posture of the independent would be severely hampered by forcing him to assume a "wait-and-see" posture necessitated by this requirement, which will ultimately result in undue and costly delays. We, therefore, submit that the time period for FTC review be shortened or eliminated altogether in cases where such review had been previously conducted.

We cannot stress enough that while we appreciate all the Committee did during the legislative process to attempt to increase competition, the opposite result could be achieved. We do not have the capital

resources to provide the financial power that others can muster to ride out long delays. Thus, whenever development is delayed, competition suffers, the independents suffer, and the results may be fewer companies vying for the tracts offered rather than more clamoring to get involved "in the action". This is another very good reason for the Committee to ask the Interior Department or any other interested agency to prepare a developmental impact statement for each regulation it intends to draft. The Committee should then demand the opportunity to review such developmental impact statements at another hearing before the regulations are promulgated in their final form.

7. Restricting extraneous review of exploratory and development and production plans in order to provide for maximum efficiency.

As stated above, another area of particular interest to HO&M is the requirement for exploratory and development and production plans on leases. With respect to those plans, we would like to commend the Congress for its work in enacting a statute which, insofar as it relates to these plans, has proven to be far less burdensome than the regulations which the United States Geological Survey (USGS) issued last January, apparently in anticipation of what it thought the legislation would be. Congress deleted certain of the USGS's proposed requirements for the plans when it passed the legislation. These modifications in the legislation as enacted have been noted in recent USGS action calling for suspension of certain of the requirements set forth in the regulations issued last January. This positive step resulted in the elimination of the requirement for environmental reports in "mature" areas of the Gulf of Mexico, a step which we feel will increase exploratory activities and decrease delays in getting production onstream when found.

We would, however, like to express our concern with one particular aspect of the plans - that pursuant to the new Subsection 25(a)(3), the Secretary must submit plans and statements to the governor of any affected state and in addition to any "appropriate interstate regional entity" and to the public, upon request. The exploration and development and production plans will require submission of information such as anticipated exploratory activities, equipment to be used, timetables, and such other stipulations as the Secretary of Interior may deem appropriate. The information submitted in compliance with the mandated or to-be-stipulated provisions would in all likelihood be highly confidential and, if released into the wrong hands, could severely endanger the competitive viability of any company, contrary to the legislative intent of encouraging competition. It has been our experience that mere verbal requests for confidential handling do not sufficiently protect such information from leaks which invariably spring up. We would suggest that in devising the regulations governing confidential handling, the Interior Secretary require (i) that the discretionary stipulations be restricted to general information of a non-proprietary basis and/or (ii) that the operator be allowed to submit an additional exploratory plan in its entirety with confidential information deleted pursuant to Interior Department regulations, thereby avoiding somewhat the harm which would arise from improper or unauthorized release of that information.

8. Eliminating duplicative review requirements in order to provide for a minimum of paperwork.

A final area of concern is the participation of affected states in the leasing, permitting and development processes to be entered into by the lessee. In theory, allowing the governors of the affected states to

have input in the leasing, permitting and administration processes as provided throughout the legislation is commendable. The states should have that right and indeed have an obligation to protect their interests and provide for the welfare of their citizens. We would submit, however, that too much review and comment by too many local agencies and/or communities, like too many cooks in the kitchen, will increase the delays with which the operator must cope.

We would urge that the Secretary restrict state and local input to the minimum required to achieve the goals mandated in the legislation and not extend that input through the use of his discretionary authorities. We also urge the Committee to consider the possible downstream effects of placing undue authority in the hands of the states, such as those coastal states which, due to the lack of OCS drilling off of their shores, will not have been afforded the opportunity to develop expertise in that particular area, as have some of the Gulf Coast states. If the Secretary were to place in the hands of the states additional responsibility for review, carrying with it the inherent implications of review for adverse effects on the environment, the governors, in an attempt to comply with that regulatory mandate, could very well feel compelled to exercise extra and perhaps unnecessary zeal in protecting the environmental interests of the states - at the expense of the economic development of its own state.

HO&M is of the opinion that the environment is sufficiently protected by present safeguards resulting from improved technology, advanced equipment and techniques, special training and clean-up crews and equipment on 24-hour standby in the event of an emergency. Thus, while there has been much talk about the negative effects of OCS drilling on the environment,

those negative effects have, for the most part, been restricted to isolated instances. According to API statistics (published in the API Report entitled "OCS Lands Act Amendments of 1977 Prepared by the Ad Hoc Task Force, Department of Exploration Affairs, API, March, 1977) the spillage rate in the Gulf of Mexico for 1971-1975 was .0028%. That same study reflects that damage from oil spills is usually minor and temporary. Consequently, it is our opinion that the negative effects are far outweighed by the economic benefits which could result from OCS activities in the form of increased job opportunities, both immediate and downstream, at state, local and national levels.

We would therefore urge the Interior Department to restrict placing extraneous and perhaps burdensome review requirements on the states and local governments by invoking their discretionary authority and, in issuing the mandated review requirements, to perhaps offer the states some guidance in balancing the competing interests of environmental protection and economic development. The operators would then have a favorable climate in which to operate, the state would be afforded the benefits of increased economic development and the nation would be provided much needed domestic energy supplies.

Not all instances of state participation afford the Secretary the authority to exercise discretion in considering the opinions of the states. For instance, Section 504 amending Subparagraph 307(c)(3)(B) of the Coastal Zone Management Act requires the approval or disapproval of exploratory plans by the Interior Secretary within 30 days of submission. This review period in itself is reasonable and could add some certainty to the exploration and development processes required under the Act.

This positive aspect, however, is overshadowed by the provision of the Act which affords affected states with approved Coastal Zone Management Programs a full six-month period to certify consistency of the exploration plans with their own programs. Therefore, issuance of a drilling permit would be delayed pending consistency approval by the states. The independent producer on a tight time schedule with a limited budget and limited staff could neither absorb the delays inherent in this inordinate power vested in the states nor afford to expend the large amounts of money necessary to get him to this point, only to experience more delays. We urge the Committee to consider amending the Coastal Zone Management Act to provide a two-month period for state consistency review in accordance with the 1978 OCS Amendments.

HO&M further requests that the Interior Secretary consider the fact that the states presently have sufficient input through the numerous permit requirements which are designed to protect air and water quality, navigational safety, wildlife, recreational facilities and in some cases underwater cultural artifacts. New regulations implementing the Amendments could result in duplicative requirements, numerous Federal and state agency reviews and rereviews and approvals, and added expense and delays of activities. HO&M would, therefore, urge that the Interior Department endeavor to maintain the status quo and not issue supplemental federal regulations in areas which are sufficiently governed by the states.

Houston Oil & Minerals Corporation has expended much effort in developing its ability to respond quickly in bringing new areas into production, thereby making available to the nation much needed energy

supplies. The average time lapse between submission of a bid and commencement of production of discoveries in OCS areas has been surprisingly short considering the governmental requirements which must be satisfied prior to construction of production facilities. The additional delays which would result from implementation of the amendments by invoking the Secretary's discretionary and/or implied authorities, rather than limiting it to the mandated requirements, would increase that time considerably, the effect of which increase would be to delay even more the time for bringing production onstream. For the reasons cited throughout this testimony, HO&M and the nation can ill afford time-consuming delays fraught with uncertainty. But most importantly, an aggressive independent producer such as HO&M can ill afford to sit idly while the nation's need for domestic energy supplies increases every day.

In conclusion, we would like to commend the Congress for enacting a piece of legislation which while not perfect is workable. We would urge, however, that the Interior Secretary invoke his discretionary authorities in such a manner as to (i) shorten waiting periods, (ii) simplify leasing and bidding procedures and (iii) eliminate duplicative reporting requirements, thus removing unnecessary time delays and uncertainties. It is essential that a company such as ours be able to estimate reasonably its costs and earnings for any given year in order to bring in fresh capital for exploration. A degree of certainty, the ability to depend on a schedule of events, the freedom from capricious delay and the minimizing of paper shuffling reviews will result in a company like HO&M having a better chance to explore successfully any given area in a manner which is timely and most economically and environmentally sound.

We do not believe adequate projections can be made for any OCS activity in which we participate unless the points we have enumerated are kept in mind by the Regulators, for it is only through fulfillment of these goals that resources can be effectively developed and competition fostered, all in an environmentally sound manner. Finally, we would like to reiterate our suggestion that the Committee ask the Interior Department to prepare a "developmental impact statement" to accompany each proposed regulation and that the Committee hold hearings on such regulations and accompanying impact statements before the regulations are published in their final form by various responsible departments.

I thank the Committee for permitting me to testify here today on behalf of Houston Oil & Minerals Corporation.

Mr. GOOCH. To give you a little background on Houston Oil & Minerals Corp., H.O. & M. has been and continues to be one of the most active independent explorers for oil and gas as well as one of the most active operators in the Gulf Coast. It is on the subject of implementing the 1978 Outer Continental Shelf Amendments that the company is here to testify today—possible adverse effects stemming from implementation of certain provisions. Areas of concern to Houston Oil & Minerals and proposals for mitigating the adverse consequences emanating therefrom are set forth below.

The clearly enunciated purposes of the 1978 amendments set forth the congressionally intended policy of striking a balance between the need to develop Outer Continental Shelf oil and gas resources rapidly and efficiently and the need to protect the environment. Our concern is that in the implementation of the legislation through the promulgation of regulations, the development objective may well be downplayed to the point of nearly being forgotten.

Without belaboring the point, we would suggest to the committee that it express its views to the various departmental officials which will appear here that the committee wishes to see the developmental objectives stressed with the same vigor as is being accorded the environmental objectives—so that a real balance is in fact achieved.

The committee may wish to ask the department to prepare for the committee a "developmental impact statement"; which would accompany each regulation promulgated under the 1978 Outer Continental Shelf Amendments. As a justification for its necessity, such a developmental impact statement could identify and assess the extent of delays and other impediments to the expeditious exploration, development and production of offshore oil and gas which is contained in the proposed regulations.

Such a plan would be consistent with Executive Order No. 12044 issued by the President on March 23, 1978, calling for needed reforms in the regulatory process by requiring, among other things, that the agencies prepare a regulatory analysis of each proposed regulation having significant or major economic consequences on the general economy and on individual industries.

We feel very strongly that if this procedure is followed, the few weeks of additional time it would take in the long run would save months and maybe even years of delay, of forfeited development, and of lost opportunity to foster improved competition on the Outer Continental Shelf.

As the committee is well aware, certain of the provisions set forth in the 1978 Outer Continental Shelf Amendments have the potential of being implemented beyond their intended scope to achieve relatively unnecessary and superfluous ends. In section 204 of the amendments providing the Interior Secretary with authority to administer Outer Continental Shelf leasing, the Secretary is given the discretionary authority to prescribe rules and regulations which he deems necessary and proper to prevent waste and conserve natural resources.

Using this implied authority, the potential for conflict between resource development and conservation goes without saying. Although much of the language of the legislation is so specific that

many of the implementing regulations are likely to quote verbatim the provisions of the legislation, it is provisions such as the one stated above, endowing the Interior Secretary with seemingly unbounded discretionary or implied authorities, that present the basis for our primary concern that the pendulum not swing too far in the direction of either resource development or environmental protection. We would urge the Interior Department to consider carefully the mandated provisions with which the operators must presently or in the near future comply before adding to that regulatory burden by the issuance of even more regulations pursuant to the Secretary's discretionary or implied authorities. Any expanded use of such discretionary authorities can only be expected, as we see it, to lead to delays. The more the delays, the more the development objective becomes frustrated.

The authorities granted to the Interior Secretary in implementing and/or requiring the use of new and alternative bidding systems is another area of great concern to Houston Oil & Minerals Corp. As devised, it is anticipated that responsibility for bidding systems will be divided between the Secretary of Energy and the Secretary of the Interior, which, in itself, has the potential for much conflict based on the very nature of the authorities and goals of those two particular Departments, that is, resource conservation versus resource development. While Interior would still issue leases, it appears that Energy would be responsible for implementation of the bidding systems.

We would urge that the uncertainties over which agency will actually be responsible for implementation of the bidding systems be resolved as expeditiously as possible in order to add a greater amount of certainty to the system under which we must operate.

Although under the legislation the two bidding systems authorized by the original Outer Continental Shelf Lands Act were retained, five new bidding systems were authorized, with a directive that the Interior Secretary utilize his discretion in devising even more systems, albeit Congress may prevent their use if disapproved within 30 days of submission.

Houston Oil & Minerals Corp. feels that modification of the existing system to require the submission of bids according to more than one bidding system will be burdensome, especially on the independent operator. Independents are restricted in their financial resources and support staff and, therefore, are the least likely to be able to modify their operations to incorporate new and untested bidding systems.

In short, we predict that it will take smaller companies longer to gear up to respond to the new bidding systems, thereby minimizing the impact of reductions in cash outlay for initial lease acquisition which might otherwise be realized. We further suggest that the Outer Continental Shelf may ultimately become the preserve of the larger companies, particularly if compliance with the regulations in response to the bidding systems becomes much more costly or ridden with delay. I know we are seriously considering confining our future exploration activities to either State waters or lands, and foreign concessions.

Implementation of alternative bidding systems, however, is not discretionary. The legislation mandates that one or more of the

authorized bidding systems, except the cash bonus bid-fixed royalty system, be used in not less than 20 percent nor more than 60 percent of the total Outer Continental Shelf acreage offered for lease each year.

We would, however, urge that implementation of alternative bidding systems on specific tracts be limited to the bare minimum required under the legislation until such time as the effects on competition can be analyzed, for example, by comparing the revenues received and reserves found in the past and those received and found, respectively, under the new bidding systems. Contrary to the apparent opinion of many members of the committee, alternative bidding systems are not what we consider to be a panacea for independent producers.

Another way in which the effects on competition can be accomplished is by invoking subsection 2056(a)(5)(A) of the amendments, which specifically authorizes the Interior Secretary to require the use of alternative bidding systems in order to gather statistical data demonstrative of which bidding systems are most likely to result in an increase in resource development and an increase in competition.

Under that subsection, the Interior Secretary may require each bidder to submit bids under more than one of the listed systems. This discretionary authority is more restrictive than the 20 percent-60 percent provision described above in that it may be applied to not more than 10 percent of their total lease tracts offered for sale each year. Although we would suggest that testing of the bidding systems be accomplished by invoking this more restrictive section rather than by utilizing that previously mentioned, again we would urge that this discretionary authority be exercised to the bare minimum required for such testing purposes.

Insofar as the individual bidding systems themselves are concerned, it is our opinion that royalty bidding will not stimulate exploration activity or increase competition in the degree desired or perhaps expected—in fact we would anticipate that it would encourage irresponsible bidding since no capital is involved.

Again, we must reiterate that it is the “gray” areas of the legislation vesting in the Interior Secretary seemingly unlimited discretionary and implied authorities which constitute our primary concern. Because the legislation is, for the most part, very specific, extended use of the discretionary or implied authorities could very well result in overlapping and perhaps totally unnecessary regulations.

The mandated procedure to be followed in the awarding of bids in itself involves a lengthy, time-consuming process allowing input by a number of entities, including State and local governments, the Federal Trade Commission and any “interested party.”

The delays created may very well be impossible or financially impracticable for the independent operator to absorb who has to operate within a framework of relatively finite funds. Where an operator is required to seek financing from debt and equity markets, as is customary practice within the industry, and particularly customary with Houston Oil & Minerals Corp., interest accrues on the amount financed regardless of their use or, as the case may be, nonuse of the funds as delays continue. From a purely economic

standpoint, the operator cannot afford to have those funds tied up on an unproductive basis indefinitely.

In order to stabilize the required framework in which we must operate, if we are to operate efficiently and to the highest and best potential, we urge that the Interior Department and other entities proceed with fulfilling their review requirements as expeditiously as possible and in a time period shorter than that actually allotted in the amendments, and that input by the general public be restricted.

Equally disturbing as the prospect of undue delay is the potential for uncertainty, another malady currently plaguing the Outer Continental Shelf operator. The potential for uncertainty can best be demonstrated by the "due diligence" requirements set forth throughout the legislation. One such provision stipulates that prior to a lease sale, a potential lessee may be disqualified from being awarded a lease if the Interior Secretary determines that that potential lessee has not met diligence requirements on other leases held.

This provision, set forth in section 205 of the amendments, requires the Secretary of the Interior to issue notice and conduct a hearing prior to disqualification. While the concepts of (i) requiring timely development and (ii) denying those guilty of not meeting diligence requirements of the right to participate in future lease sales are perfectly justifiable and commendable, the term "diligence" is not defined and could possibly be misconstrued and thus misapplied in any given situation under investigation, to the detriment of the lessee.

The uncertainties in the prospective implementation of the due diligence requirements could be mitigated by promulgating regulations setting forth specific criteria for exactly what does or does not constitute "due diligence." Not only would the industry, as a member of the general public, be afforded an opportunity to comment on such regulations, when proposed, but in addition, the industry would be on notice of the due diligence criteria, thus removing a good deal of the uncertainty.

Another area which we consider to be worthy of note is the Federal Trade Commission involvement in the final issuance of bids mentioned briefly above. Under section 205 of the amendments, after a lease sale but before actual acceptance of bids, the FTC is allotted a 30-day period to review the bids for possible antitrust implications.

Under this scheme, the Interior Secretary would be allotted an additional 30-day period to review the bids, thus extending the waiting period to 60 days, during which time the potential lessee will be subjected to the uncertainty of not knowing if his bid will or will not be accepted. Thus, for a 2-month period, the exploratory money earmarked for that particular sale must sit idly pending the outcome of the investigation and issuance of the bidding results, unless the Secretary does provide for the deposit of bids into special interest-bearing accounts.

Money which could be used for other exploratory purposes should not be required to be maintained for such unproductive purposes, creating nothing but debt service. The cost of exploration for companies such as Houston Oil & Minerals Corp. requires not

only a rapid return on investments due to the company's heavy reliance on revenues from production and development of discoveries to finance future exploration, but also extensive borrowings from financial institutions.

The competitive posture of the independent would be severely hampered by forcing him to assume a "wait-and-see" posture necessitated by this requirement, which will ultimately result in undue and costly delays. We, therefore, submit that the time period for FTC review be shortened or eliminated altogether in cases where such review had been previously conducted.

Whenever development is delayed, competition suffers, the independents suffer, and the results may be fewer companies vying for the tracts offered rather than more clamoring to get involved "in the action." This is another very good reason for the committee to ask the Interior Department or any other interested agency to prepare a developmental impact statement for each regulation it intends to draft. The committee should then demand the opportunity to review such developmental impact statements at another hearing before the regulations are promulgated in their final form.

Another area of particular interest to H.O. & M. is the requirement for exploratory and development and production plans on leases. With respect to those plans, we would like to commend the Congress for its work in enacting a statute which, insofar as it relates to these plans, has proven to be far less burdensome than the regulations which the U.S. Geological Survey issued last January, apparently in anticipation of what it thought the legislation would be.

Congress deleted certain of the USGS's proposed requirements for the plans when it passed the legislation. These modifications in the legislation as enacted have been noted in recent USGS action calling for suspension of certain of the requirements set forth in the regulations issued last January. This positive step resulted in the elimination of the requirement for environmental reports in "mature" areas of the Gulf of Mexico, a step which we feel will increase exploratory activities and decrease delays in getting production onstream when found.

We would, however, like to express our concern with one particular aspect of the plans—that pursuant to the new subsection 25(a)(3), the Secretary must submit plans and statements to the Governor of any affected State and in addition to any "appropriate interstate regional entity" and to the public, upon request. The exploration and development and production plans will require submission of information such as anticipated exploratory activities, equipment to be used, timetables, and such other stipulations as the Secretary of the Interior may deem appropriate.

The information submitted in compliance with the mandated or to-be-stipulated provisions would in all likelihood be highly confidential and, if released into the wrong hands, could severely endanger the competitive viability of any company, contrary to the legislative intent of encouraging competition. It has been our experience that mere verbal requests for confidential handling do not sufficiently protect such information from leaks which invariably spring up. We would suggest that in devising the regulations governing confidential handling, the Interior Secretary require that

the discretionary stipulations be restricted to general information of a nonproprietary basis and/or that the operator be allowed to submit an additional exploratory plan in its entirety with confidential information deleted pursuant to Interior Department regulations, thereby avoiding somewhat the harm which would arise from improper or unauthorized release of that information.

A final area of concern is the participation of affected States in the leasing, permitting and development processes to be entered into by the lessee. The States should have that right and indeed have an obligation to protect their interests and provide for the welfare of their citizens. We would submit, however, that too much review and comment by too many local agencies and/or communities, like too many cooks in the kitchen, will increase the delays with which the operator must cope.

We would urge that the Secretary restrict state and local input to the minimum required to achieve the goals mandated in the legislation and not extend that input through the use of his discretionary authorities.

We would also urge the Interior Department to restrict placing extraneous and perhaps burdensome review requirements on the State and local governments by invoking their discretionary authority and, in issuing the mandated review requirements, to perhaps offer the States some guidance in balancing the competing interests of environmental protection and economic development.

Not all instances of State participation afford the Secretary of the authority to exercise discretion in considering the opinions of the States. For instance, section 504 amending subparagraph 307(c)(3)(B) of the Coastal Zone Management Act requires the approval or disapproval of exploratory plans by the Interior Secretary within 30 days of submission. This review period in itself is reasonable and could add some certainty to the exploration and development processes required under the act.

This positive aspect, however, is overshadowed by the provision of the act which affords affected States with approved coastal zone management programs a full 6-month period to certify consistency of the exploration plans with their own programs. Therefore, issuance of a drilling permit would be delayed pending consistency approval by the States. The independent producer on a tight time schedule with a limited budget and limited staff will have difficulty in absorbing the delays inherent in this inordinate power vested in the States nor afford to expend the large amounts of money necessary to get him to this point, only to experience more delays. We urge the committee to consider amending the Coastal Zone Management Act to provide a 2-month period for State consistency review in accordance with the 1978 Outer Continental Shelf Amendments.

Houston Oil & Minerals Corp. further requests that the Interior Secretary consider the fact that the States presently have sufficient input through the numerous permit requirements which are designed to protect air and water quality, navigational safety, wildlife, recreational facilities and in some cases underwater cultural artifacts and urges that the Interior Department endeavor to maintain the status quo and not issue supplemental Federal regulations in areas which are sufficiently governed by the States.

In conclusion, we would like to commend the Congress for enacting a piece of legislation which while not perfect is workable. We would urge, however, that the Interior Secretary invoke his discretionary authorities in such a manner as to shorten waiting periods, simplify leasing and bidding procedures and eliminate duplicative reporting requirements, thus minimizing time delays and uncertainties. It is essential that a company such as ours be able to estimate reasonably its costs and earnings for any given year in order to bring in fresh capital for exploration. A degree of certainty, the ability to depend on a schedule of events, the freedom from capricious delay and the minimizing of paper shuffling reviews will result in a company like Houston Oil & Minerals Corp. having a better chance to explore successfully any given area in a manner which is timely and most economically and environmentally sound.

I thank the committee for permitting me to testify here today on behalf of Houston Oil & Minerals Corp.

The CHAIRMAN. How about Mr. Rogers?

Mr. BROWN. It appears Mr. Rogers has not made it. We would like to submit his testimony for the record. You have a copy of it. At the end of our concluding remarks I will attempt to answer any questions you might have about his statement since we are more or less in the same business. Mr. Rogers' company is the world's largest manufacturer of drilling rigs and production equipment, so there is some substance in his statement.

[The information follows:]

STATEMENT OF THEODORE C. ROGERS, PRESIDENT, NATIONAL SUPPLY CO., DIVISION  
OF ARMCO, INC., ON BEHALF OF THE NATIONAL OCEAN INDUSTRIES ASSOCIATIONS

Mr. chairman, honorable committee members:

I am Ted Rogers, president of National Supply Company, division of Armco Inc. National Supply Company is the world's largest manufacturer of oilfield drilling and production equipment. We build the rigs that drill the holes that we all hope will find oil and gas -- both onshore and offshore. We also supply many of the expendable parts and products used in daily operations of drilling rigs.

Because we are suppliers to the industry rather than active participants in exploration and production of hydrocarbons, we are permitted an independence of observation that we are happy to share with you today.

The supply business that we are in is substantial. We and our competitors employ some 80,000 people nationwide and sell goods and services worth an estimated \$5 billion a year. In turn, we purchase major components, engines, electronic gear, forgings and specialty machined parts from suppliers throughout the nation. This secondary purchasing doubles or triples the number of jobs created by our industry -- and many of those jobs are in states represented by the members of this committee.

National does business with at least a couple hundred suppliers from each of whom we buy more than \$100,000 worth of goods annually to put on our rigs. This involves everything from anchor chain to kitchen equipment for the crew quarters on offshore rigs. Before leaving Houston a few days ago, I checked through this list of suppliers, a good many of whom are in the northern and eastern United States, and found that we spent some

\$15 million with just two Illinois manufacturers alone last year. I am sure that Representative Russo of this committee is aware of the fact that Illinois industry is a big supplier of equipment to the oil industry.

Like you, we are concerned about the high cost of oil imports, and our trade deficit. \$2.1 billion deficit in September, while large, was less than the \$3.5 billion that we paid out for imported oil. The bad news is that there is nothing that this committee can decide upon which will have an immediate effect upon the high cost of exporting billions of dollars to import petroleum products. We are pleased, however, that you have asked us to testify before you on ways to implement OCS legislation so as to hasten the development of whatever reserves may be offshore -- and perhaps to reduce the number of years that our costs for imported oil will be contributing to trade deficits or that we will be so heavily dependent upon foreign energy suppliers.

Like you, we are concerned about employment. We recognize that it takes dollars to make jobs -- so when \$45 billion dollars are exported from our economy, some would say that U.S. hiring power is reduced by an estimated two million jobs. I would prefer to call it half that many

jobs -- about a million -- because I find that amount easier to justify and defend in two different ways. First, if American industry had the \$45 billion, it would have the investment capital needed -- at the rate of \$45,000 each -- to create a million jobs. Another way to look at it is to accept an oil industry estimate that for every eight barrels of oil imported daily, we export one job. We're now exporting jobs at the rate of slightly over a million per year for oil alone.

Like you, we are concerned about inflation -- and we know the loss of \$45 billion a year from our economy contributes to the causes of inflation.

And like you, we want to help limit those losses by encouraging development of our domestic oil and gas resources -- and that brings us to the point of what I have to say at this committee hearing.

Consider, if you will, the following facts:

1. Offshore drilling rigs are expensive to build. They have price tags ranging from \$20 million to \$80 million or more, depending upon design and capability.
2. Although the supply industry has capacity available to accept offshore rig orders, it still takes time to build a rig once an order is placed -- anywhere from a year on up, depending upon the demand.

Because of the time factor and the size of the investment stakes, our customers understandably are reluctant to order an offshore rig until they are reasonably certain -- that's "dollar sure" -- that the rig can be put to work upon completion. Contractors have been known to go broke when they had new rigs and no place to use them.

Obviously, then, planning and accurate scheduling are essential to financial success -- or even survival -- in this business. Let me give you an example.

The hottest play today is in the Baltimore Canyon. The rigs out there are the semi-submersibles and drill ships that rent for upwards of \$30,000 and more a day. Guess 30 days wrong about when such equipment is needed at the job site and you're talking about a cool million dollar mistake.

Now that brings us to the point. You know and I know that it's typical for businessmen to grumble about government red tape. But digging deeper into that grumbling makes me think that red tape in and of itself is not the problem. If we know we have to file a form or a report by a certain date, we find a way to do it. If we know there are certain safeguards or requirements we must meet, we find a way to do that, too.

But one problem we cannot work around is unpredictability.

This is particularly expensive in the oil industry where the table stakes run high both to get into the game and to play out the hands normally dealt. The typical drill rig out in the Baltimore Canyon costs the owner

-- and this is conservative -- about \$50 million. Currently, there are rigs of this type which are sitting idle. They could contribute a lot more to the solution of our energy problem if they were at work along the Atlantic Outer Continental Shelf.

It would be my hope that this committee would do everything within its power to limit the number of "unpredictables" with which the industry must work. If the industry understands that there is a firm commitment as well as an energy program that demands action, then it will act.

My second suggestion to you may be more difficult for you to act upon, simple as it may sound and seem to many. It is this: that delays -- the roadblocks to development -- from whatever sources, be limited.

My concern with the OCS bill that has now become law was the greater hazard it poses for delaying development. It can be argued that 30 days should have little or no effect. Most of us would agree. But even now we are looking at one such delay of only 30 days and wondering if this will be multiplied through the additions of other delays into years.

The Bureau of Land Management, Department of Interior, has extended time for acceptance of offshore leasing bids by 30 days to allow for anti-trust review by the Attorney General. While such review is specified by OCS legislation, there was no legal reason it could not have been conducted concurrently during the period the bids were arriving at Interior. At least two weeks -- and perhaps the full 30 days -- could have been shaved off the delay.

Because actions speak louder than words, each delay or deviation from prescribed schedules and procedures will make the investor even more gun shy -- until eventually, he will sit back and do nothing until all steps have been finalized and investment safety is absolutely, positively assured. With \$50 million on the line, many of us would do likewise, I'm sure.

As a result, a few small delays of only 30 days each will trigger responses that combine for a total unnecessary development lag that can be measured in years. And that's just to get an exploration rig in place before any oil or gas are found.

Just for a moment, let's project the further consequences. Attached to our written testimony are copies of our recently published "Oil & Gas Pocket Reference." At the top of page 9, it shows that even after oil is discovered offshore, it takes another 5 years to reach commercial production.

Turning to page 10, we see that based on 1977 reserves and production in the U.S., we have less than a 10-year supply of oil in the ground.

As you can see, time and scheduling are critical if we are to find new resources faster than we use our reserves. From my point of view, I think the most constructive effort we can make is to adopt an energy program, limit the unpredictables, minimize the delays and stick to our game plan and schedule. Unless we do, there is no reliable basis for planning and execution of offshore development.

Gentlemen, only a few months ago I vigorously opposed any change in OCS legislation. More than that, I would still be at it, given the chance. Even so, I am here today, sharing in your invitation to those of us in the industry who opposed you. I admire your spirit and style in permitting me to appear before you to offer any intelligence I may have on how you might best arm and implement this law, wisely and equitably, so as to hasten our offshore development.

Thank you.

Mr. BROWN. Once again, Mr. Chairman, we extend our appreciation for this opportunity to meet with you today. In addition to this statement on behalf of the service industry, you have heard the collective voices of four major segments of the ocean industries who will be responsible for compliance with the rules and regulations that will soon be set forth. You have heard the views of the offshore drilling and supply segment urging that further delays in implementation of the act and unnecessary lawsuits be avoided, that regulations be drafted within the framework of the Act rather than seeking to enlarge upon it, and that new regulations be so designed as to minimize rather than compound the delay caused by the implementation.

You have heard the geophysical contractors ask for a speedup of the leasing process, swift implementation as well as augmentation of the proposed lease schedule, and confidentiality of the proprietary information. Also, the potential problems of section 30 with reference to the operation of foreign flag seismic vessels owned by U.S. companies in U.S. waters with American crews.

You have heard the offshore supply industry express its views on the timing and scheduling of offshore drilling and development, proposing that a constructive effort be made to adopt an energy program, limit the unpredictable, and minimize the delays and stick to the plan.

You have heard the story of the independent producers who have urged that the Interior Secretary use his authority to shorten waiting periods, simplify leasing and bidding procedures, and eliminate duplication of reporting requirements, thus removing unnecessary delays and uncertainties.

It should thus be obvious that the single most critical factor we are all concerned with is time. Costly delays do not benefit anyone and so we look forward to the swift and positive actions of this committee on OCS regulatory matters and hope the information that we have presented today will give insight to the difficulties involved on our side of the rules.

Finally, Mr. Chairman, we would like to submit for the record that the National Ocean Industries Association would prefer to see the continuance of the U.S. House of Representatives Ad Hoc Select Committee on the Outer Continental Shelf to oversee the promulgation and implementation of regulations resulting from

Public Law 95-372, the Outer Continental Shelf Land Act Amendments.

It would be unfortunate if the valuable knowledge and experience gained by the committee in the past few years cannot continue to be used.

Mr. Chairman, this concludes our testimony and we are happy to answer any questions that you may have.

The CHAIRMAN. Thank you, Mr. Broun.

On page 6 of your testimony you state:

We are seriously considering confining our future exploration activities to either State borders or land and foreign concessions.

Could you elaborate on that statement? That is in Mr. Gooch's statement.

Mr. GOOCH. My elaboration would be confined to the fact that we find increasingly, Mr. Chairman, the lead times, the permitting requirements, more and more frustrating, more costly in terms of what we have experienced in the past in the way of being able to bid on properties, explore the property, and develop the property.

At this stage we have experienced an inordinate amount of delay, we think, with agencies such as the Army Corps of Engineers. Every time a permit is requested, as you can imagine, even in the Gulf of Mexico, it goes on public notice and everybody and their dog really comes forward and wants to have a comment period on it. It just takes it seems like forever now to get anything done. It concerns us a great deal, particularly with the use of funds that we have to be concerned with.

The CHAIRMAN. Is that attitude shared by the other independents?

Mr. GOOCH. I don't know that it is shared by all of them, Mr. Chairman. I don't mean to imply that we are going to stay out of Federal lease sales in the future. All I am saying is that we are looking at it very carefully. I think many other smaller operators share our same concerns and certainly have the same frustrations as we experience. I would be less than candid if I did not tell you that.

The CHAIRMAN. You state in your opinion that royalties will not stimulate exploration activity or increase competition in the degree that it is desired.

Has your company had any experience with the so-called sliding scale royalty bidding method, and if so, what is your assessment of that system?

Mr. GOOCH. My answer to that, I don't pretend to be an expert on that and that is why I alluded to Mr. John Walters who is in charge of our exploration program, but in some of our foreign operations such as Tunisia, we have had a situation where we have had a sliding scale royalty.

I did ask Mr. Walters before I came what is your opinion of the best system to use. He said, cash bonus fixed royalty. That is what he prefers.

If you have to sit down and figure out a bunch of different methods to bid on, say, one track, and submit bids based on two or three different methods, he feels it complicates things. This is his

opinion. He prefers the certainty of the cash bonus fixed royalty system.

The CHAIRMAN. Mr. Savit, what input have you had concerning the Department of the Interior's implementation of section 26, the Outer Continental Shelf oil and gas information program?

Mr. SAVIT. The input has largely been confined to the notices in the Federal Register and the first meeting that was held with the States in which the Department has attempted to formulate policy as to what type of information should be furnished to the States under the summary program.

We have also in other times submitted comments concerning some of the proposed regulations that Interior intends to promulgate.

The CHAIRMAN. Do you personally participate as a representative industry in those workshops with State officials?

Mr. SAVIT. Yes; I did in the first one which is the only one held so far. That was November 24 at Annapolis. I was there through the entire meeting and participated in the various workshops and in some of the talks. I was on one of the panels in the concluding part of the workshop.

The CHAIRMAN. Mr. Kelly, have you or Zapata or the National Ocean Industries had any input into the Department of Interior's efforts to implement the various provisions of the Outer Continental Shelf Act? Have you commented on the 5-year leasing program, the development of that program?

Mr. KELLY. No, sir, we have not commented on the 5-year leasing program. We are preparing a comment to the Interior Department to the effect that we would like to see that approval period shortened so the FTC and the Justice Department approval could either run simultaneously with the 30-day review of the bids by the Interior Department or perhaps it could start 15 days later.

As we see it, even a 2-week improvement would help, just so that you don't have an entire 60-day period expended before the successful bidders are approved. Since we are not primarily in the exploration business, we decided that we didn't have the type of information in our company that would enable us to make a useful comment on the 5-year leasing program. The proposal concerning geophysical information again was not directly related to our business.

We did comment on the notice concerning the 30-day approval process to be provided by the Federal Trade Commission and the Justice Department issued in connection with OCS Lease Sale 65.

The CHAIRMAN. Mr. Gooch, that is a \$40,000 waiting period?

Mr. GOOCH. Yes, sir, that is correct.

The CHAIRMAN. Mr. Broun, on page 4 you state:

Labor regulations concerning the manning of offshore installations must be flexible enough to allow for the speediest, most efficient service possible for your personnel.

How is the offshore service industry affected by the requirements of section 30 of the act?

Mr. BROUN. Pardon me, sir?

The CHAIRMAN. How is your industry affected by section 30 of the Outer Continental Shelf Act?

Mr. BROWN. We do not have as many foreign-flag vessels in the type of service to support the drilling activities as we would in the geophysical business.

In fact, I would almost venture to say there are none. They are all U.S.-flag vessels.

Now these are crewboats, liquid mudboats, cargo vessels, and the like. So I don't think we would be—if I understand the question correctly—I don't think we would be affected. Our crews are American crews and they are U.S.-flag vessels.

The CHAIRMAN. Mr. Kelly?

Mr. KELLY. Mr. Chairman, I would like to expand on that comment from the point of view of a rig owner and a supply boat owner. As you are aware, we were greatly concerned in the initial formulation of section 30 with respect to offshore drilling rigs, derrick barges, pipe laying barges, et cetera, that the provisions would be so restrictive as to create problems for our overseas operations.

As you know, American contractors pretty much dominate the worldwide offshore industry. Although section 30 may help us as national operators at home, we felt if the restrictions were too severe, the retaliatory consequences would be so great as to hurt our markets abroad, especially now where offshore leasing in the United States is not proceeding as quickly as the industry anticipated.

We have an awful lot of equipment that just can't work in the United States because of the problems in Outer Continental Shelf development that we have had here. The U.S. market is too small for the amount of equipment that we have. So we have to be free to take this equipment overseas when lawsuits like the Georges Bank sale slow us down.

We feel that section 30 in its final form is certainly a reasonable provision that we can live with. We don't anticipate that as a matter of fact you are going to find any great influx of foreign aliens onto the U.S. Outer Continental Shelf.

I believe that last summer when the bill was in conference we did a quick survey of the U.S. Outer Continental Shelf and found that there were about 15,000 employees working on the U.S. Outer Continental Shelf on platforms, pipe laying barges, et cetera, and that of that entire amount there were only about 40 aliens who were employed on the Outer Continental Shelf. Many of those seem to be involved in training capacity for overseas service in U.S. companies ultimately.

So in summary, I would say that I think that the predominance of U.S. citizen employment on the Outer Continental Shelf will continue as will the predominance of U.S.-owned and documented equipment. You may occasionally find anomalies where a foreign-owned rig may be used and because it happens to be available and it is exactly the right kind of equipment and there isn't alternative equipment available, but I think the U.S. men and equipment will dominate the scene here.

The CHAIRMAN. But is there enough men and equipment to service the industry in the future?

Mr. KELLY. Yes, sir.

The CHAIRMAN. Mr. Belsky?

Mr. BELSKY. Mr. Gooch, as one of the companies that was involved for a substantial period of time in pushing the final decision that allowed activities in the Baltimore Canyon, and in light of the fact that members of the public are receiving conflicting reports as to what is there in the Baltimore Canyon, and without revealing any confidential information, could you give us an indication of what you think is there, whether there is oil or gas?

Mr. GOOCH. All I can tell you is quite obviously if we didn't think there were substantial amounts of hydrocarbons up there, we would not be there.

Mr. BELSKY. In light of the discoveries by Texaco, et cetera, has your optimism been increased?

Mr. GOOCH. Certainly, considerably.

Mr. BELSKY. But you, yourself, have not found any?

Mr. GOOCH. Precisely.

Mr. BELSKY. I would ask the panel to comment about this. It is a concern that was raised by some of the witnesses who are going to testify tomorrow.

One of the complaints made consistently by industry has been the delays involved in new regulatory procedures and new regulatory activities and the fact that this is caused by lawsuits being filed by citizens and States, et cetera.

Yet one of the complaints that will be raised tomorrow at our hearings are about the lawsuits presently being filed by industry, specifically on the consistency provisions involving State management plans.

Do you find these positions to be consistent, and if so, why not?

Mr. KELLY. Mr. Belsky, I believe what you are referring to are the lawsuits filed by the American Petroleum Institute and certain major oil companies in connection with coastal zone management approvals in certain of the States.

We are not directly involved in that litigation. However, we know that after several years of acting as plaintiffs in environmental cases, some of the coastal States were not pleased to suddenly become defendants.

It is our understanding that the position of the API and the companies who are parties to those actions is simply that the coastal zone management plans that are subject to this litigation; namely, California and Massachusetts, have serious problems in terms of permitting energy siting facilities on the coast of those States at all, and that, therefore, these plans contravene the statute which authorized them to be written. The plaintiffs believed that in the interest of U.S. energy needs they had no choice but to take the plans to court and litigate them.

By the same token the API elected not to file actions in other States where the plans were more reasonable. I think New Jersey is a good example where after examining the situation pretty carefully industry decided that the CZM plan was livable. Wisconsin is another example.

Mr. BELSKY. You don't think this is not a comprehensive attack on consistency but rather an attack State by State on whether a plan can ever become consistent?

Mr. KELLY. I think that is a fair assessment of those actions.

The CHAIRMAN. We had a hearing in San Francisco back in August on the movement of Alaskan crude to Japan, but due to the glut of oil supplies in California, we have heard some suggestions, particularly from California, that offshore lease sales off that coast should be delayed or canceled.

Will you comment on that?

Mr. KELLY. I would be glad to comment on that, Mr. Murphy.

Again, I might qualify my remarks by saying that most of us here are in the service business and we are really, with the exception of Mr. Gooch, not producers.

The problem that we have today with our crude oil supply and all our energy sources is really a national problem and not a regional problem. Once again I would like to remind the committee that we are nearly 50 percent dependent on foreign sources of energy. I think the answer is not to hold up leasing in California. The answer is to find a way to transport energy from that State to other sections of the country that need it.

Mr. SAVIT. May I comment?

The CHAIRMAN. Please.

Mr. SAVIT. As I have testified several times before before this committee and other committees, oil must be produced where it exists. It is very difficult to produce it only where it is needed.

I think the problem in the United States is to get as much oil as possible for the United States as a whole. It must be produced where it is going to be found.

California is one of the places that is a more prolific area to explore and a more promising area. Therefore, if we are producing oil for the United States, it will have to be produced sooner or later from California. Since we know it is there with a much greater degree of certainty than we know in some of the other areas, that would be the place to look now.

As has been said before, by Mr. Kelly, the real problem is to move it from one place to another. I think California is very much in the same position as that of the convicted murderer who pleads for mercy after killing his parents on the grounds that he is an orphan.

California has the same position. They are pleading for relief after completely blocking the only viable plans for transporting oil from the west coast to the east coast on the basis of a series of frivolous objections.

The CHAIRMAN. The question I asked an industry panel this morning was the effect that the loss of Iranian crude supplies would have on the United States. Obviously, it would not affect California, but it could have a marked effect on the Middle Atlantic States, New York particularly.

Mr. SAVIT. If the gas pipeline had been turned around to transport crude, there would be much less impact of an Iranian production decrease on the east coast today than there is now. Oil could be flowing through those pipelines rapidly and efficiently.

Mr. BELSKY. If I can ask a further question.

Mr. Savit, we had a panel this morning discussing the prelease onstructure drilling proposal of the Secretary of Interior. As a person involved with securing knowledge and interpreting knowledge of such drilling operations, do you think there are any special

problems, for example, in confidentiality of information or special problems involving resource allocation that arise from onstructure drilling prior to a lease sale than arise from offstructure drilling?

Mr. SAVIT. There are obviously more problems with retaining confidential information when more information exists. There is sort of a pressure buildup of information that tries to get out.

But I think the real problem with onstructure drilling in the Outer Continental Shelf prior to lease is that there are expectations that such drilling will produce a marked increase in the state of knowledge of the Nation as a whole as to the nature and quantity of the potential resource.

If the onstructure drilling program begins, and it turns out, as it has in almost every area of the world, that the increment of knowledge is rather slight and the increment of uncertainty is almost equal to the increment of knowledge, there will be demands for additional drilling.

I think I have testified many times on the situation, presenting examples, from the Alberta Basin of Canada or the North Sea. In Alberta, Canada, 151 holes were drilled over a 17-year period without any commercial production being found. But I think the 152d hole found production in the area and Alberta is now a prolific producing area.

Now, how much uncertainty was produced with the first onstructure hole I don't know, but it certainly would have opened up a Pandora's box if the public repeatedly demanded additional knowledge.

So either one allows the industry to take the risks and do the exploration or one commits himself to having the Federal Government do it. And one accepts the inherent risk aversion of all governmental agencies and simply decides to forego a large fraction of the possibly discoverable oil in the United States.

Mr. BELSKY. One of the things asked by the chairman this morning of one of the building contractors was would they do it, and the answer was, if we get paid for it we will do an onstructure well or an offstructure well.

Mr. Kelly, is that Zapata's position as well? If you are paid to do an onstructure well prior to a lease, sale, by a consortium, would you do it?

Mr. KELLY. I think we probably would; yes. We are in the business to provide technologically advanced drilling equipment. Philosophically, we disagree with the approach, but we are professionals and, if provision were made for onstructure drilling, we would be one of the contractors in the United States that would be considered by the Federal Government to perform the drilling activity. It would be impossible for the industry to boycott the Secretary of the Interior. There would not be anyone else available to do the work.

I was just going to elaborate. Relate the question you just asked Mr. Savit to the question you just asked Mr. Gooch. Take the case of the Baltimore Canyon today. Texaco had a gas discovery. It is still being evaluated. What did it mean? What kind of activity was generated when the discovery was made? It appears to have generated a desire on the part of operators to drill four, five, maybe six more wells, but the reaction was not that we certainly have some-

thing there. The reaction was, let's drill some more holes because there may be something there.

So we now have a kind of second wave of perhaps a half dozen additional wells being drilled in the Baltimore Canyon. Mr. Gooch really can't answer your question until there are more results. I think that is a good demonstration of the difficulty in onstructure drilling.

Mr. BELSKY. Mr. Gooch, assuming there was a proposed lease sale in an area you were interested in and one or two companies had indicated and secured a permit for an onstructure well and were trying to put together a consortium as they presently do for COST wells, would your company join such a consortium?

Mr. GOOCH. That is difficult to answer. I doubt that we would. I can't see that we would participate.

Mr. BELSKY. Were you involved in the COST well off the Baltimore Canyon the first time?

Mr. GOOCH. I don't believe so. I can't recall if we were.

The CHAIRMAN. Mr. Perian?

Mr. PERIAN. I want to thank the panel for being here. I am glad they brought out the problems because onsite—a representative group called Energy Action this morning was saying that all further lease sales on the Baltimore Canyon should be stopped until at least one well, including full testing from each structure, even from previous Baltimore Canyon sales, was accomplished.

I wonder if anybody could comment on, for instance, how long that might take even if you could get people to agree on which structures they were, where they were, how much it would take, what it means to the industry?

Mr. GOOCH. I will only mention one further comment in this area. I do not know whether it is particularly responsive to your question, probably more so to Mr. Belsky's question. We drilled one dry hole in the Baltimore Canyon already and we are in the process of drilling our second well. We have 22,000 acres in our joint venture with Phillips. I doubt that one dry hole or even two will keep us from going ahead to see what else is there, if there is anything.

Mr. SAVIT. May I comment? I would feel, myself, inclined to take such testimony as that to which you have referred with a certain grain of salt. My first experience in this thing was back in 1969 when the Santa Barbara oilspill occurred, and I was on the Presidential Commission. There were two people from environmental organizations on that panel, and they established their position at the opening up of the meeting by stating: "The whole thing is simple, all you have to do is prohibit all exploration for oil and gas off the coast and shut down all the existing wells, close them up and you solve the problem."

They were about ready to pick up their hats and leave. Those same people in different guises have appeared in various hearings, and their goal, whatever they say it is, is most consistent with the idea that they want to stop all exploration entirely. In many cases, the objections chain one upon the other, when one is overcome they bring up another one, and the ultimate goal is in fact to stop all offshore operation. I believe it is a matter of record in the case in New York that at least one of the witnesses said that it was the

goal of his organization to stop all oil leasing by whatever means they could accomplish within the law.

Mr. BEDELL. I would tend to agree this kind of testimony is posturing a bit, except I do have some misgivings considering who is downtown right now in charge of formulating some of these policies, so we have to be a little bit scared. Thank you very much.

The CHAIRMAN. Gentlemen, we really appreciate your being here this afternoon.

Mr. BROUN. I would like to make one more comment, Mr. Chairman. Most of your questions have dealt with the exploration end of the business, and I make my living in the service end of the business. Mr. Belsky asked the question if we would service Department of the Interior operation if they drilled an offstructure well. I think that was the nature of the question. Yes, certainly. We in the service business have to make a living. As a matter of fact, we would probably enjoy that because we would make twice as much money, because it would take twice as long to drill a well.

Mr. SAVIT. If I may add one more comment, we consider ourselves professional in the service business, and we do not see any difference in kind between the way we render our services and the way an attorney does, and I think Mr. Belsky can understand that very well. I am sure he would defend quite a number of people with whom he does not always agree.

Mr. BROUN. I have one little bit of information. In 1973 we prepared a study—this is Dresser Industries—entitled “The Onshore Impact Survey for Atlantic Coast Offshore Exploration and Development.” It is dated October 12, 1973. It was part of the emergency study on availability of manpower and materials or Project Independence. We said in these three areas, Georges Bank, Baltimore Canyon and Lake Plateau, where they leased for resale in the very near future. In the 5-year period we would have three centers to service those bases, a payroll of some 436 people, about an \$8 million annual payroll, and about a \$30 million investment onshore, had we gone ahead at that time.

As of today, I think we have about 15 people, at Davisville, R.I., and maybe 3 or 4 in Brunswick, Ga., and we are still waiting. This is for the record, if you would like it.

The CHAIRMAN. We have that in our files but I would like to receive a copy of it today.

Mr. BROUN. Certainly.

[The information follows:]

**DRESSER INDUSTRIES OPERATIONS ONSHORE IMPACT SURVEY FOR ATLANTIC COAST  
OFFSHORE EXPLORATION AND DEVELOPMENT**

DRESSER INDUSTRIES, INC.  
PETROLEUM AND MINERALS GROUP

RE: FORECAST OF FACILITIES, EQUIPMENT, INVENTORIES AND EMPLOYMENT FOR POSSIBLE OPERATION ALONG THE ATLANTIC COASTAL AREA

NOTE: THIS FORECAST IS BASED ON SIMILAR LOUISIANA OFFSHORE OPERATIONS AT THIS TIME AND IS NOT ADJUSTED FOR INFLATIONARY TRENDS. THE FORECAST ASSUMES ONE MAJOR DRESSER FACILITY SERVING EACH OF THE THREE LEASE AREAS (SOUTH ATLANTIC, MID-ATLANTIC AND NEW ENGLAND) PLUS ONE CENTRALLY LOCATED MINERALS DRESSING PLANT. IN ACTUAL OPERATION, IT WILL PROBABLY BE FOUND THAT EACH CENTRAL FACILITY WILL REQUIRE THREE SATELLITE DRILLING MUD DISTRIBUTION POINTS ALONG THE COAST. IF SO, AN ADDITIONAL \$483,000 INVESTMENT IN BUILDINGS, LAND, INVENTORIES, TRUCKS, FORK LIFTS, ETC., CAN BE EXPECTED PER SATELLITE POINT.

SESSER OPERATION	LAND	LAND IMPROVEMENTS	BUILDINGS	MOTOR VEHICLE		RIGS		MARINE		PRODUCT INVENTORIES	OTHER EQUIPMENT	TOTALS	EMPLOYEES	
				NO	VALUE	NO	VALUE	NO	VALUE				NO	PAYROLL
<u>SMIC EXPLORATION</u>														
DRESSER OLYMPIC	SEE IV	SEE IV	SEE IV	-	-	-	-	2	1,800,000	-	-	1,800,000	30	540,000
<u>FIELD PRODUCTS SERVICE</u>														
DRESSER ATLAS	SEE IV	SEE IV	SEE IV	16	80,000	-	-	-	-	-	1,445,000	1,525,000	25	440,000
QUIBERSON OIL TOOLS	SEE IV	SEE IV	SEE IV	4	20,000	-	-	-	-	70,000	8,000	98,000	5	60,000
MAGCOBAR DRILLING MUD	SEE IV	SEE IV	SEE IV	15	75,000	-	-	1	750,000	300,000	155,000	1,280,000	18	684,000
SECURITY BITS	SEE IV	SEE IV	SEE IV	4	20,000	-	-	-	-	150,000	-	170,000	4	50,000
MAGCOBAR DATA UNITS	SEE IV	SEE IV	SEE IV	5	25,000	-	-	-	-	-	130,000	155,000	17	300,000
SWACO	SEE IV	SEE IV	SEE IV	9	45,000	-	-	-	-	350,000	20,000	415,000	9	140,000
<u>OFFSHORE WORKOVER</u>														
DRESSER OFFSHORE	SEE IV	SEE IV	SEE IV	10	50,000	3	6,000,000	1	1,800,000	-	1,000,000	8,850,000	110	1,528,000
DRESSER FACILITY TO ACCOMMODATE ABOVE OPERATIONS	200,000	200,000	300,000	-	-	-	-	-	-	-	-	700,000	10	100,000
MINERALS PROCESSING PLANT	140,000	400,000	275,000	3	15,000	-	-	-	-	600,000	430,000	1,860,000	20	264,000
ATELLITE WAREHOUSE	80,000	200,000	108,000	1	5,000	-	-	-	-	75,000	15,000	483,000	4	36,000

TOTAL - 3 DRESSER CENTERS	600,000	600,000	900,000	169	845,000	3	6,000,000	6	5,850,000	2,610,000	5,274,000	23,679,000	374	7,090,000
TOTAL - 9 SATELLITE WAREHOUSES	720,000	1,800,000	972,000	9	45,000	-	-	-	-	675,000	135,000	4,347,000	36	324,000
TOTAL - 1 MINERALS PROCESSING PLANT	140,000	400,000	275,000	3	15,000	-	-	-	-	600,000	430,000	1,860,000	20	264,000
GRAND TOTAL	1,460,000	2,800,000	2,147,000	181	905,000	3	6,000,000	6	5,850,000	3,885,000	6,839,000	29,886,000		

TOTAL ALL INVESTMENTS = 29,886,000

TOTAL ANNUAL PAYROLL = 7,678,000

DRESSER INDUSTRIES, INC.  
PETROLEUM AND MINERALS GROUP

Re: Facilities, equipment and personnel estimates for a Dresser base to serve the oil drilling industry during proposed Atlantic Coast operations.

This summary includes all Divisions, Subsidiaries or Operations of Dresser Industries which serve to support the development of oil reserves in the three recognized potential petroleum reserve areas along the Atlantic coast. These areas are:

Georges Bank Basin - New England

Baltimore Canyon Basin - Mid Atlantic

Blake Plateau Basin - South Atlantic

To serve such a wide spread portion of the Atlantic Coast, it is forecast that three separate centers of Dresser Service Operations will be established geographically convenient to drilling activities and to other supply and service companies serving the oil industry.

	Investment	Payroll-Annual
<b>I. <u>SEISMIC EXPLORATION</u></b>		
<b>A. <u>Dresser Olympic</u></b>		
1. Seismic vessels-fully equipped at \$900,000 ea.	\$1,800,000	
2. Seismic and vessel crew-30 employees at \$45,000/Mo		\$ 540,000
<b>II. <u>OILFIELD PRODUCTS AND SERVICES</u></b>		
<b>A. <u>Dresser Atlas-Wireline Services</u></b>		
1. Motor vehicles	80,000	
2. Equipment-skid units, service tools, parts, etc.	1,445,000	
3. Employees-service, maintenance and administrative		440,000

	Investment	Payroll-Annual
<u>B. Guiberson Oil Tools</u>		
1. Motor vehicles-4 at \$5,000	\$ 20,000	
2. Equipment inventory	70,000	
3. Shop equipment	8,000	
4. Employees-sales, service and administrative-5 at \$60,000		\$ 60,000
<u>C. Magcobar Drilling Fluid Products</u>		
1. Motor vehicles-15 at \$5,000	75,000	
2. Marine equipment-1 supply vessel at \$750,000	750,000	
3. Bulk storage and handling equipment-6 3,000 cu. ft. bottles, scales, etc.	100,000	
4. Fork lift trucks-3 at \$15,000	45,000	
5. Laboratory and field testing equipment	10,000	
6. Product inventory	300,000	
7. Sales, service, maintenance, technical and administrative employees-18 at \$38,000/Mo		684,000
<u>D. Security Drilling Bits</u>		
1. Motor vehicles-4 at \$5,000	20,000	
2. Bit inventories	150,000	
3. Sales and service employees 4 at \$50,000/Yr		50,000
<u>E. Data Unit - Well Monitoring</u>		
1. Units-skid 2 at \$65,000	130,000	
2. Motor vehicles-5 at \$5,000	25,000	
3. Operating, maintenance and supervisory employees-17 at \$25,000/Mo		300,000

	Investment	Payroll-Annual
<b>F. <u>Swaco Mud Control Equipment</u></b>		
1. Motor vehicles-9 at \$5,000	\$ 45,000	
2. Swaco equipment inventory	350,000	
3. Parts inventory, tools, etc.	20,000	
4. Sales, service and supervisory employees-9 at \$140,000/Yr		\$ 140,000
<b>III. <u>OFFSHORE WORKOVER</u></b>		
<b>A. <u>Dresser Offshore Services, Inc.</u></b>		
1. Motor vehicles-10 at \$5,000	50,000	
2. Platform rigs-3 at \$2,000,000	6,000,000	
3. Construction vessels-1 at \$1,800,000	1,800,000	
4. Parts and supply inventory	1,000,000	
5. Rig employees-84 at \$84,000/Mo		1,008,000
6. Construction vessel employees 15 at \$20,000/Mo		300,000
7. Shore support employees 11 at \$20,000/Mo		220,000
<b>IV. <u>SITE, BUILDING AND IMPROVEMENTS</u></b>		
To House and Support All Dresser Product Lines and Operations at Each Center		
A. <u>Land-10 acres with minimum of 500' waterfront at \$20,000/acre</u>	200,000	
B. <u>Land and waterfront improvements Bulkheads, wharves, fill, etc.</u>	200,000	
C. <u>Buildings-90' x 300' or 27,000 sq. ft. at \$12/sq. ft.</u>	325,000	

	Investment	Payroll-Annual
V. <u>DRESSER MINERALS</u> East Coast Barite Processing Plant with Deep Water Channel and Minimum 750' Waterfront		
A. <u>Motor vehicles</u> -3 at \$5,000	\$ 15,000	
B. <u>Land</u> -7 acres at \$20,000/acre	140,000	
C. <u>Land and Waterfront Improvements</u> wharf, land fill, paving, etc.	400,000	
D. <u>Mills and Dryers and Associated Equipment</u>	400,000	
E. <u>Warehouse and Mill Building</u>	275,000	
F. <u>Fork Lifts</u> -2 at \$15,000 ea	30,000	
G. <u>Raw Material Inventories</u>	600,000	
H. <u>Employees</u> -20 at \$22,000/Mo		\$ 264,000
VI. <u>SATELLITE WAREHOUSE - DRILLING MUD</u>		
A. <u>Land</u> -4 acres at \$20,000 ea	80,000	
B. <u>Buildings</u> -60' x 150' at \$12/sq. ft.	108,000	
C. <u>Land Improvements</u> , bulkhead, etc.	200,000	
D. <u>Fork Lifts</u> -1 at \$15,000	15,000	
E. <u>Motor Vehicles</u> -1 at \$5,000	5,000	
F. <u>Product Inventory</u>	25,000	
G. <u>Employees</u> -4 at \$3,000/Mo		36,000

VII. SUMMATION: This forecast is based on similar Louisiana operations at this time, and it is not adjusted for inflationary trends. The figures for property values, building costs and land improvements are quite conservative and could be much higher.

This study was based on the theory that all three drilling areas would be developing at full capacity simultaneously. Therefore, summary forecast will include a center for each area, plus 3 satellite distribution points near each center.

The CHAIRMAN. The committee will stand adjourned until 10 o'clock tomorrow morning in this room.

[The prepared statement of E. C. Broun, Jr., follows:]

STATEMENT OF E. C. BROUN, JR., PRESIDENT, OILFIELD EQUIPMENT GROUP, DRESSER INDUSTRIES, INC., AND CHAIRMAN OF THE BOARD, NATIONAL OCEAN INDUSTRIES ASSOCIATION, ON BEHALF OF THE NATIONAL OCEAN INDUSTRIES ASSOCIATION

#### INTRODUCTION

Good morning, gentlemen. It is with great pleasure that we, the National Ocean Industries Association, come before you today to assist in providing firsthand industry information necessary in developing regulations designed to implement and administer the Outer Continental Shelf Lands Act Amendments. We welcome the opportunity to share our views with you.

For those of you who may not be familiar with NOIA, we are the only trade association that exists to represent all facets of the offshore and ocean-related industries on the national level. Founded in 1972, with only 35 member companies, NOIA now boasts nearly 400 members, and the list is still growing. Any company with an economic interest in developing or using the ocean's resources, or engaged in ocean-related activities, is eligible for membership.

Our association exists with the goal in mind of expanding the vital oceanic frontiers and utilizing this critical natural resource for the benefit of mankind. In the field of onshore, offshore and other marine construction, we represent world leadership, from design to management to construction of drilling, production and other marine platforms and vessels, to construction of piers, loading docks, submarine and land pipelines, and ship repair facilities. And, we are world leaders in diving technology.

NOIA member firms are engaged in a wide variety of marine-related engineering and consulting services, instrumentation, control system design, computer simulation and modeling, industrial production, pollution control, resource recovery, design and engineering of offshore production and support structures, ocean equipment design, and naval architecture, as well as engineering of geotechnic, electromagnetic, acoustic and seismic systems. Some of our NOIA members are significantly involved in the commercial fishing industry. Several of our NOIA members are financial institutions involved in marine-related activities and investments, including insurance underwriters. Geophysical contractors, manufacturers, drilling contractors, and petroleum exploration and production companies, as well as research and technological development companies and service, support and supply companies are also NOIA members. Shipbuilders and other members of the transportation segment of the marine industries make up another percentage of the NOIA membership. To dispell any illusion that NOIA is principally an arm of major oil companies I refer you to two facts. (1) The handout of our Small Business Committee make-up and our National Fish Meal and Oil Association Committee and (2) our annual budget is based on a dues structure that allows a maximum of two (2) percent dues contribution for any one company.

I am Ned Broun, Chairman of the National Ocean Industries Association, and President of the Oilfield Equipment Group of Dresser Industries. With me today are four other NOIA members who represent the major segments of our industry most directly affected by the OCSLA Amendments.

Mr. Paul Kelly, of the Zapata Corporation, will give the point of view of the offshore drilling and supply vessel business.

Mr. Carl Savit, of the Western Geophysical Company, will discuss the requirements of the geophysical exploration companies.

Mr. Ted Rogers, of the National Supply Division of Armco Steel, will act as spokesman for the supply and equipment companies.

Mr. David Gooch, of Houston Oil and Minerals Corporation, will act as spokesman for independent producers.

And I will report to you on regulation environment required for technical offshore oilfield service companies.

## THE REGULATION ENVIRONMENT REQUIRED FOR OFFSHORE SERVICE OPERATIONS

On behalf of the oilfield offshore service industry, I again thank you, gentlemen, for this chance to discuss the OCSLA Amendments as they relate to our business.

First, let me explain the nature of the service companies' role in the offshore oil and gas industry. We could be likened to the medical profession, in that we "doctor" wells, using everything from preventive medicine, to pep tonics, to emergency remedial procedures. Not only that, but we also maintain, test, research, analyze, compute, diagnose, prescribe, operate, keep records, and otherwise find cures for both everyday problems and big emergencies, to keep our customers wells healthy and productive. And like doctors, we're on call 24 hours a day, seven days a week, 365 days a year.

But the general practitioner in our industry is a thing of the past. Drilling and production services are so complex, so highly technical, and so costly to equip, maintain and operate, that no one company, such as an oil and gas producer, could provide its own services in-house. Specialization is necessary to provide the optimum value for the services rendered. Hence, the more technically specialized the service, the more efficient it should be, and thus, more valuable to the operator and for the service company.

To give you an idea of what we mean by specialized services beginning with the geophysical and associated supplies, let me briefly list some of the services necessary to most or all oil and gas drilling and production. Drilling rig services, drilling fluid services, open hole logging, cased hole logging, open hole

coring, sidewall coring, core analysis, drill stem testing, wireline formation testing, directional drilling, directional surveying, casing services, cementing services, perforating services, acidizing services, oil well fracturing services, blowout remedies, oil well fishing, catering and housing, workover of old wells, scale removal, fluid level sounding, chemical analysis, protective coating, drilling fluid loggers, production testing, gas lifting, downhole packing and plugging, paraffin cleaning, pipe inspection, downhole pressure testing, downhole temperature surveys, cathodic protection, and sophisticated satellite and other communications systems, as well as transportation services, such as boat and helicopter. And the list goes on.

It is plain to see that the proper drilling, completion and exploitation of an offshore oil or gas well is a complicated, time-consuming and costly procedure. Many competitive service companies are necessary to maintain the high efficiency of recovery and advance our technology as we are required to drill deeper, hotter and higher-pressured wells.

We believe that any regulation of our business must be so designed as to allow us to continue to do the most efficient job possible while remaining within the prescribed guidelines. While much of the OCSLA Amendments do not affect the service companies themselves directly, they do affect our customers, which indirectly affects the way we conduct our business. But any regulation that would cut down our flexibility, or impede our ability to respond on short notice, or constrain the easy movement and access of our supplies and personnel,

would be met by great opposition from the service industry.

As it now stands, the operations of the service companies fall under the regulation of a myriad of governmental agencies, including the Department of the Interior, Office of Equal Employment Opportunity, the Department of Energy, the Department of Labor, the Department of Transportation, the Department of Commerce, and their various arms, such as the Coast Guard, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Corps of Engineers, and the Federal Energy Regulatory Commission. Millions of dollars and manhours have been spent complying with these edicts handed down.

Section 206, which deals with the filing of an exploration plan, will affect many service companies, whose input will be required to formulate the exploration report. Precise predictions of equipment and services required will be difficult, because oil and gas wells can be extremely unpredictable. The cancellation of a lease or the institution of separate exploration and production leases would both have grave effects on the service industry, as would the disapproval of certain permits and licenses that would inhibit us from doing business properly, including the guidelines of the Coastal Zone Management Act.

We believe that our record of offshore drilling and production in the Gulf of Mexico over the last thirty years, without a major accident, speaks well for the fact that service companies are leaders in technology and can be depended upon, through their own expertise, to provide the "best available and safest technologies"

economically feasible where failure of equipment could result in injury to health or environment. Offshore working conditions are hazardous, even at best, and this fact has long been recognized by the industry, as evidenced by our working to meet special standards set up on our own initiative, to protect our personnel, our equipment and our investments.

Environmentally, we must again point out our established record in the Gulf of Mexico OCS development. There, we work hand in hand with the local industries to meet their requirements as well as state, regional and national considerations. We welcome periodic surprise inspections because we're proud of the strides we've made in environmental, safety and health protection technology. We support the Offshore Oil Spill Emergency Fund and the Fishermen's Contingency Fund, particularly because the greater percentage of damages are caused by other sources than the oil and gas industry. Labor regulations concerning the manning of offshore installations must be flexible enough to allow for the speediest, most efficient service possible from our personnel. Comprehensive and extensive training programs have always been a pre-requisite for the personnel of service companies, since their jobs are highly specialized and technical. And of course, we're all Equal Opportunity Employers.

In short, the service companies would like to see no new regulations that would in any way impede our progress on the job, in the laboratories, on the drawing boards, and in the factories. Our business involves long lead times, many calculated risks, and

[Whereupon, at 4:07 p.m., the ad hoc select committee adjourned, to reconvene at 10 a.m., Thursday, December 7, 1978.]

many, many dollars and manhours of investment. We must have the freedom to create and execute newer and newer ideas, and to concentrate our efforts in productive areas that will benefit each and every one of us. If regulations prove disruptive, I know of 55,000 Dresser employees who will be adversely affected, and can only imagine the effects on not only the hundreds of thousands of other service company employees, but all of our suppliers as well.

CLOSING

Once again, gentlemen, we extend our appreciation for this opportunity to meet with you today. We look forward to positive actions on these regulatory matters, and hope that the knowledge you have gained today will give insight to the difficulties involved on our side of the rules. Good afternoon.

**OVERSIGHT HEARINGS ON THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978**

THURSDAY, DECEMBER 7, 1978

HOUSE OF REPRESENTATIVES,  
AD HOC SELECT COMMITTEE  
ON THE OUTER CONTINENTAL SHELF,  
*Washington, D.C.*

The select committee met, pursuant to adjournment, at 10:25 a.m. in room 1334, Longworth House Office Building, Hon. John M. Murphy (chairman of the select committee) presiding.

Present: Representatives Murphy, Breaux, Studds, Hughes, Fish, and Forsythe.

The CHAIRMAN. The committee will come to order.

Our first witness this morning is Dr. Glenn Paulson, Assistant Commissioner for Science and Research of the New Jersey Department of Environmental Protection, representing Gov. Brendan Byrne.

Dr. Paulson.

**STATEMENT OF DR. GLENN PAULSON, ASSISTANT COMMISSIONER FOR SCIENCE AND RESEARCH, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Dr. PAULSON. Mr. Chairman, members of the committee, on behalf of Governor Byrne, I wish to say that the State of New Jersey appreciates this Committee's invitation to testify on the implementation of the Outer Continental Shelf Lands Act Amendments of 1978.

All of us here today have worked long and hard on this important legislation which substantially reforms the law governing the development of Outer Continental Shelf oil and natural gas resources.

Enactment of this legislation was a major step toward correcting the inadequacies of the past Federal Outer Continental Shelf program. Actual implementation of the statute will be yet another major step in the reform of national OCS policies and practices.

I have prepared and delivered to the Committee yesterday a rather lengthy statement which I assume you all have in hand. In the interest of time, particularly given the extensive witness list, I would like to ask that the full statement be entered into the record on behalf of the Governor.

The Chairman. Without objection, so ordered.

[The information follows:]

STATEMENT OF GLENN PAULSON, PH. D., ASSISTANT COMMISSIONER FOR SCIENCE  
AND RESEARCH, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

On behalf of Governor Byrne, I wish to say that the State of New Jersey appreciates this Committee's invitation to testify on the implementation of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978. All of us here today have worked long and hard on this important legislation which substantially reforms the law governing the development of OCS oil and natural gas resources. Enactment of this legislation was a major step toward correcting the inadequacies of the past federal OCS program; actual implementation of the statute will be yet another major step in the reform of national OCS policies and practices.

We believe that the new OCS law provides a solid and sound basis for a substantially improved OCS program. One of the important aspects of the law is the long-overdue congressional mandate for full participation by the coastal states in Federal OCS decisionmaking. This opportunity today for representatives of those States to discuss the initial implementation of the new OCS law is in keeping with that policy. Including the States in these early decisions will be important in the later stages of implementation; thus, we welcome this opportunity to discuss our thoughts on the status of the implementation process.

I. ROLE OF STATES IN OCS DECISIONMAKING

The OCS Lands Act Amendments (OCSLAA) state that it is national policy to assist affected States and local governments in protecting their coastal areas from any temporary or permanent adverse impacts of OCS activity, and to give States, and through States, affected local governments, a thorough opportunity to participate, to the fullest extent consistent with the national interest, in Federal policy and planning decisions concerning the OCS. Section 19 of the Act clearly states that Governors and local government executives of affected States should have a significant role in Federal OCS decisions, particularly as to potential lease sales and development and production plans. This section is intended to provide a well-defined mechanism for the involvement of Governors and local government officials.

This is a necessary step. But we should not forget that, during the last several months before the OCSLAA were signed into law, the Department of Interior (DOI), under the guidance of Secretary Andrus, established several new procedures to improve the coordination and consultation with affected states on OCS issues. Regulations regarding expanding the information which affected states will receive and allowing State and local government timely opportunities to react to it have been put in place. These regulations require the submission by lessees of exploration, development and production plans, with accompanying environmental reports, and specify both what is to be included in these documents as well as the requirement that affected states be afforded the opportunity to review and comment on these plans before they are approved. The State of New Jersey has been regularly receiving this information on proposed exploration plans for the Lease Sale 40 area in the Mid-Atlantic, and, overall, we have found the information to be both adequate and useful.

Another aspect of consultation with affected States by the Federal Government is the states' review of individual proposed lease sales and the longer-term 5-year leasing schedules developed by DOI. In accord with section 19 of the OCSLAA, we have recently received the proposed notice of sale for OCS Sale 49 for review and recommendations on the size, timing and location of the proposed sale. While both the OCS law and the procedures developed by Secretary Andrus before the law's enactment provide for a 60-day comment period for Governors on a proposed sale, New Jersey and other Mid-Atlantic states have been asked to submit recommendations on the Sale 49 notice by December 21—before the 60 day review period is over, so as not to delay this previously scheduled sale. We will meet this earlier deadline, in keeping with New Jersey's commitment to the timely exploration and development of OCS resources. As many of you know, New Jersey has consistently supported steps that would result in speedy exploration for these resources.

In accord with section 18 of the OCSLAA, DOI has already prepared regulations regarding the development of a five-year leasing schedule for mid-1980 through mid-1985. Our primary policy recommendation in this regard has been and will continue to be that such schedules reflect a careful and conscious coupling of the timing of all steps in the second and subsequent sales in any area so that all information on oil and gas discoveries, environmental risks, and other data resulting from earlier sales can be fully integrated into each subsequent sale. We also believe that it is important that post-sale activities (Such as exploration results, the industry's development plans, and results from monitoring studies) be carefully integrated into later sales. The final rule adopted by DOI setting forth the procedures to be followed

in the development of a 5-year leasing program requires: (1) receipt and consideration of nominations; (2) public notice and participation; (3) review by State and local governments; (4) periodic consultation with interested parties; and (5) consideration of coastal zone management programs. These procedures will ensure that the States, local governments, industry and other interested parties will be better able to plan their involvement in specific lease sales, and goes a long way to meet our basic policy views. We reserve final judgement on this point, however, until we see the revised schedule.

Another important provision of the OCS law is the oil and gas information program established by section 26. This section describes the procedures and requirements for obtaining and releasing information from OCS lessees and permittees. DOI must make available to affected States, and when requested, to any affected local government, a summary of such information designed to assist them in planning for the onshore impacts of potential oil and gas development and production. The information is to include estimates of the oil and gas reserves in areas leased or to be leased; the size and timing of development if and when oil or gas is found; the location of pipelines; and the general location and nature of onshore facilities. Once again, before the OCSLAA was signed into law, DOI moved to establish regulations to prescribe policies and procedures whereby the relevant oil and gas data and other information resulting from OCS exploration, development and production activities will be made available to affected States and local governments. Just 2 weeks ago, DOI held the first of seven meetings with various OCS regions to discuss the scope, timing and format of these summary reports. In this way, State representatives and local government executives were brought into the process of developing the content of these reports at the earliest possible stage. We found this initial discussion promising and believe that our continued role in decisions on the procedures for summary reports will result in a program that will provide all of us in New Jersey with timely and adequate information to make informed decisions on planning for the nearshore and onshore impacts of OCS activities.

An absolutely essential part of this information program, from New Jersey's perspective, will be the results of DOI's proposed Intergovernmental Transportation Planning Program. While this pipeline/transportation program is not specifically required by the OCS law, New Jersey, as a state which will most likely have pipelines coming ashore, is vitally interested in seeing that this program be gotten underway. Transportation planning is an integral aspect of our State's overall planning for onshore impacts. The long-delayed Federal effort seems to be underway at last, but it is too early to offer a considered opinion on it.

## II. CHANGES IN THE COASTAL ZONE MANAGEMENT ACT

Title V of the new OCS law amends the Coastal Zone Management Act (CZMA) Amendments of 1976 to change the Coastal Energy Impact Program (CEIP) formula grant provisions and to provide OCS administrative grants to affected States; it also modifies the OCS Federal consistency provisions of the CZMA. Throughout the long deliberations on the OCS legislation, New Jersey consistently supported change in the CEIP formula for distributing OCS formula grants. We believe that the new formula will provide for a more equitable and realistic distribution of CEIP grants to offset the OCS-related impacts experienced by the coastal States.

Of particular interest to us regarding the implementation of the OCS law is the new administrative grants program to be developed by the Department of Commerce's Office of Coastal Zone Management (OCZM). These grants will be critical in enabling States to fully and properly carry out their increased responsibilities under the OCS law. The grants will help States to have much more effective participation in all the administrative, policy, operational and managerial aspects of the Federal OCS leasing program. This participation is an essential part of the fundamental purpose of the OCS law, namely, to establish a balance between two important goals—expedited development of the Nation's offshore energy resources and protection of the human, coastal and marine environments. OCZM has already taken an initial step towards the development of the program by asking all coastal governors to designate an individual to work with OCZM staff in defining the procedures under which this effort will be administered. This is a sound first step. We look forward to working with OCZM on the development of this program, and we strongly urge that a supplemental appropriation for the full \$5 million authorization be made available. With exploration already well underway in the Mid-Atlantic, these administrative grants will insure timely, effective and continued participation by the affected coastal States in the Federal leasing program and will enable us to adequately prepare for any impacts on our coastal zone.

Title V also modifies the Federal consistency provisions of the CZMA by requiring States to either make a consistency determination on an exploration, development or production plan within 3 months or, if they wish the full 6-month review period, to submit a written statement on the status of their review within the first 3-month period. While we have no objection to this modification, we believe that it may be inconsistent with section 25 of the OCSLAA, which requires the Interior Secretary to approve, disapprove or modify a development or production plan after the 60-day State and local comment period. Thus the Secretary may be required to act on a plan before the consistency review period is over, even though the Secretary is required by section 25 to disapprove a plan unless a State concurs with the Federal consistency certification. This is an area where careful review might suggest an appropriate technical amendment to the law.

### III. ENVIRONMENTAL AND SAFETY REQUIREMENTS

In addition to providing an integral role for coastal States and local governments in Federal OCS decisions, the new OCS law provides a greater degree of environmental protection and better safety requirements. Responsible development of our Nation's OCS resources must balance expedited development of those energy resources with the proper safeguards both for our marine and coastal resources and, just as important, the health and safety of those carrying out drilling and production operations. I would like to briefly discuss both of these points.

Section 20 requires that the Interior Secretary is to consider all relevant environmental information in making appropriate decisions and developing regulations and conditions concerning OCS activities; it also provides a mechanism by which information concerning the environment in an area leased or to be leased and then developed is to be analyzed and then used as a basis to monitor impacts. In January 1978, preceding the enactment of the new OCS law, DOI issued a final rule regarding the timing and the type of environmental studies to be undertaken as needed for the assessment and management of environmental impacts on the marine and coastal environments resulting from oil and gas leasing. It is our understanding that DOI believes that these earlier regulations meet the intent of section 20 of the new law, and that subsequent regulations promulgated under the new law will not change the ongoing environmental studies program in a major way. We welcomed the development of the revised and improved environmental studies program as long overdue; our only reservation was that it was not begun early enough to provide much more useful data for Lease Sale 49. However, New Jersey has actively participated in the development of an Environmental Studies Plan for the Mid-Atlantic region. New Jersey is also represented on the Interagency Biological Task Force established by DOI, which gives us access to information regarding the potential environmental impacts of OCS activities. The revised environmental studies program, planned and carried out in cooperation with affected States and other interested parties, should help protect both the quality and productivity of the marine environment.

The OCSLAA states that it is national policy that operations on the outer continental shelf be carried out in a safe manner by well-trained personnel using technology, precautions and techniques that will prevent or minimize occurrences which may cause damage to the environment or property, or endanger life or health. Section 21 directs DOI and the Coast Guard to conduct a joint study of the adequacy of existing safety and health regulations and of the technology, equipment and techniques available for exploration, development and production of OCS resources. We strongly support this requirement and urge that it be carried out as quickly as possible, so that any inadequate regulations can be revised accordingly. An important part of section 21 is the requirement for the use of "best available and safest technologies" (BAST) which DOI determines to be economically feasible for all new drilling and production operations, and wherever practicable, for existing operations. The Coast Guard is also directed to promulgate regulations or standards applying to "unregulated hazardous working conditions" on the OCS. While the development or revision of appropriate safety regulations for OCS activities will not directly affect coastal States, the implications of inadequate operation of OCS facilities are obvious. The review of existing regulations and the development of procedures to meet the BAST requirement will be an enormous undertaking. There is no timetable for the completion of this review in the law, and we believe that the relevant Federal departments should be required to carry out these responsibilities within a specified amount of time. We would hope, in particular, that at least some if not all BAST determinations are in place before the next lease sale in the Mid-Atlantic, which is scheduled for February 1979.

Title III of the Act creates a fund to clean up damages and compensate victims of oil spills directly and solely related to OCS activities, i.e., spills from any OCS offshore facility and from any oil tanker or barge that carries oil directly from an OCS facility. This has been an issue of particular concern to New Jersey. Tourism is the most important industry in our coastal communities and the second largest in our State; the threat of oil spills from OCS activities has been a matter of grave public concern regarding the OCS program. We strongly supported the inclusion of this section in the OCS legislation; however, we continue to believe that broader, more comprehensive Federal legislation covering liability for the spills of all petroleum products, as well as hazardous chemical substances, is also needed. In 1976, New Jersey established its own comprehensive spill fund to protect New Jersey residents not only against OCS-related spills, but other kinds as well; our State fund will not be preempted by title III. We hope to be involved in the development of the OCS Oil Spill Fund, for we believe that our experience with the State fund will enable us to help clarify the respective roles of State and Federal law in this area.

Another environmental requirement of the law is the establishment of a Fishermen's Contingency Fund. Title IV provides a mechanism for compensation to fishermen for damages to fishing vessels, gear and other consequential damages stemming from activities related to the development of OCS oil and gas resources. The commercial fishing industry is an important economic activity in both the Mid- and North Atlantic areas. In fact, substantial local opposition to leasing in some frontier areas, such as the Georges Bank, has been due to this concern. Once again, we hope that this fund, and the appropriate regulations for the settlement of claims, are established as soon as possible in order to protect the commercial fishing interests on the OCS off New Jersey.

#### IV. BIDDING SYSTEMS AND COMPETITION

New Jersey has consistently supported maximum flexibility in the options available to the Secretary of the Interior for OCS leasing to meet the twin goals of increasing competition and ensuring a full and fair return to the U.S. Treasury for the exploitation of the public's resources. By increasing competition in the leasing process, we can make sure that the public treasury gets the proper benefits from the development of these public resources. Section 205 of the OCS law provides for a substantial revision of bidding and lease administration. The Secretary of Energy is given responsibility for promulgating regulations implementing alternative bidding systems. This section of the law is one of the most important aspects of the new procedures for the OCS leasing program. While the Department of Energy (DOE) has the leading role here, DOI's role, particularly with respect to resource evaluation, will also be important in the overall restructuring of bidding systems. At the last meeting of the Interior Secretary's OCS Advisory Board, a special committee was established to review the Federal Government's work on the revision of bidding systems under the new OCS law. This committee has already met with both DOI and DOE, and looks forward to reviewing the bidding regulations currently being developed by DOE.

#### VI. CONCLUSION

Our overall recommendation on the promulgation of regulations under the new OCS law, and the States' input into their implementation, is that the States receive a regular report on the status of the development and implementation of such regulations. Perhaps the best mechanism for this would be through the existing National OCS Advisory Board. The OCS law requires numerous new and revised regulations on many aspects of this Federal program. We strongly agree with this committee's opinion that oversight and monitoring of the rules and regulations to implement the 1978 amendments of the OCSLA can best be accomplished with the assistance of the affected States. The Nation as a whole, and, in particular, the coastal States, have a vested interest in participating in the development of improved and responsible management and exploitation of these important national resources.

In conclusion, the State of New Jersey would like to take this opportunity to recognize the outstanding role this Committee has played in the long effort to reform the law governing activities on the Outer Continental Shelf. Your sustained efforts to complete this major and long-overdue reform have resulted in a new law which provides a solid basis for a substantially improved OCS program. We congratulate the Chairman of the committee—Congressman John Murphy—for the role he has played in guiding the legislation through its many phases and revisions. We also especially appreciate the role of New Jersey's representatives on this Committee—Congressman William Hughes and Congressman Edwin Forsythe—in helping

produce a law which incorporates many of the reforms called for by New Jersey and other coastal states. Finally, we appreciate the Committee's continued interest in the implementation of the new law. Active Congressional oversight in the months and years to come is critical in ensuring that the promise of the new law is fulfilled.

Dr. PAULSON. However, I would like to highlight a few key points from it, if I may.

The CHAIRMAN. Proceed.

Dr. PAULSON. We believe that the new Outer Continental Shelf law provides a solid and sound basis for a substantially improved OCS program. One of the important aspects of the law is the long overdue congressional mandate for full participation by the coastal States in Federal OCS decisionmaking.

This opportunity today for Representatives of those States to discuss the initial implementation of the new OCS law is in keeping with that policy.

Including the States in these early decisions will be important in the later stages of implementation. Thus, we welcome this opportunity to discuss our thoughts on the status of the implementation process.

The new law states it is national policy to assist affected States and local governments in protecting their coastal areas from any temporary or permanent adverse impacts of OCS activity, and to give States, and through States, affected local governments a thorough opportunity to participate in Federal policy and planning decisions regarding the OCS.

Section 19 of the act clearly states that Governors and local government executives should have a significant role in Federal decisions, particularly as to potential lease sales and development and production plans.

The section provides a well-defined mechanism for the involvement of States and local government officials. This is a necessary and long overdue step.

But we should not forget that during the last several months before the bill was signed into law, the Interior Department, under the leadership of Secretary Andrus, had already established several new procedures to improve the coordination and consultation with States and local government on the issues of concern to them.

Regulations regarding expanding the information which States will receive and allowing State and local government timely opportunities to react to it have already been put in place.

From our perspective, the key part of these rules is to require the submission by lessees of exploration, development, and production plans—with accompanying environmental reports—and to specify what is to be included in these documents, as well as to impose rigid timetables on State and local government for the review and comment on those reports.

New Jersey and other States have already been regularly receiving this information on proposed exploration plans for lease sale in the mid-Atlantic area; and overall we have found the information to be both adequate and useful.

I would like to note in this context that New Jersey has an approved coastal zone management plan which has facilitated our receiving these reports in a timely manner. Due to an unfortunate

recent decision by the U.S. Geological Survey, States without such approved plans have recently been disadvantaged in this process.

Commissioner Berle from the State of New York is one such individual, and I support what he will tell you later in this regard.

Another aspect of consultation with affected States is the State's review of individual proposed lease sales and the longer term 5-year leasing schedule developed by Interior.

In accord with section 19, we have recently received the proposed notice of sale for OCS sale 49 in the mid-Atlantic for review and comments on the size, timing, and location of that sale.

While both the law and the previous procedures provide for a 60-day comment period for Governors on such proposed sale, New Jersey and the other Mid-Atlantic States have been asked to submit our recommendations on the sale 49 notice in a shorter time so as not to delay this previously scheduled sale.

New Jersey will meet this earlier deadline, in keeping with our commitment to the timely exploration and development of OCS resources. As many of you know, New Jersey has consistently supported steps that would result in speedy exploration for these domestic energy resources.

Another important provision of the Outer Continental Shelf law is the oil and gas information program described and established in section 26. Interior must make available to affected States and, when requested, to any affected local government a summary of such information designed to assist them in planning for the onshore impacts of potential oil and gas development and production.

Once again, before the bill was signed into law, Interior moved to establish rules to prescribe policies and procedures whereby the relevant data and other information will be made available to affected States and local governments.

Just a couple of weeks ago, Interior held the first of seven meetings with various OCS regions to discuss the scope, timing, and format of these summary reports. We believe that this is a sound way to proceed, and we found the initial discussion promising.

An absolutely essential part of this information program, from New Jersey's perspective, will be the result of the Interior Department's proposed intergovernmental transportation planning program, usually known as the pipeline planning program.

While this pipeline transportation program is not specifically required by the law, New Jersey, as a State which will most likely have pipelines coming ashore, is vitally interested in seeing that this program be gotten underway.

Transportation planning is an integral aspect of our State's overall planning for onshore impacts of OCS development. This long delayed Federal effort seems to be underway at last, but it is too early to offer a considered opinion on it.

Title V of the new law amends the Coastal Zone Management Act to change the coastal energy impact program's formula grant provisions and to provide, in a new and welcome step for Outer Continental Shelf administrative grants to affected steps.

It also modifies the Federal consistency provisions in the Coastal Zone Management Act. Throughout the long deliberations on the

bill, New Jersey consistently supported changes in the CEIP formula for distributing Outer Continental Shelf formula grants.

We believe that the new formula will provide for a more equitable and realistic distribution of CEIP grants to offset the OCS-related impacts experienced by the coastal States.

Of particular interest to us regarding the implementation of the law is the new administrative grants program to be developed by the Department of Commerce's Office of Coastal Zone Management.

This idea originated in New York State with Commissioner Berle and his department, and I will leave additional comments on it to him, except to say that New Jersey strongly urges that a supplemental appropriation for the full \$5 million authorization be made available in the current fiscal year.

With exploration already well underway in the mid-Atlantic, these administrative grants will insure timely, effective, and continued participation by the affected coastal States in the Federal leasing program and will enable us to adequately prepare for any impacts on our coastal zone.

I will skip the sections on the Federal consistency provisions and the environmental and safety requirements in my prepared statement since I think they speak for themselves.

Title III of the act creates a fund to clean up damages and compensate victims of oilspills that are directly and solely related to OCS activities, for example, spills from any Outer Continental Shelf offshore facility or from any oil tanker or barge that carries oil directly from an OCS facility.

This has been an issue of particular concern to New Jersey. Tourism is the most important industry in our coastal communities and the second largest in our entire State. Thus, the threat of oilspills from OCS activities has been a matter of grave public concern regarding the Outer Continental Shelf program. We strongly supported the inclusion of this section in the Outer Continental Shelf bill.

However, we continue to believe that broader, more comprehensive Federal legislation covering liability for the spills of all petroleum products, as well as hazardous chemicals, is also needed.

In 1976, New Jersey established its own comprehensive spill fund to protect New Jersey residents and businesses not only against Outer Continental Shelf-related spills, but all other kinds as well. Our State fund will not be preempted by title III, which we welcome.

We hope to be involved in the development of the Federal OCS oilspill fund for we believe that our few years' experience with our own State fund in New Jersey would help us to help clarify the respective roles of State and Federal law in this often confusing area.

New Jersey has consistently supported maximum flexibility in the options available to the Interior Department for Outer Continental Shelf leasing to meet the twin goals of increasing competition and insuring a full and fair return to the U.S. Treasury for the exploitation of the public resources.

By increasing competition in the leasing process, we can make sure that the public treasury gets its proper benefits from the development of these public resources.

Section 205 of the law provides for a substantial revision of bidding and lease administration. The Secretary of Energy is given responsibility for promulgating regulations to implement effective alternative bidding systems.

This section of the law is one of the most important aspects of the new procedures for the Outer Continental Shelf program. While the Department of Energy has the leading role here, Interior's role, particularly with respect to resource evaluation, will also be important in the overall restructuring of the bidding systems.

At the last meeting of the Interior Secretary's Outer Continental Shelf Advisory Board, a special committee, which I chair, was established to review the Federal Government's work on the revision of bidding systems under the new law.

This committee has already met with both Interior and Energy Department personnel and looks forward to reviewing the bidding regulations currently being developed by the Energy Department.

I would like to add, based on what I learned about the hearings yesterday, that what to our mind at least is a related step, the opportunity for onstructure drilling prior to lease sales, is also allowed by the new law.

We think that was a sound inclusion. We consistently supported that idea, and we welcome the Secretary's recent initiative in this area.

In conclusion, our overall recommendation on the promulgation of regulations under the new Outer Continental Shelf Law, and particularly the States' input into their implementation, is that the States receive a regular report on the status of the development and implementation of all such regulations.

There is a large number of agencies that are working in different time frames, even in different locations, to make the system of rules harmonize with the new law.

It is hard to keep track of them all because they come in in bits and pieces. Perhaps the best mechanism for this summary reporting would be via the existing National Outer Continental Shelf Advisory Board.

We strongly agree with this committee's opinion that continued oversight and monitoring of the rules to implement the 1978 amendments can best be accomplished with the assistance of the affected States.

The Nation as a whole, and in particular the Coastal States, clearly have a vested interest in participating in the development of improved and responsible management, exploration, and exploitation of these important national resources.

Finally, on behalf of the Governor, I would like to take this opportunity to recognize the outstanding role that this committee has played in the long effort to reform the law governing activities on the Outer Continental Shelf.

Your sustained efforts to complete this major and long overdue reform have resulted in a new law which provides a solid basis for a substantially improved OCS program.

We congratulate the chairman of this committee, Congressman Murphy, for the role he has played in guiding the legislation through its many phases and revisions.

We also especially appreciate the role of New Jersey's representatives on this committee—Congressmen Hughes and Forsythe—in helping produce a law which incorporates many of the reforms consistently called for by New Jersey and by other coastal States.

Finally, we appreciate this committee's continued interest in the implementation of the new law. Active Congressional oversight in the months and years to come is critical in insuring that the promise of this new law is fulfilled.

Thank you.

The CHAIRMAN. Thank you, Dr. Paulson. We certainly appreciate your nice remarks.

For the record, we might as well admit that this was really the Fish bill, put out by the Fish committee, a tribute to my colleague from Middletown.

Recently, Secretary Andrus asked the Governors of 10 Middle Atlantic coastal States for specific comments concerning Outer Continental Shelf Lease Sale No. 49, which of course, now is resumed under section 19 of the Outer Continental Shelf Act.

What is the position of New Jersey regarding this proposed sale and is New Jersey formulating comments concerning the sale?

Dr. PAULSON. We are formulating our comments at this very time. As I mentioned, we were asked to respond in less than the time mandated by the law, and we intend to do that.

It seems to me the due date is a couple of weeks from today, so that our comments are not yet fully finished.

We did participate, of course, in the environmental impact statement process leading up to this point. That part of the process went smoothly, and we have no objections, on the basis of that portion of the process, to the sale going forward as scheduled.

The notice of sale specifies the specific tracts that may well be offered for lease. It becomes, therefore, much more site-specific than earlier parts of the process.

One has to consider questions of, for example, breeding areas for important finfish or shellfish species and potential geological instability of the ocean bottom that might, for example, affect the ability of rigs to stay upright. The tragedy in the Gulf of Mexico a few months ago is a reminder that one needs to pay attention to such localized conditions. That is the status of our review now, to try to look at the relevant local factors and tender comments in a timely manner.

The CHAIRMAN. Do you feel this sale can go forward without any legal action, such as impeded the Baltimore Canyon sale?

Dr. PAULSON. Just as in the case of the first Baltimore Canyon sale, I do not see the State of New Jersey throwing any legal impediments in the way of this one, either.

The CHAIRMAN. It has been reported that New Jersey, New York, and Delaware are engaged in an offshore border dispute which will have an impact on Federal funds available to those States to ameliorate adverse coastal impacts from Outer Continental Shelf activities.

The final boundaries will be determined by the National Oceanographic and Atmospheric Administration. Could you tell us what this problem involves and what negotiations are now going on?

Dr. PAULSON. The negotiations are now between the lawyers for the various States. I have been told not to discuss very much about this process for that reason. [Laughter.]

The CHAIRMAN. By the lawyers?

Dr. PAULSON. By our lawyers. I am not sure what Delaware's lawyers would want me to do.

I am sure you are familiar with the basic issue. There is a means by which the definition of "adjacency" of coastal waters beyond the 3-mile limit is invoked as part of the formula for Federal funds flowing to States.

Historically, there is no jurisdiction by States beyond the 3-mile limit along the Atlantic coast. There was a recent attempt by the Original 13 Colonies to claim domain over the Outer Continental Shelf out to the edge of the Continental Shelf, but we lost in the Supreme Court a couple of years ago.

So, there has never really been any reason for a clear demarcation of boundaries beyond the 3-mile limits. Obviously the direction that you draw the lines from the 3-mile limit out will change the amount of acreage attributable to an adjacent State, and thus the amount of money that flows to that State. Given this, it would be, I think, naive to expect that States would be selfless in making their claims for offshore acreage.

The CHAIRMAN. Mr. Breaux?

Mr. BREAUX. Thank you, Mr. Chairman.

I am sorry I didn't get to hear your testimony, Dr. Paulson. You represent the State of New Jersey?

Dr. PAULSON. Yes.

Mr. BREAUX. What I wanted to ask you were a few questions about the coastal energy impact funding that is contained in OCS legislation.

I take it that New Jersey probably has not yet received either administrative grants or formula grants under the program as of yet. Do you know?

Dr. PAULSON. That is correct. Of course, the new administrative grants aren't funded yet. We would like them to be.

Mr. BREAUX. But under the old program, prior to the adoption of the new amendments, had New Jersey received any of the coastal energy impact programs under the CZM program?

Dr. PAULSON. We have received some of them, but not the formula grants, because there was no lease sale off New Jersey the first year that the formula grants were available. We have received the planning grants, for example.

Mr. BREAUX. Now, under the new program, one of the things that is going to have to take place is recommendations from Office of Management and Budget and from administrative officials as to whether the program will be funded as Congress intended.

Have you, as a representative of New Jersey, had any indication of what is happening along those lines?

Dr. PAULSON. I just heard before the hearing began that there has been some request for an appropriation for the administrative grants program, I guess forwarded from Commerce to Office of

Management and Budget. I would hope that information is correct. I would have hoped it would be for the full \$5 million, but I was told it was for something less than that. And I would hope OMB would act favorably on it.

Mr. BREAUX. The problem is not from Commerce to OMB. It is what happens if OMB gets it, of course. But I guess the impact of the program would be relatively substantial on New Jersey in the future.

Dr. PAULSON. Yes; again, I would defer to Commissioner Berle, whose idea this was originally. But I think it is fair to say that the volumes of paper, of reports, of documents, of meetings that are now flowing to the coastal States because of the bill and because of Secretary Andrus' previous work is immense, much larger than before we were a part of the process.

Our ability to properly and soundly review that material, offer our advice, and take the appropriate steps within our State to get ready for onshore facilities would be greatly enhanced by the relatively modest amount of money that the authorization calls for to be parceled out among the States.

It would give us the intellectual resources that we would need to more properly carry out the new role that you have given us.

Mr. BREAUX. In other words, I take it that New Jersey is counting fairly strongly on a funding of the CEIP program.

Dr. PAULSON. We will do the best we can without it, but having that money in hand would certainly help a lot.

Mr. BREAUX. OK.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman. I will be brief.

I want to applaud the cooperative attitude of the State of New Jersey in getting in their comments on lease sale 49. I think that this could be an example for other States to follow.

You made reference in your testimony to the information section in the law and how anticipating its enactment it had been incorporated into regulations even before passage of the bill, and that this had been very helpful to the States.

I would just like the record to show that this was as a result of Mr. Forsythe's, the gentleman from New Jersey's, initiative. The information section as it finally did appear in our legislation was introduced by him.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Studds?

Mr. STUDDS. No questions.

The CHAIRMAN. Mr. Kitsos has some questions dealing with the impact on you of our Coastal Zone Management Act.

Mr. KITSOS. Dr. Paulson, yesterday we had a series of industry witnesses who raised a number of issues about Federal consistency. New Jersey, as you said, is an approved program.

I assume that since the development in the Atlantic area is still somewhat new, we do not have any development or exploration plans that have been submitted to the State for a consistency determination. Is that true?

Dr. PAULSON. No development or production plans yet, of course, but exploration plans are coming in. I omitted that section from

my testimony, but perhaps I can say just a few words about that now.

My perspective is that the consistency judgment, however that works itself out in the future, will be much more critical at the stage of development and production plans, because that has to do with onshore facilities of substantial size in a direct way.

Consistency decisions on the exploration stage, while important, will be far less critical. That is the stage that we are at now in New Jersey, the exploration stage.

It seems to me that if we can develop a mechanism for thinking through consistency considerations and reaching decisions on them, and designing suitable procedures to make sure that the right people are thinking about them in the right order, it is better to do that at the noncontroversial stage, now, rather than letting it go until later, at the more controversial stage.

Unfortunately, we have found that the existing requirements on consistency determinations don't seem to have fully penetrated into all parts of the Interior Department where they should.

For example, take the U.S. Geological Survey: we haven't been able to get their attention focused on the fact that they may have to do things a little bit differently now that the New Jersey coastal zone plan is approved.

I think the problem can be worked out. I think it is a problem of start-up. New Jersey is one of the earliest plans approved and one of the very earliest, I think, in a frontier Outer Continental Shelf area.

So, it may just be that it is too early in the process. But we do have some concerns in that regard. It might be something that you would like to look into by way of tutoring the operating U.S. Geological Survey personnel that in fact the rules of the game change once there is a Federal sanctioning of a coastal zone plan.

Mr. KITSOS. Assuming that the administrative and data problems you have just alluded to can be cleared up with the Department of the Interior, do you see consistency as a significant delaying factor in State decisionmaking? Is this something that will delay Outer Continental Shelf development significantly?

Dr. PAULSON. The processes or the substance of a consistency determination?

Mr. KITSOS. Well, I am referring to the potential 6-month period for State review. Do you think New Jersey will use the full 6 months, for example?

Dr. PAULSON. We haven't decided yet. That is another part I omitted from my prepared testimony. There are several points where there are, in effect, conflicting deadlines in the bill itself. I think there is a need for somebody to look at a set of flow diagrams for timing for the whole bill, and then develop some technical amendments to make things in accord with each other.

More broadly, though, the problems of procedures with consistency are really intertwined with the substantive judgments that would be made. If we wanted to strongly disagree with some Federal agency's decision because we thought it violated the substance of our approved coastal zone plan, at the current time I think you could accurately predict a lot of delay, and you could probably

predict a lawsuit, no matter whether the period for consistency judgment was 1 month, 3 months, 6 months, or even longer.

Mr. KITSOS. In other words, the issue focuses on the authority that "Federal consistency" gives the State. If the State is concerned about an activity in the Outer Continental Shelf plan, it will exercise that authority no matter what the time limit is. The 6-month period you are saying, is not the critical factor in a potential delay. Is that correct?

Dr. PAULSON. That is my view. I would hope that we would never find that kind of polarization between the State of New Jersey and any Federal agency for that matter, but in particular the Federal agencies involved in the Outer Continental Shelf program.

But I cannot rule out that as a potential at some point down the road. The whole process of consistency is so opaque, as a practical matter, it may well be defined only by case law.

Mr. KITSOS. Thank you, Dr. Paulson.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Thank you, Dr. Paulson.

Dr. PAULSON. It was a pleasure to be here.

The CHAIRMAN. Our next witness will be Commissioner Peter Berle of the great State of New York, the commissioner of environmental conservation.

**STATEMENT OF PETER A. A. BERLE, COMMISSIONER, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ACCOMPANIED BY GREGORY SOVAS**

Mr. BERLE. Good morning, Mr. Chairman.

With me is Mr. Gregory Sovas of our office, who is in charge of our OCS program.

The CHAIRMAN. You may proceed.

Mr. BERLE. Mr. Chairman, as you may know, my name is Peter A. A. Berle, and I am commissioner of the New York State Department of Environmental Conservation.

On behalf of Gov. Hugh L. Carey, I am presenting a statement representing the New York State position on the rules and regulations being promulgated by the Department of the Interior in the implementation of the Outer Continental Shelf Lands Act Amendments of 1978.

The State of New York has vigorously supported enactment of these most important amendments as being necessary to insure a meaningful role for coastal States in the Federal leasing process.

We congratulate the ad hoc committee, and especially Chairman John Murphy, for their fine work and perseverance in the passage of these needed reforms.

The Department of the Interior under Secretary Cecil Andrus has generally been doing a good job in working with the coastal States to help resolve their concerns. For example, the quality of lease sale environmental impact statements has been substantially improved.

Even before the enactment of the Outer Continental Shelf Lands Act amendments, the Department of Interior anticipated the passage of the legislation and took steps to promulgate regulations so that delays would not occur.

My staff has been impressed with the willingness of the Department to cooperate with States and the candor and professionalism of DOI officials.

There are, however, some problems that must be resolved if the implementation of the amendments is to proceed as intended by the Congress.

Some of these problems are a direct result of the legislation and the tight deadlines imposed in the law. Other problems and concerns are administrative in nature and can be handled by the Department through rulemaking.

The following are our major concerns at the present time:

One, Outer Continental Shelf grants amendment. As you know, we first proposed this amendment to the Coastal Zone Management Act in testimony to the ad hoc committee in May 1977, the amendment being subsequently introduced by Chairman Murphy.

The Department of the Interior opposed this amendment, which would provide very moderate but necessary funding to coastal States to undertake the responsibilities mandated under the Outer Continental Shelf Lands Act amendments.

Two resolutions were passed by the Outer Continental Shelf Advisory Board advising the Secretary to support its enactment and to seek a supplemental appropriation for the current fiscal year in cooperation with the Department of Commerce.

Despite these encouragements, the Department of the Interior, we believe, has done little or nothing to support the amendment and to insure that funds are being made available in a timely manner, especially for the first year of the implementation of the Outer Continental Shelf Lands Act amendments.

While we recognize that the Office of Coastal Zone Management is the lead agency in the administration of these grants, States are being hard pressed to provide review, comment, and information being requested by the Department of the Interior.

It should be noted that the east coast States recognized this burden imposed on the States and the funding problem as soon as the accelerated leasing program became reality in 1974 and 1975.

Yet, many coastal States have been forced to use their own State funds not so much to further the economic benefits of their State, but to protect their interests and existing industry. In short, States had no choice but to participate in the Federal leasing program.

We welcome the opportunity to do that because of the important State interests involved.

We are very concerned that the Outer Continental Shelf grants amendment be funded at the full \$5 million authorization through a supplemental appropriation for the current fiscal year, that this be given priority in the succeeding years, and urge that the committee take all necessary steps to make certain that this amendment receives the supplemental appropriation.

Two, regulations for exploration plans to States. Prior to the passage of the Outer Continental Shelf Lands Act amendments, the Department of the Interior promulgated rules and regulations mandating that environmental reports and exploration plans be submitted by certified mail to coastal States for review.

States were given 30 days to review these reports and plans and to send their comments to the Geological Survey. Again, we welcome the opportunity to be involved in that process.

However, to comply with the Outer Continental Shelf Lands Act amendments, which mandate a 30-day review by USGS, the Department of the Interior has issued regulations to suspend State review of exploration plans and environmental reports except for those States with approved coastal management plans. This is the problem Dr. Paulson alluded to.

This suspension was imposed with no consultation with the coastal States. Recently the USGS has hired a State liaison. We hope that this will help to solve some of the communication problems with the States.

I should add that provisions for review by States without approved plans are presently being made, although this review must now be accomplished within the 30-day period allowed by law—not nearly enough time for States to receive, review, coordinate comments and submit these to the USGS.

Of course, any new arrangements should have been discussed with the coastal States and implemented before the suspension regulations took effect. In effect, the passage of the legislation has deprived coastal States of the opportunity for review of Outer Continental Shelf exploration plans and environmental reports.

Changes in the law are necessary to extend the review period to at least 90 days so as to comply with the Federal consistency requirements of the Coastal Zone Management Act.

It should be noted that the rules and regulations adopted prior to the legislation are in need of technical revisions as well. These regulations, which mandate the preparation of environmental reports, have been ineffective in that they have not generally resulted in the provision of any new information other than what is contained in the environmental impact Statement prior to the lease sale.

The intent of these regulations is to provide site-specific information on a tract-by-tract basis so that a reasonable evaluation of the exploration plan can be made and federal consistency can be determined.

Certain geologic information presently classified as proprietary is really environmental data that should be supplied to states for evaluation of geologic hazards. The Conservation Division of the USGS agrees with our interpretation and is presently working to release this data, but official DOI action is needed.

Three, inconsistencies with the Coastal Zone Management Act. We believe that there are obvious inconsistencies with the Coastal Management Act, as the review periods by the States for exploration plans and development and production plans are different under the two Federal mandates.

States with approved coastal management plans are given at least 90 days and up to 6 months for the determination of Federal consistency.

Recognizing that DOI can separate the approval of an exploration plan from the approval of an application to drill, it seems illogical for DOI to approve an exploration plan and disapprove the

application to drill if a coastal State determines the action inconsistent with their approved coastal management program.

This situation could lead to continuing litigation and is really not in the interests of the orderly administration of the program.

We believe that changes in the legislation are needed to make the time periods compatible. A 30-day review period of an exploration plan by the USGS is too short to adequately distribute the document for review and coordinate comments within its own agency even without distributing it to coastal States.

We are also somewhat puzzled by the confusing distinctions being made within the regulations to States with and without approved coastal management plans, since obviously our concerns with respect to the impact on our States is the same.

This is an artificial distinction which has resulted in reducing the review periods for States without coastal management plans to a period less than the 90-day review allowed under the Federal consistency provisions of the Coastal Zone Management Act.

The Outer Continental Shelf Land Act Amendments policies and purposes refer to all the coastal states potentially impacted by Outer Continental Shelf development. Whether or not a State has an approved coastal zone management plan is irrelevant. Impacts accrue to States regardless of their coastal management status.

Four, information to States. We believe that the ad hoc committee has done an outstanding job in mandating better and more timely information to States, and we are working with DOI to implement the Outer Continental Shelf summary reports provision of the new law.

While it is too early to judge the results of this effort, we believe that the workshop approach with the coastal States is sound. Much work remains to be done. Of particular importance to us is the fact that these reports should be based on hard industry data and intentions, as well as current and timely resource estimates.

I should like to add that my staff was impressed with Interior officials, who expressed a willingness to cooperate in the provision of information to States and welcomed the opportunity to update and publish resource estimates on a 6-month basis.

We have always contended that the resource estimates are the single most important piece of information that can be utilized by the coastal States, not just for Outer Continental Shelf impact purposes but for overall energy planning purposes as well.

We look forward to these estimates being given to States in a timely manner and in a form compatible with New York State's recently established energy master planning process being implemented by the State energy office.

In addition to the Outer Continental Shelf summary reports that will be provided every 6 months, we see a definite need for more current information being submitted to States on a monthly basis.

Such information could take the form of a status report or newsletter that would indicate how many companies have submitted plans, how many are presently drilling, what has been found and any other pertinent news that states should be aware of.

Our most current and updated reports now come from the Oil and Gas Journal, the Wall Street Journal, and the Coastal Zone

Newsletter. States are being asked questions about current events and have no current information.

Obviously, if States are to be working partners with the Federal Government and are to be the communication link with local governments, we must have a mechanism to obtain current information.

The Department has established a very helpful referral center within the office of Outer Continental Shelf program coordination. However, the kind of current information that we require is different from this service.

Five, lack of coordination within the Department of the Interior.

Another concern of the coastal States is the lack of a centralized focus within the Department of the Interior in dealing with the coastal States.

While the office of Outer Continental Shelf program coordination handles the general administrative responsibilities, it does not coordinate requests to these States by each of the individual entities with the Department of the Interior who are implementing specific parts of the legislation.

As a result, coastal States are being asked to respond to a variety of new regulations and requests for information during a similar time period from a number of Federal agencies, both within and outside the department. We do not have staff resources to meet the prescribed deadlines.

For example, we have been asked to respond to the 5-year leasing plan final rule and request for information. At the same time, we have been asked to respond within 45 days instead of the usual 60 to the notice of sale for lease sale 49.

Workshops have been and are being held on the Outer Continental Shelf summary reports and indexes. I should note that any request for comment is distributed to approximately 20 persons within the State at all levels of government. Thus, there are serious constraints in soliciting comments and coordinating a State reply within the necessary time frames.

Our workload for the present period has not been coordinated through any one focal point within Interior, making it difficult for States to respond adequately.

At a minimum, these requests to coastal States should be funneled through a central office within DOI to better formulate a realistic timetable for these responses and to even out the workload imposed on the States.

Six, oil spill contingencies.

Of increasing concern to us is the fact that oil spill contingency planning is fragmented among the Environmental Protection Agency, the Coast Guard, and the U.S. Geological Survey. The review of exploration plans and accompanying oil spill contingency plans is accomplished, in most part, by U.S. Geological Survey field personnel with little or no opportunity for input from EPA or the Coast Guard.

Further, it is difficult for States to determine the capabilities of industry oil spill consortia. It appears that these consortia are not regulated by any agency. In terms of meeting Federal consistency requirements especially with regard to assessing cumulative impacts, we believe that this situation could pose a problem in the

future and may hamper the efforts of industry to explore and produce in a diligent manner.

We would like to see the law changed to include definitive roles for EPA and the Coast Guard in all oil spill contingency planning matters, and administrative procedures established in the interim to undertake a coordinated review with the respective agencies.

Finally, we see the passage of the Outer Continental Shelf Land Act Amendments and the work of the ad hoc committee as the first major step taken by the Congress in 25 years to revamp the entire leasing program. In the process, we hope that this legislation will serve as a model to Federal agencies in guaranteeing the active involvement of States in Federal activities that ultimately affect its State citizens.

We envision the passage of the legislation as only the first step in insuring that the Federal agencies carry out their mandated responsibilities in an environmentally acceptable manner. We believe that the committee must insure that the rules and regulations to implement the legislation be consistent with congressional intent and oversee that the best interests of the Nation are served by the promulgation of the legislation and regulations.

We further believe that the committee has been the driving force behind the policy and technical reforms taking place within the Department of the Interior. The committee has provided the impetus for change in such matters as: insuring a meaningful role for coastal States; mandating better Federal planning; providing better information to coastal states, including more timely and accurate resource estimates for energy planning; utilizing innovative bidding systems; and increasing environmental protection.

In addition, the recent announced policy change to undertake onstructure stratigraphic test drilling is a direct result of the committee's insistence that Federal agencies have better resource information before a proposed lease sale to more accurately determine the value of our Nation's nonrenewable resources.

The committee has a responsibility to the States to: First, insure that the mandates of the law are carried out with due diligence; second, become a focal point within the Congress for the real concerns of the coastal states; third, return fair market value for the Nation's energy resources; and fourth, to assure that adequate Federal funding is made available to coastal States to carry out their mandates under the Outer Continental Shelf Lands Act Amendments.

We believe that the framework for the orderly development of the Nation's Outer Continental Shelf oil and gas resources has been established. Let's proceed to develop this potential energy supply consistent with the wise use of all the ocean's resources in an environmentally sound manner.

Thank you, Mr. Chairman.

If there are questions, I will be glad to respond.

The CHAIRMAN. Thank you, Commissioner.

What is the status of New York State's coastal zone management plan?

Mr. BERLE. Quite frankly, we are not proceeding as quickly as I would like to see us proceed; that is under the jurisdiction of the Department of State. We have a plan which has been put together

in draft form. Informational hearings have been held, and we expect that implementing legislation will be put before the legislature this year.

Our hope is to have a lot of the legislative work accomplished during the current session of the legislature which starts in January.

The CHAIRMAN. You will finish it up this year then?

Mr. BERLE. That is our hope.

I should say this has been a program which has focused on the traditional conflicts between the desire for local autonomy and the needs of regional planning, and I think it is fair to say that that has taken us longer to resolve some of those issues than perhaps we would like to see.

The CHAIRMAN. The Secretary of State has responsibility?

Mr. BERLE. Yes; the Secretary of State is the head of the planning group that is in charge of putting it together. Most of the environmental input comes from our Department. A large portion of the plan involves existing programs that our Department runs, such as tidal wetlands and other land use controls relating to the coastal area.

The CHAIRMAN. Section 18 of the act provides for the formulation of an Outer Continental Shelf leasing program.

How does New York intend to insure that local governments have adequate input into the program?

Mr. BERLE. That is part of the portions of the plan that are being formulated. Basically the plan itself calls for a great deal of involvement from beginning to end by local government.

Greg, do you want to comment further on that?

Mr. SOVAS. I would just like to say that for about the last 3 years since the start of the Outer Continental Shelf study program, we have made every effort to include local government. They are given copies of significant Federal actions down to the county level. The counties, the regional bodies, the New York City Planning Commission and a number of agencies within the State are all given periodic reports on the status of the Outer Continental Shelf leasing program as well as the opportunity to respond to any significant Federal action. Anything as significant as the Outer Continental Shelf leasing program was sent out for comment, and we gave them enough time for review and have incorporated any comments we have received within our State comments submitted to the Department sometime last week.

The CHAIRMAN. Recently Secretary Andrus asked the Governors of 10 mid-Atlantic coastal States for specific comments concerning Outer Continental Shelf Lease Sale 49.

What is the position of New York regarding this proposed sale?

Mr. BERLE. We responded to that question, and as a result of our concern, it is my understanding that a number of tracts were dropped. We have particular concern about some of the deep water tracts that were proposed, and as a result of that, we would not expect, on the basis of what we now know, to have opposition to the sale.

The CHAIRMAN. Is Suffolk County included?

Mr. BERLE. Well, I am not sure that I can speak definitively for them, but we do believe that the dropping of some of the deep water tracts has alleviated much of the local concern.

The CHAIRMAN. Mr. Studds?

Mr. STUDDS. No questions.

The CHAIRMAN. Mr. Forsythe?

Mr. FORSYTHE. No questions.

The CHAIRMAN. Mr. Miller?

Mr. MILLER. No questions.

The CHAIRMAN. Counsel, Mr. Bedell?

Mr. BEDELL. On page 4 of your testimony, you referred to the fact that this is a Coastal Zone Management Act. "We believe that there are obvious inconsistencies with the Coastal Management Act, as to the review periods by the States" for review of certain Federal activities, specifically exploration, development and production planning.

I would just like to say that the later of the two laws, the OCSLA Amendments of 1978, was in fact passed with the full knowledge of the fact that there was a different amount of time allowed for comment. It was suggested that we make ours longer to bring it into agreement with CZMA. That suggestion was rejected, and so I would think certainly with regard to those specific types of Federal activities which might impinge on the coastal zone, the intent of the Congress in passing the OCSLA amendments was that the shorter period of time specified within it should govern for those specific activities.

I am sure that will be something to be litigated or something you may want to litigate. I am sure that is an accurate statement, and that is the feeling of this committee.

Mr. BERLE. I think that is useful guidance to us. As I pointed out to others, I used to make more suing our departments than I do running it, and I do have some concern about wrapping up and eliminating these potential sources of litigation, since I don't think they are particularly productive.

The CHAIRMAN. Mr. Belsky?

Mr. BELSKY. Mr. Berle, are you saying that the Interior Department is providing less data to New York because it doesn't have an approved program than it would for States that do have an approved program? It is not clear from your statement.

Mr. BERLE. I think that is not a regulatory result, but I think in fact it is one of the things that is happening because of the lack of time and a kind of interchange that occurs when you have the opportunity to comment as those with approved coastal management plans, have, and you don't in our situation.

I would like Mr. Sovas to give you more detail on that.

Mr. SOVAS. Under the Outer Continental Shelf Lands Act amendments, States have been preempted in the review of exploration plans and environmental reports. States with approved coastal management plans would have 90 days under the Federal to review that exploration plan.

Mr. BELSKY. They have up to 6 months.

Mr. SOVAS. That is right, but at least 90 days without asking for the request. Regulations that were in place by U.S. Geological Survey before the legislation was passed allowed all States a 30-day

review of an exploration plan and accompanying environmental report. Since the legislation has been passed, and since there has been a suspension of the rules and regulations which now govern, the 250.34 CFR, I believe, the States without an approved plan will have to review it within the 30-day period allowed by law by USGS to approve the plan, given that these plans and reports are made available to these States. So, in other words, we would be folded into that 30-day period.

We may have only 5 days or less or 10 days or whatever to review that plan, whereas New Jersey would have at least 90 days to review the plan and up to 6 months.

Mr. BELSKY. I think minority counsel's comments are pertinent. The committee did decide that those States with an approved program certainly would have stronger control in that the burden of proof about consistency would be on Federal agencies and lessees, and that therefore more information would be necessary.

I am not certain that it necessarily follows that you should have 30 days or even significantly less for your State to make a decision, even though you don't have an approved program yet.

Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Commissioner.

Mr. BERLE. Thank you, sir.

The CHAIRMAN. Our next witness is Evelyn F. Murphy, Secretary of Environmental Affairs for the State of Massachusetts.

Dr. Murphy?

**STATEMENT OF EVELYN MURPHY, SECRETARY OF ENVIRONMENTAL AFFAIRS, STATE OF MASSACHUSETTS, ACCOMPANIED BY ERIC E. VAN LOON, ASSISTANT SECRETARY OF ENVIRONMENTAL AFFAIRS AND DIRECTOR, MASSACHUSETTS COASTAL ZONE MANAGEMENT**

Dr. MURPHY. Thank you for the opportunity of being here this morning.

Let me start by saying I also want to thank you, Congressman Studds, the members of the committee and the staff for the excellent and long work it has taken to get the Outer Continental Shelf amendments in place.

We as a State have been arguing long and hard for these reforms and really appreciate the help and collaboration that has gone on in the last several years.

I would like this morning to address four major issues with you involving the implementation of this new statute. The first is what difference the amendments make in the Nation's Outer Continental Shelf policies. The second concerns the progress of Federal agencies in implementing the statute. The third issue concerns the continuing role of Congress in putting this statute into action and updating it. And, finally, I want to respond to your specific question, Mr. Chairman, regarding the effect of the amendments on the lawsuit involving Massachusetts against the Department of the Interior.

With regard to the first issue, the passage of the Outer Continental Shelf Lands Act amendments marks a major turning point in national Outer Continental Shelf policy. It is important that all

parties, including Interior, the oil companies, the States, the environmentalists, acknowledge the fundamental philosophic change the amendments mandate, that is, that the Nation's concern is now with both energy fuels and fishery resources in the management of the Outer Continental Shelf.

Before passage of the Outer Continental Shelf Lands Act amendments, the Outer Continental Shelf was regarded only as a source of energy fuels. Now we look to these submerged lands for food also. Hence, we must integrate the management of these two activities on the shelf in order to realize both opportunities.

Fundamental to bringing about that integration is an attitudinal change in the Outer Continental Shelf oil and gas program from strictly minerals leasing to an enlightened sense of stewardship. Congress declared in the recently enacted Outer Continental Shelf Lands Act amendments that the Outer Continental Shelf is a "vital national reserve held by the Federal Government for the public \* \* \*". That reserve includes not only nonrenewable energy resources but also renewable ones "which are a continuing and increasingly important source of food and protein to the Nation and the world." Other national interests in addition to oil and gas are cited in the amendments. These include fishing and shellfish recovery, navigation, recreation, defense and the adjacent coastal States.

A central purpose of the new statute is to minimize or eliminate conflicts between oil and gas activities and those other interests.

The point is, the Secretary of the Interior is no longer simply the administrator of minerals leasing, charged only with generating dollars for the U.S. Treasury and Btu's for the Nation's residents each year. Now the Secretary emerges as the guardian of a vital national resource reserve of the Outer Continental Shelf.

Massachusetts has been working closely with the Department of the Interior for 4 years on modernizing Outer Continental Shelf leasing procedures. More recently, under Secretary Andrus' guidance, the Department has introduced a number of reforms, including opening it to the public and responding to States' concerns. But the amendments transcend these efforts and mean new and different steps must be taken.

#### EARLY STEPS IN IMPLEMENTATION OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

To fulfill that responsibility of stewardship, the statute specifies some 30 sets of regulations and 20 studies and reports involving not only the Department of the Interior, but also the Departments of Commerce, Transportation, Energy, Treasury, among others, detailed in appendix A, and this leads me to my second point concerning the implementation of the amendments.

While an undertaking of this magnitude is difficult at best, it cannot happen expeditiously unless the Department of the Interior exerts some assertive leadership. This means coordinating the promulgation of Federal regulations and my public review of them. I think it is imperative that the Secretary of the Interior understand the magnitude of the leadership which is now needed.

The first step which some of my colleagues have already mentioned to you is the publication of a schedule for those regulations

and of those reports and an explanation of how it relates to the Secretary's OCS leasing program.

Also the schedule should move more rapidly. Since enactment of the amendments in September, only one regulation required by the statute has been promulgated. Interior gave assurances throughout the last congressional session that regulations were being drafted in anticipation of the passage of the Outer Continental Shelf Lands Act amendments, and that all regulations could be promulgated shortly thereafter. Three months later, the promulgation of only one regulation does not suggest a speedy implementation.

Moreover, we propose moving on at least two other fronts.

One is that some new programs must be initiated immediately to activate the high standards of protection required by the statute.

Since Georges Bank is one of the world's most productive fishing grounds, we are naturally concerned about the implementation of title IV, the Fishermen's Gear Compensation Fund. There are four main details which I believe must be incorporated into Commerce's program: First, sensitivity to regional needs and differences by administering the fund within each Outer Continental Shelf region, rather than in Washington; the second is the speedy compensation for all nonattributable losses; the third is the need to initiate the survey of obstructions on the Outer Continental Shelf before any leasing activities occur; fourth, an urgent need for Interior's regulations concern the marking of equipment.

Another new program which the Department of the Interior must initiate is development of the concept of the best available and safest technologies. Here, the main recommendation is flexibility. Because of the diversity of conditions on the Outer Continental Shelf, requirements must be able to reflect regional environmental differences. Moreover, new technology emerges almost daily, and the process of defining what technology is "best" and "safest" must be open to advancements.

Simultaneously, and on another front, existing regulations and programs must be revised to conform with the requirements of the act. Regulations concerning suspension and cancellation of leases must be expanded to consider damages not only to the natural environment, but also to physical, social and economic components of the Outer Continental Shelf. Compensation should likewise be established in the event of cancellation. Access to certain privileged information must be assured to State governments to facilitate their responsibilities in participating in Federal decisionmaking and in mitigating the negative impacts. The regulation covering development and production plans must require an environmental impact statement prior to major development and production activities in frontier Outer Continental Shelf regions.

#### CONTINUING CONGRESSIONAL ROLE

The Interior Department is not the only office in Washington with the major role in implementing the Outer Continental Shelf Lands Act amendments. According to the statute, Congress will be receiving several reports and studies for review, and I hope this committee will monitor and supervise the agencies' progress—let me underline that. I think the kind of expertise of committees such

as this is really imperative to indeed get good oversight, to get the executive branch to move quickly and expeditiously. Certainly a statute of this form deserves great attention, and I would hope that the committee will continue in such functions as these oversight hearings.

But Congress has other obligations, not the least of which is the need to assure adequate funding for administering the statute it has created. Just 1 month into fiscal year 1979, I can think of at least two programs authorized by the new amendments which are insufficiently funded. The first is BLM's environmental studies program which does not apply equitably to all seven Outer Continental Shelf regions, because the funding is short \$18.5 million. The second is the Outer Continental Shelf administrative grants program mentioned several times already, which lacks the \$5 million appropriation authorized by Public Law 95-372.

I urge you, Mr. Chairman, to encourage the Interior and Commerce Appropriations Committees to support supplemental budgetary action on these two vital programs for fiscal year 1979.

Further, this committee simply cannot sit back and allow another 25 years to pass before recognizing the need to additional change. The problems we discover as we work through implementing the act may require congressional action. You should look for recommendations for change addressed in the dozens of studies and reports required annually for congressional scrutiny. Recommendations from Outer Continental Shelf users should be heard at least annually through hearings such as this one.

For a start, may I suggest looking at the U.S. Treasury interest rate problem or the confusing procedures required for identifying lateral seaward boundaries, both contained in the coastal energy impact legislation? Also, the ambiguities of the Secretary of the Interior's role in conducting Federal exploration should be clarified.

#### HOW THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS AFFECT LITIGATION IN THE NORTH ATLANTIC

Finally, I want to respond to Chairman Murphy's request for information about the Massachusetts lawsuit brought in connection with proposed lease sale No. 42. The lawsuit brought by the Commonwealth of Massachusetts and the Conservation Law Foundation against the Secretaries of the Interior and Commerce, turned on the need for coordinated management of hydrocarbons and fisheries on Georges Bank. The central concern last January was that too few safeguards had been put in place to protect one of the world's richest fishing grounds. A related concern was the failure of the environmental impact statement to adequately assess the protective effects of several laws, including the then pending Outer Continental Shelf Lands Act amendments and the marine sanctuary statute.

Federal District Court Judge W. Arthur Garrity saw the merit of these complaints and enjoined the Secretary of the Interior from holding the lease sale. The first appeal brought by Interior and a coalition of oil companies failed, and a second is pending before the First Circuit Courts of Appeals in Boston.

Presently, considerable disagreement exists concerning whether enactment of the amendments assures the protections sought by Massachusetts and the Conservation Law Foundation. Both Governor Dukakis and Governor-elect King have stated their views that passage of the amendments substantially meets basic concerns raised by the lawsuit.

On the other hand, the State Attorney General's Office and the Conservation Law Foundation believe that passage of the amendments does not guarantee that safeguards adequate for the vital Georges Bank fishery will be implemented, nor does it remedy the deficiencies in the environmental impact statement.

They cite the discretion of the Commerce Secretary to establish a Fishermen's Gear Fund as a source of uncertainty. Without that fund in the North Atlantic and one Oilspill Liability Fund, the Department of the Interior estimates damages to the Georges Bank fishing industry possibly exceeding \$150 million. Surely it is the clear intent of this statute to avoid such losses, and the strong belief is that the administration must establish the safeguard before leasing occurs.

At the present time, Massachusetts remains in the lawsuit because the attorney general—an independently elected constitutional officer of the Commonwealth—feels that it is important to pursue such matters of law which are unresolved by the passage of the legislation, and to await the findings of the appeals court.

The CHAIRMAN. Without objection, your full statement and the appendices will be included in the record.

[The information follows:]

#### STATEMENT OF EVELYN F. MURPHY

Good morning, Mr. Chairman and members of the Committee. My name is Evelyn F. Murphy and I am today representing the Commonwealth of Massachusetts. I appreciate the opportunity to comment on the implementation of the recently enacted OCS Lands Act Amendments of 1978.

This morning I will address four major issues involving implementation of the new statute. The first is: what differences the Amendments mean to the nation's OCS policies. The second concerns the progress federal agencies have made to implement the statute. The third regards the continuing role Congress must play both in putting this statute into action and in updating it. And, finally, I will respond to Chairman Murphy's question regarding the effect of the Amendments on the lawsuit brought by Massachusetts against the Department of the Interior.

#### THE NEW FEDERAL MANDATE

The passage of the OCS Lands Act Amendments marks a major turning point in national OCS policy. It is important that all parties including Interior, acknowledge the changes the Amendments mandate. This is especially true for the integration of our nation's concern for both energy fuels and fishery resources in the management of the Outer Continental Shelf.

Fundamental to bringing about that integration is an attitudinal change in the OCS oil and gas program from strictly minerals leasing to an enlightened sense of stewardship. Congress declared in the recently enacted OCS Lands Act Amendments that the Outer Continental Shelf is a "vital national reserve held by the federal government for the public . . ." That reserve includes not only non-renewable energy resources but also renewable ones "which are a continuing and increasingly important source of food and protein to the nation and the world." Further, in addition to oil and gas, fishing and shellfish recovery, navigation, recreation, defense, and the adjacent coastal states are cited as national interests in the OCS. A central purpose of the new statute is to minimize or eliminate conflicts between oil and gas activities and those other interests.

The point is, the Secretary of the Interior is no longer simply the administrator of minerals leasing, generating dollars for the U.S. Treasury and BUT's for the nations

residents each year. Now, the Secretary emerges as the guardian of a "vital national resource reserve," the Outer Continental Shelf.

Massachusetts has been working closely with the Department of the Interior for four years on modernizing OCS leasing procedures. More recently, under Secretary Andrus' guidance, the Department has introduced a number of reforms, including opening it to the public and responding to states' concerns. But the Amendments transcend these efforts and mean new and different steps must be taken.

#### EARLY STEPS IN IMPLEMENTATION OF THE OCS LANDS ACT AMENDMENTS

To fulfill that responsibility of stewardship, the statute specifies some 30 sets of regulations and 20 studies and reports involving not only Interior, but also Commerce, Transportation, Energy, Treasury, among others, detailed in Appendix A, and this leads me to my second point concerning the implementation of the Amendments. While an undertaking of this magnitude is difficult at best, it cannot move without some assertive leadership.

The problem of leadership is who should be doing what to orchestrate all the requirements of the statute and all those named as actors. Since the Interior Secretary is the guardian of the OCS, he is the one to assert the leadership necessary to implement the statute. This means coordinating the promulgation of all federal regulations, and the review, comment, and changes of them. The first step is to publish a schedule for promulgating those regulations and preparing the studies and reports, and an explanation of how that schedule relates to the Secretary's OCS Leasing Program.

Also, the schedule should begin to move more rapidly. Since enactment of the Amendments in September, only one regulation required by the statute has been promulgated. Interior gave assurances throughout the last Congressional session that regulations were being drafted in anticipation of the passage of the OCS Lands Act Amendments, and that all regulations could be promulgated shortly thereafter. Three months later, the promulgation of only one regulation does not suggest a speedy implementation.

Moreover, we should be moving quickly on at least two fronts.

One, new programs must be initiated immediately to activate the high standards of protection required by the statute. Since Georges Bank is one of the world's most productive fishing grounds, we are naturally concerned about the implementation of Title IV, the Fishermen's Gear Compensation Fund. There are four main details which I believe must be incorporated in Commerce's program: first, sensitivity to regional needs and differences by administering the Fund within each OCS region, rather than in Washington; the second is speedy compensation for all non-attributable losses; the third is the need to initiate the survey of obstructions on the OCS before any leasing activities occur; fourth, an urgent need for Interior's regulations concern the marking of equipment.

Another new program which the Department of the Interior must initiate is development of the concept of Best Available and Safest Technologies. Here, the main recommendation is flexibility. Because of the diversity of conditions on the OCS, requirements must be able to reflect regional environmental differences. Moreover, new technology emerges almost daily, and the process of defining what technology is "best" and "safest" must be open to advancements.

Simultaneously, and on another front, existing regulations and programs must be revised to conform with the requirements of the Act. Regulations concerning suspension and cancellation of leases must be expanded to consider damages not only to the natural environment, but also to physical, social and economic components of the OCS. Compensation should likewise be established in the event of cancellation. Access to certain privileged information must be assured to state governments to facilitate their responsibilities in participating in federal decision-making and in mitigating the negative impacts. The regulation covering development and production plans must require an Environmental Impact Statement prior to major development and production activities in frontier OCS regions.

#### CONTINUING CONGRESSIONAL ROLE

The Interior Department is not the only office in Washington with a major role in implementing the OCS Lands Act Amendments. According to the statute, Congress will be receiving several reports and studies for review, and I hope this Committee will monitor and supervise the agencies' progress.

But Congress has other obligations, not the least of which is the need to assure adequate funding for administering the statute it has created. Just one month into Fiscal Year 1979, I can think of at least two programs authorized by the new Amendments which are insufficiently funded. The first is BLM's Environmental

Studies Program which does not apply equitably to all seven OCS regions, because of an \$18.5 million deficit. The second is the OCS Administrative Grants Program which lacks the \$5 million appropriation authorized by Public Law 95-372. I urge you, Mr. Chairman, to encourage the Interior and Commerce Appropriations Committees to support supplemental budgetary action on these two vital programs for fiscal year 1979.

Further, this Committee simply cannot sit back and allow another 25 years to pass before recognizing the need to additional change. The problems we discover as we work through implementing the Act may require Congressional action. You should look for recommendations for change addressed in the dozens of studies and reports required annually for Congressional scrutiny. Recommendations from OCS users should be heard at least annually through hearings such as this one. For a start, may I suggest looking at the U.S. Treasury interest rate problem or the confusing procedures required for identifying lateral seaward boundaries, both contained in the Coastal Energy Impact legislation. Also, the ambiguities of the Secretary of Interior's role in conducting federal exploration should be clarified.

#### HOW THE OCS LANDS ACT AMENDMENTS AFFECT LITIGATION IN THE NORTH ATLANTIC

Finally, I want to respond to Chairman Murphy's request for information about the Massachusetts lawsuit brought in connection with proposed Lease Sale No. 42. The lawsuit brought by the Commonwealth of Massachusetts and the Conservation Law Foundation against the Secretaries of Interior and Commerce turned on the need for coordinated management of hydrocarbons and fisheries on Georges Bank. The central concern last January was that too few safeguards had been put in place to protect one of the world's richest fishing grounds. A related concern was the failure of the Environmental Impact Statement to adequately assess the protective effects of several laws, including the then pending OCS Lands Act Amendments and the Marine Sanctuary statute.

Federal District Court Judge W. Arthur Garrity saw the merit of these complaints and enjoined the Secretary of the Interior from holding the lease sale. The first appeal brought by Interior and a coalition of oil companies failed, and a second is pending before the First Circuit Court of Appeals in Boston.

Presently, considerable disagreement exists concerning whether enactment of the Amendments assures the protections sought by Massachusetts and the Conservation Law Foundation. Both Governor Dukakis and Governor-elect King have stated their views that passage of the Amendments substantially meets basic concerns raised by the lawsuit. On the other hand, the state Attorney General's Office and the Conservation Law Foundation believe that passage of the Amendments does not guarantee that safeguards adequate for the vital Georges Bank fishery will be implemented, nor does it remedy the deficiencies in the Environmental Impact Statement. They cite the discretion of the Commerce Secretary to establish a Fishermen's Gear Fund as a source of uncertainty. Without that fund in the North Atlantic, the Department of the Interior estimates damages to the Georges Bank fishing industry possibly exceeding \$150 million. Surely it is the clear intent of this statute to avoid such losses, and the strong belief is that the Administration must establish the safeguard before leasing occurs. At the present time, Massachusetts remains in the lawsuit because the Attorney General—an independently elected constitutional officer of the Commonwealth—feels that it is important to pursue such matters of law which are unresolved by the passage of the legislation, and to await the findings of the Appeals Court.

#### APPENDIX A

##### PART I

The following is a list of studies and reports required by the OCS Lands Act Amendments. There are a total of 15 reports with 6 of these being annual reports to Congress, 4 one-time-only reports and the remainder being conducted as the need arises.

##### *Title II*

1. Section 8(a)(4) requires the Secretary of Energy to submit to Congress any modifications to any bidding system authorized by the Act or any proposals for new bidding systems. Either the House or Senate may disapprove within 30 days.

2. Section 8(a)(8) requires the Secretary of Interior to submit to Congress at least 30 days prior to any lease sale a notice of the bidding system to be used and the reasons for doing so, and the tracts to be offered for lease.

3. Section 8(a)(9) requires the Secretary of Energy in consultation with the Secretary of Interior to submit a report to Congress within six months of the end of each fiscal year analyzing the bidding systems used during the past year and planned for the coming year.

4. Section 15 requires the Secretary of Interior to submit within six months of the end of each fiscal year two reports to the President of the Senate and the Speaker of the House. The first report details the activities taking place during the past year, and recommendations to Congress for improvements in management, safety and production from OCS operations and for resolution of jurisdictional conflicts. The second report, prepared after consultation with the Attorney General, makes recommendation for promoting competition in OCS leasing.

5. Section 18(c)(3) requires the Secretary of Interior to submit to Congress within nine months of enactment, a proposed OCS leasing program.

6. Section 18(d)(2) requires the Secretary of Interior to submit to the President and Congress a proposed leasing program together with any comments received, at least 60 days prior to approving such program.

7. Section 20(e) requires the Secretary of Interior as soon as practicable after the end of each fiscal year to submit to Congress an assessment of the cumulative effect of OCS activities on the human, marine and coastal environments.

8. Section 21(a) requires the Secretaries of Interior and Transportation to jointly conduct a study of safety and health regulations and of OCS technology. The results shall be submitted to the President who shall then submit a plan to promote safety and health to the Congress.

9. Section 28 requires the President to submit a report to Congress prior to the export of any oil or gas produced on the OCS demonstrating that such export will not increase the nation's reliance of imported oil or gas. Congress shall have 60 days to disapprove such export.

#### *Title III*

10. Section 304(e) requires the Secretary of Transportation to report to Congress from time to time on the desirability of changing the limitations on liability specified in this section.

11. Section 305(d) requires the President to conduct a study of the marine insurance industry to determine whether it may reasonably provide the services required under this section. The President shall submit results of this study within one year of enactment, with an interim report 3 months following enactment, to Congress.

#### *Title IV*

12. Section 406(a) requires the Secretary of Commerce to submit an annual report to Congress on claims and compensation in connection with the Fishermen's Contingency Fund.

13. Section 406(b) requires the Secretary of Commerce after consultation with the Secretary of Interior, to submit with the first annual report a report on the prevention and reduction of obstructions on the OCS.

14. Section 407(a) requires the Secretary of Commerce in cooperation with Interior, to conduct a two-year survey of obstructions on the OCS with results published on special charts for fishermen.

#### *Title VI*

15. Section 601(a) requires the Secretary of Interior within 6 months of enactment and with each annual report thereafter, to submit to the Comptroller General a list of all shut-in and flaring wells. Within 6 months after receiving such report, the Comptroller General shall submit findings and recommendations to Congress.

### PART II—NEW AND AMENDED REGULATIONS REQUIRED BY OCSLA

#### *Title II*

1. Section 5(a) requires the Secretary to prescribe such rules and regulations as are necessary to carry out a leasing program, including the prevention of waste and conservation of natural resources.

2. Section 5(a)(1) requires the Secretary to issue regulations for the suspension or temporary prohibition of operations or activities on the OCS.

3. Section 5(a)(2) requires the Secretary to issue regulations for the cancellation of leases and subsequent compensation.

4. Section 5(a)(5-8) requires the Secretary to issue regulations for the subsurface storage of oil and gas, for drilling and easements necessary for exploration development and production, for the prompt and efficient exploration and development of leases and for compliance with the provisions of the Clean Air Act.

5. Section 5(e) requires the Secretary or where appropriate, the Secretary of Transportation, to prescribe regulations for rights-of-way assuring the use of best available and safest technologies in pipeline burial.

6. Section 8(a)(1) requires the Secretary to issue regulations for bidding systems and handling of cash deposits.

7. Section 8(a)(6) requires the Secretary to issue at least 90 days in advance of a lease sale rules for the calculation of net profit.

8. Section 11(c)(3) requires the Secretary to issue regulations for the submission of exploration plans.

9. Section 18(f) requires the Secretary to issue regulations for public notice of and participation in the development of a leasing program, and for the receipt and consideration of nominations.

10. Section 21(c) requires the Secretary to issue regulations to establish procedures for carrying out the Environmental Studies Program.

11. Section 21(c) requires the Secretary of Transportation to issue regulations regarding hazardous working conditions on the OCS.

12. Section 22(c) requires the Secretaries of Interior and Transportation to issue regulations for scheduled and unscheduled on-site inspection.

13. Section 25(c) requires the Secretary to prescribe by regulation the details of a development and production plan.

14. Section 26(c) requires the Secretary to issue regulations to assure the confidentiality of privileged and proprietary information and for the release of such information under certain conditions.

15. Section 30(a) requires the Secretary of Transportation to issue regulations within six months of enactment pertaining to documentation, minimum construction standards and manning of OCS vehicles and structures.

### *Title III*

16. Section 302(c) authorizes the Secretary of Transportation to issue regulations designating persons who may obligate money in the Fund.

17. Section 302(d) authorizes the Secretary of Treasury, in consultation with the Secretary of Transportation, to promulgate regulations for the collection of fees and for documentation and record keeping.

18. Section 305 (a)(1) and (b) authorizes the President to promulgate regulations regarding evidence of financial responsibility for vessels and offshore facilities.

19. Section 305(a)(2) requires the Secretary of Transportation to issue regulations for the denial of entry or detainment of vessels without evidence of financial responsibility.

20. Section 307(e)(g) and (i) requires the Secretary of Transportation to issue regulations for procedures and standards for the administration, appraisal and settlement of claims and for review of decisions by the Secretary.

### *Title IV*

21. Section 403(a) requires the Secretary of Commerce to issue regulations for the filing, processing and fair and expeditious settlement of claims.

22. Section 403(b) requires the Secretary of Interior to establish regulations for the color-coding stamping or labeling of all materials, equipment, tools and containers used on the OCS.

The CHAIRMAN. Dr. Murphy, anywhere in the legislative record of the 1978 Outer Continental Shelf Amendments, is the viewpoint you just pointed out substantiated, as far as the Georges Bank is concerned, and where in the Marine Sanctuary Act and the Fisheries Conservation Management Act is there any supporting legislative record?

Dr. MURPHY. Legislative record of what, sir? I don't quite understand the question.

The CHAIRMAN. Well, basically we understand that the Georges Bank plaintiffs contend that the Secretary of Interior's leasing jurisdiction under the Outer Continental Shelf Lands Act as amended is seriously limited by the Marine Sanctuary Act and the Fisheries Conservation Management Act which you just stated.

I am asking where in the legislative record of the 1978 Outer Continental Shelf Act Amendments and those other two acts is that viewpoint substantiated?

Dr. MURPHY. Let me understand.

You are asking where that is substantiated in terms of our court suit?

The CHAIRMAN. Yes.

Dr. MURPHY. Let me refer this to Mr. Van Loon, the Assistant Secretary in Environmental Affairs, who has been part of this lawsuit for us.

Mr. VAN LOON. We have, Mr. Chairman, submitted lengthy statements both to the district court and the court of appeals in the past, laying out at 60 pages length and citing from congressional sources, the relationship between the required stewardship under the Fisheries Conservation and Management Act and the general provisions of the Marine Sanctuaries Act. The Commonwealth had asked the court to insure that the Interior Secretary make sure that all of these responsibilities were exercised simultaneously in going forward with lease sale 42.

In some instances, for example with regard to the Marine Sanctuaries Act, a number of events subsequent to the passage of the act by the Congress have identified the Georges Bank lease sale—excuse me, the Georges Bank area—as a possible place to be designated as a marine sanctuary. Those acts included statements from the Secretary of the Interior in notices presented in the Federal Register and elsewhere, and a letter sent by the New England Fisheries Management Council proposing the Georges Bank area for consideration as a marine sanctuary. So that the source of the link expands beyond the Congressional Record to other actions taken by the department and other private bodies.

The CHAIRMAN. But I don't think that the Secretary's leasing jurisdiction is limited by any of the three acts, and that there is no legislative record to support that.

Mr. VAN LOON. The contention in the court suit, Mr. Chairman, was not that he was totally limited by or that he was barred by that, but that, for example, the requirement of an environmental impact statement was that all responsibilities and alternatives be analyzed and discussed. And in a situation where Georges Bank had been proposed as a possible marine sanctuary, for example, when the Interior Department notices had reflected this possibility, that at the very least, the environmental impact statement should have discussed this possibility. And it was the finding of the district court and sustained additionally by the court of appeals for the first circuit that the failure to even discuss that question did constitute an inadequate environmental impact statement for lease sale 42.

The CHAIRMAN. We also understand that the plaintiffs in the Georges Bank case argue that the Secretary is duty bound to promulgate the leasing schedule contemplated by new section 18, section 208 of the amendments to the Outer Continental Shelf Lands Act, prior to conducting the Georges Bank lease sale, notwithstanding the fact that section 18(d)(3) clearly provides that leasing can continue for at least 18 months in the absence of a leasing program.

Mr. VAN LOON. Mr. Chairman, there are two separate plaintiffs in the lease sale. One is the Commonwealth of Massachusetts. A second action was brought by a private environmental group called the Conservation Law Foundation. The State of Massachusetts has not taken that position before the court of appeals. However, Conservation Law Foundation, I believe in their statement yesterday did reaffirm that that was the position that they put forth in the court of appeals.

The CHAIRMAN. Mr. Studds?

Mr. STUDDS. Have we cleared up the lease situation, Mr. Chairman?

The CHAIRMAN. No.

Mr. STUDDS. I have been away on a long vacation.

Did you make some reference to an election having occurred?

Dr. MURPHY. No, I did not, Congressman Studds.

Mr. STUDDS. Oh, I am so glad.

Nothing has changed then; is that right?

Dr. MURPHY. I wish that were true.

Mr. STUDDS. This committee has no jurisdiction on that matter, but I sure hope you are going to be around on the things that you have been fighting for in the past 4 years and continue to fight for. That is No. 1, the most important thing.

Second, I have a very strong hope and feeling that maybe you will be there. I am not going to ask you to comment on that.

Dr. MURPHY. Thank you.

Mr. STUDDS. I am shocked to hear that there has been an election. I was fishing. It wasn't my fault. I don't have a great deal of questions for you right now. Most of the questions I have, for pretty obvious reasons, will be for the agencies, all 78 of them who will respond to one or another aspect of this.

I could ask you for the record maybe one or two things but I will do it really briefly because I think your testimony speaks fairly clearly.

From your point of view, what remaining steps would have to be taken prior to the coming of drilling to the Georges Bank? What things of critical importance in your opinion are not yet done, are not yet in place, and must be done as far as you are concerned before you would like to see a lease role occur?

Dr. MURPHY. I think the concerns are still the same ones we have had all along. Primary examples include the Fishermen's Gear Compensation Fund, really being the U.S. liability fund, some clarification on the suspension and cancellation now of regulations, all the things that we have been asking as the critical assurances. They are very limited, but we think ought to be done.

At this stage, it seems to me, that we are past the question of whether the Secretary of the Interior has the authority to do these things. All we want right now is to move as fast as possible to establish those things in regulation form and get on with, what can be done to explore for oil and natural gas.

I am concerned because it is a matter I think now not just of policy being established, but the implementation going as quickly as possible. I think there are still the same issues that we have had all along, particularly attention to the monitoring of equipment

and to the protection for the fishermen which we still think ought to happen before the lease sale occurs.

Mr. STUDDS. I think your testimony clearly and eloquently expresses the thrust of what we have been trying to do here. Unfortunately, in order to do anything in Washington, you end up by what is symbolized by your appendix, which is zillions of reports, regulations, new offices.

One of the great frustrations I think here is that you take a relatively simple thing. You want to save an enormously valuable natural resource and you end up expanding the very bureaucracy down here which is sometimes totally unconscious of anything that has to do with natural resources, what the tides are, where the winds are from, whether it is light or dark out. Anything remotely to do with the natural phenomenon, which is so precious and so valuable, should be given time and protection. I do hope you will be around. I will save my questions.

Mr. Chairman, are most of the people in this audience witnesses? It is remarkable. I think everybody behind you has some role in administering what it is that we have created. I can hardly wait.

Dr. MURPHY. Hopefully, as the committee continues on this analysis and review, there could be some compression of these studies. I think what has to happen next is kind of a consolidation and streamlining of the amount of studies and regulations. That becomes the next generation of learning from implementing the enactment of legislation. I share I think the concern from the oil companies as I heard from yesterday's testimony that things be made as simple and straightforward as possible.

I think we have seen in the State of Massachusetts that if you focus on the key environmental issues and do that analysis well, that you can get very good analysis on a focused number of issues and you don't need to laundry list everything and you get much more efficient. So I would hope that in the next several hearings this kind of streamlining can go on with this long list of studies and regulations that have to be promulgated.

Mr. STUDDS. I just hope for your own sake and sanity, I know you will be involved in it, that it will be in Massachusetts rather than Washington.

The CHAIRMAN. Mr. Forsythe?

Mr. FORSYTHE. Thank you.

I would just like to touch on two points.

Under the Fishermen's Protection Fund, the concern is that the regulations to operate the fund have not yet been promulgated.

Dr. MURPHY. Yes.

Mr. FORSYTHE. Because the funding, financing of it of course is backed up by the ability of the department, the agency, to issue Treasury bonds. So that should not be a concern. I suspect if a claim were actually made, I think something would have to happen to that claim, because it is a law, and it seems to me that that should not be of too great a concern.

I share your concern of the industry on this question of getting this implemented. It seems to me that should not be one of your big worries.

Dr. MURPHY. The difficulty with that, sir, is that for individuals in the fishing industry of New England, it is a small time oper-

ation. For some of them to make the claims and not have a timely reimbursement is very painful.

Mr. FORSYTHE. I can fully appreciate it because I worked in this whole area very much. As a matter of fact, in another law there is another fishermen's protective fund that is broader than this one because it covers all kinds of losses. I share the same concern that you have and I know that Mr. Studds has in this particular situation, but the basic thing is to get the regulations promulgated.

There was comment yesterday that the taxes levied may not be big enough, to cover losses claimed. That is one thing that I don't think we need be concerned about. You don't even need appropriated funds. They can borrow from the Treasury and meet all legitimate claims.

The other thing is, I would like to understand the position of the State in the George's Bank law suit.

Is it your position that the sale should be held hostage to determination of whether or not there will be a marine sanctuaries within Georges Bank, or is it merely that they should be researched in the environmental impact statement.

Dr. MURPHY. Let me split apart once again, as Mr. Van Loon did, the difference between the Commonwealth of Massachusetts position which I can speak for and the environmentalists Conservation Law Foundation who I think have a very different position on this matter. We went into court against the Departments of the Interior and Commerce as a last resort. We have been talking about these kinds of reforms for several years now, even the Fishermen's Gear Compensation Fund, and part of the frustration is that we ought to get on doing it instead of haggling over it.

It has been the position of Governor Dukakis and it appears to be the position of Governor-elect King that the reforms are there and we ought to proceed with it. Governor Dukakis of Massachusetts has requested the attorney general to withdraw from the suit. He has seen to do otherwise. So it is not the intent of Governor Dukakis to hold the lease sale hostage for settling out the marine sanctuaries.

Mr. FORSYTHE. I am trying to get at the remedy that you sought in this area.

Dr. MURPHY. Yes.

Mr. FORSYTHE. I recognize the difference in the two plaintiffs. The position that the Attorney General in effect is continuing, perhaps I should not have referred to the State, is that the impact statement is the problem or is it the end result of the marine sanctuary being established if one is ever going to be?

Dr. MURPHY. I think even for the Attorney General the fundamental issue right now is more that the regulations be established and promulgated, that we have been expecting those. The agencies have said they have been drafting them all along in anticipation of the Lands Act Amendments being passed. Therefore it seems to me that one can proceed very quickly to get those regulations promulgated, and as far as the States are concerned we will probably be out of the tangle. I cannot speak fully for the Attorney General on this one, but that seems to be the intent on how I am interpreting his interests.

Mr. FORSYTHE. Thank you. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Belsky.

Mr. BELSKY. Dr. Murphy, you keep talking about the setting up of the fisherman's fund and the oil spill fund and your concerns about it. As a practical matter, have you been contacted by NOAA as to the Fishermen Fund or the Coast Guard on the oil spill fund to start with the arrangements and consultation before actually setting up these funds?

Dr. MURPHY. No, Mr. Belsky, I have not.

Mr. BELSKY. Has anyone in the State of Massachusetts been contacted?

Dr. MURPHY. Not that I am aware of. The issue here we are concerned about is the discretionary nature of this. We just want to get on with it.

The CHAIRMAN. Mr. Kitsos.

Mr. KITSOS. Dr. Murphy, it was proposed yesterday that the time in which the States could comply or respond for consistency determinations be reduced from 6 months to 2 or 3 months. Would this be acceptable to Massachusetts?

Dr. MURPHY. Let me turn that over to Mr. Van Loon, since he has been in charge of the coastal zone management program.

Mr. VAN LOON. We have tried always to make our responses in the shortest amount of time. Of course as the committee well knows, a lot of the issues are very complex. The way that I read the amendment, we can either respond within 3 months or put a notice, essentially the last day of the 3-month period, if we have not been able to do all the analysis and say we want to reserve judgment and use the additional time. We may be forced by complexity of issues to use the full 6 months on certain issues, but we are certainly moving ahead as fast as we can. I think we will succeed in filing our responses within the shorter time.

Mr. KITSOS. Thank you.

The CHAIRMAN. Thank you, Dr. Murphy.

Dr. MURPHY. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is a panel, a Department of Interior panel, Deputy Under-Secretary Barbara Heller, Dr. William Menard, Director, U.S. Geological Survey, Mr. Frank Gregg, Director, Bureau of Land Management, Mr. Al Powers, Director of the Outer Continental Shelf Program Coordination Office.

Mr. BREAUX. The committee welcomes the panel and we have copies of the testimony which will be made a part of the record.

We will ask the panel members if they have agreed on an order of presentation. We would welcome your testimony.

**STATEMENTS OF BARBARA M. HELLER, DEPUTY UNDER SECRETARY, H. WILLIAM MENARD, DIRECTOR, U.S. GEOLOGICAL SURVEY; FRANK GREGG, DIRECTOR, BUREAU OF LAND MANAGEMENT; AND AL POWERS, DIRECTOR, OUTER CONTINENTAL SHELF PROGRAM COORDINATION OFFICE, DEPARTMENT OF THE INTERIOR**

Ms. HELLER. Thank you very much, Mr. Chairman. We are delighted to be here today.

We appreciate the opportunity to be here today to discuss the Outer Continental Shelf Lands Act Amendments of 1978. I would like to begin by introducing my colleagues. On my immediate left

is the Director of the Bureau of Land Management, Mr. Frank Gregg. On my immediate right is Dr. William Menard, the Director of the U.S. Geological Survey. And to his right is Mr. Alan Powers, who is Director of the Office of Outer Continental Shelf Program Coordination.

Secretary Andrus regrets that he cannot be here in person, but he has asked me to convey to you the importance he attaches to successfully implementing this new act. He strongly believes that it can be implemented to meet the energy demands of the Nation in a way that is environmentally acceptable both to the Nation and to affected States.

The amendments to the 1953 statute have resulted from years of effort by many dedicated people, including of course, and perhaps most importantly, this committee. The Outer Continental Shelf program is already benefiting from these changes. My purpose here today is to tell you about the progress of Interior in implementing the amendments.

I have divided the testimony into several sections, and I am going to summarize and omit parts of it, and request that you will accept the bulk of the statement for the record.

One of your and our principal considerations in the legislation was that these changes be made in such a way that leasing offshore would not be suspended or stopped. To this end, compliance with the act has been structured to insure that lease sales previously scheduled could be held. We were, in fact, able to hold a scheduled sale 6 weeks after the enactment of the OCS amendments.

The Department also has taken care to insure that, in addition to lease sales, other parts of the Outer Continental Shelf program would continue to function during implementation, but within the parameters of the new law. For example, under the 1978 act, the Department of Justice is given authority to review, for its effects on competition, the transfer or assignment of lease rights already issued by the Government. Procedures for antitrust review of proposed transfers of lease rights have been established and actual reviews by Department of Justice have begun. This has taken place without any significant interruption in the business of producing oil and gas from the Outer Continental Shelf.

Similarly, arrangements have been made so that the Federal Energy Regulatory Commission authority as to pipelines can be exercised on grants of rights-of-way and easements. An interim agreement was established by which grants of rights-of-way and easements for pipelines issued since September have incorporated conditions to preserve FERC's authorities to assure competition as stated in sections 5(e) and (f) of the act. Again, no significant delays in pipeline construction activity have been experienced. Pipeline authorizations are also conditioned upon providing maximum environmental protection by utilizing the best available and safest technologies including the safest practices for pipeline burial.

Before the amendments became law, the Department of the Interior had been preparing for changes in the program. We began reviewing all existing regulations, revising them where necessary. In some instances completely new regulations are now being drafted. A great deal of work has been done in the 3 months since the

bill was signed, despite some of the statements I understand you heard yesterday to the contrary. We recognize of course that a great deal more remains to be done.

With some exceptions, which I shall address in more detail, virtually all new regulations and regulation changes required by the OCS Lands Act Amendments of 1978 for which the Department of the Interior is responsible have been drafted and will appear in the Federal Register as proposed rules by the end of January 1979. Most of the changes will be in the Register by the end of this month.

Rather than go through a litany of the sections in the bill and what needs to be done in each instance, I have attached a chart prepared by the Department showing the status of regulation changes, and I respectfully request that you include them in the hearing record. This chart indicates the section in the act that requires a change, the type of change required, whether it is a major or minor change, or a new regulation, and, where appropriate, those areas where other departments or agencies have responsibilities.

On October 26, 1978, the Department issued a call for comments on the design of a new 5-year leasing program. This program will comply with the numerous guiding principles contained in section 18 of the amendments. We plan to have a draft proposed program sent to the Governors for review by March 2, 1979. A new final lease planning schedule should be approved by January 15, 1980. This complies with the statutory mandate to send a proposed program to Congress within 9 months and issue final notice of the program within 18 months. Additionally, we are planning to hold a series of meetings with interested groups after the proposed program is sent to the Governors.

We have been working closely with the Department of Energy on bidding systems. This work has been directed to both bidding systems in general and to systems that are to be used for particular sales. In addition to regular staff contact, a standing committee of representatives of the two Departments has been formed to work on the details of bidding methods, and arrive at tentative agreements that can be proposed to the Secretaries of Interior and Energy.

One of the most important new authorities in the OCS amendments is that which provides for the use of new bidding systems. The Department of the Interior began, even before the enactment of the amendments, to study and test bidding systems other than the cash bonus, constant or fixed royalty system. We are looking for systems that will assure the public a fair return for oil and gas leases, that will promote efficient and expeditious exploration and development of OCS resources, and that will improve competition. In testing new systems we are trying to insure that hidden or unexpected costs such as administrative costs are not incurred.

I would like to review our recent use of new bidding systems and our plans for the future. We began over a year ago with systems authorized by the original OCS Lands Act and current regulations.

The first test offered 34 percent of the tracts in the 1977 Cook Inlet lease sale under royalty bidding with fixed cash bonuses. A subsequent test of this system was proposed for 41 percent of the

180 tracts in the Georges Bank sale, but the Georges Bank sale has not yet taken place, as you know.

The fixed cash bonuses in these tests were set at levels greater than the minimum to avoid very high royalty rates. As you know, excessively high royalties can be a disincentive to produce oil and gas in areas where the resource is not producible at very low cost. Although we will not be able to draw definite conclusions on such production effects until later in the history of our newer leases, we are building a bank of bidding data with which to evaluate royalty rates. In light of potential production losses, it is fair to say that royalty bidding is probably not the best alternative.

The second new system which is being tested is the sliding-scale royalty, cash bonus bidding system. This system uses a sliding scale to fix a high royalty on tracts that turn out to have large reservoirs with high production rates. It is designed to reduce bonus levels and thus increase competition without the production losses caused by royalty rates which are set too high.

We used the linear or straight-line sliding scale royalty on 30 percent of the tracts offered in sale No. 43, South Atlantic, and 11 percent of the tracts offered in sale No. 45, Gulf of Mexico.

In addition, we used a curved sliding scale—technically speaking, a semilogarithmic scale—on 25 percent of the tracts offered in sale No. 65, Gulf of Mexico. We will be using it again on 40 percent of the tracts to be offered in sale No. 51 this month in the Gulf of Mexico, and on 53 percent of the tracts proposed to be offered in sale No. 49, Mid-Atlantic, in February. This form of the sliding scale was designed to avoid reductions in production rates on large reservoirs that could result from the previously used linear form.

In our bidding system tests to date we have tried to find ways to reduce bonus levels without incurring production losses. Our plans for the future focus on profit sharing. Under the profit-sharing system, the Government takes a share of the profits, after the operator's investments are paid out, whenever oil or gas is found and produced. This can substantially reduce bonuses, unlike high royalty rates, and may thus improve competition. Unlike high royalty rates, however, high profit-share rates should not provide a disincentive to produce oil and gas. Even though profits are shared, they are never reduced to zero, as they can be under high royalty rates.

As you know, implementation of this system requires regulations establishing the method and accounting systems by which we will measure profits and determine the Government's share. The Department of the Interior has completed a study of profit-sharing systems and their accounting requirements and will continue to work with the Department of Energy to develop the necessary regulations.

I know that you will be hearing more from the Department of Energy later on the details.

To implement the cancellation provision, again a new provision in the Outer Continental Shelf Amendments, the Outer Continental Shelf lease form in current use has been changed to reflect the existence of this authority. We plan to publish a proposed rule next month providing details of full implementation.

Extensive public participation has been, and continues to be, a part of our procedures. As I mentioned, regulations to be published in December and January are to be in proposed rule form with a period for comment.

In two instances, we plan to arrange for additional public participation. The best available and safest technology requirement of section 21 and the air quality requirements of section 5 are important provisions. They must be implemented in a manner that reflects the intention of the Congress and the committee, to assure safe operations on the Outer Continental Shelf and adequate protection of coastal air quality. By the end of December, we will have published in the Federal Register a notice of intent to propose rules. This notice will request information and comment on various aspects of the problems associated with these two regulatory areas before a proposed rule is drafted. Subsequently, the public will be asked to comment on the rule that will be proposed. While the language in the act is quite clear and concise in these two areas, as often happens in such instances its application is quite complex and there are divergent views on many of the issues involved. "Best available and safest technology" is an entirely new standard, not found in other statutes, and we want to be sure that it is implemented fairly and efficiently.

We have been in close consultation with the Environmental Protection Agency and expect to continue to depend on them and their expertise in implementing section 5(a)(8). After full public participation and with EPA's help we hope to have rules published for comment in early 1979.

Another major aspect of the 1978 amendments, and one you have heard a great deal about so far this morning, is to assure that States, and, through the States, local communities, are informed of Outer Continental Shelf activities and given an opportunity to participate in decisions.

Many of the procedures required by the act, such as the 60-day period for Governors to review the Secretary's proposed sale decisions, were already a part of the Department's standard procedures. There are, however, some new requirements. For example, there is a provision for consultation and revenue sharing when oil and gas underlie a State-Federal boundary. We are now implementing this particular requirement (section 8(g)).

I might mention here, and attempt to clarify, an unfortunate misunderstanding as to information being made available to the Governors. On November 1 we published in the Federal Register a notice suspending parts of a regulation published in January of this year. That regulation, dealing with exploration plans, among other things, required that the States be given 30 days to comment on exploration plans and related material. The amendments, however, require the Secretary to approve or disapprove an exploration plan within 30 days from the time it is submitted. To correct this anomaly, the regulation was changed to make the plans available under conditions acceptable to all parties, but not to delay approval beyond the statutory deadline. This has apparently caused some confusion. The intent of the Department is to continue to make exploration plans available to any affected State that may want to review and make comments. This availability is not only required

by the amendments but is a part of Secretary Andrus' firm determination to earn and build on a cooperative relationship with States and local governments. We are, however, required to meet the statutory requirements.

In addition to our responsibilities for assuring adequate and timely exchange of information with States, we also deal with large amounts of data and information acquired from industry.

We will continue to obtain new data on the geology of the Outer Continental Shelf from public and private sources, through permits, contracts and interagency agreements. The amendments authorize acquisition of industry interpretations of these data. While such industry conclusions and opinions can be very useful, it is necessary for the Department to maintain an independent capability to evaluate oil and gas potential. The Geological Survey maintains a staff of professional employees that makes its own interpretations and will continue to do so. The authority in new section 18(g) in the law to obtain information from private sources will be used initially in comparison with Geological Survey interpretations and to determine the benefits and costs of gathering and using such information.

Regulations dealing with confidentiality of data obtained from leased lands and in prelease situations are being amended, as necessary, to comply with the provisions of the act.

I will, with your permission Mr. Chairman, leave out the section on Federal purchase of oil and gas, since it is in the full testimony, and move on to coordination within the executive branch. We do, as you know, coordinate with a number of different Federal agencies.

The Department of Energy is one of several Federal departments with which we work on Outer Continental Shelf issues. Cooperation and consultation with DOE are quite extensive. This occurs in matters principally concerning bidding, diligence, production rates, royalty oil and gas, and competition.

Similarly, we work with the other Federal agencies—particularly the Department of Transportation and the Coast Guard, the Department of Commerce, and especially the Office of Coastal Zone Management.

The Outer Continental Shelf clearly has impacts on coastal zones and the changes found in title V recognize this situation.

Under title IV authorities, the National Marine Fisheries Service is implementing the Fishermen's Contingency Fund. The Department of the Interior is drafting regulations for equipment marking.

We have been assisting Commerce in establishing area accounts for the contingency fund and schedules for the assessment of lessees and permittees. Collections by the Department will commence when Commerce has fully implemented the title.

I have already mentioned our extensive contacts and consultations with the Department of Justice as it proceeds with analyses and recommendations on competition.

In conclusion, Mr. Chairman, I wish to say again that the Department welcomes this opportunity to discuss the Outer Continental Shelf program with the committee. The amendments are a much needed part of the program.

The department is thankful for all the work that has been done to help realize offshore oil and gas production in an environmentally safe and effective manner. My colleagues and I would be happy to answer any questions you may have.

[The statement with attachments follow:]

Remarks of Deputy Under Secretary  
Barbara Heller  
before the  
Ad Hoc Select Committee on  
Outer Continental Shelf

December 7, 1978

Mr. Chairman, members of the Committee, I welcome the opportunity to be here today to discuss the recently enacted Outer Continental Shelf Lands Act Amendments of 1978.

Secretary Andrus regrets that he can not be here in person, but he has asked me to convey to you the importance he attaches to successfully implementing the reforms we all worked so hard to obtain. He strongly believes that they can be implemented to meet the energy demands of the nation in a way that is environmentally acceptable both to the nation and to affected States.

The Amendments to the 1953 statute have resulted from years of effort on the part of hundreds of dedicated people and are now being put into effect. The program is already benefiting from these changes. My purpose here today is to tell you about the Department's progress in making these changes.

Uninterrupted Leasing Program

One of your and our principal considerations in the legislation was that necessary changes be made in such a way that leasing

offshore would not be suspended or stopped. To this end, compliance with the Act has been structured to assure that lease sales previously scheduled could be held. We were able, for example, to hold a scheduled sale six weeks after enactment. To do this the Department published a new lease form in the Federal Register for comment, consulted with and obtained the agreement of the Department of Energy on the provisions of the lease form, and had the finished document available by the end of October. Regulations were changed to accommodate the time specified in the Act for competitive review of bidding by the Attorney General; and other leasing procedures were accommodated to the new law wherever necessary, including, for example, the submission of a report to the Congress on bidding systems.

#### Ongoing OCS Activities

The Department also has taken care to assure that, in addition to lease sales, other parts of the OCS program would continue to function during implementation, but within the parameters of the new law. For example, under the 1978 Act, the Department of Justice is given authority to review, for its effects on competition, the transfer or assignment of lease rights already issued by the Government. There is considerable activity in this area by industry and, such transfers are often necessary so that companies

can operate efficiently and effectively. Procedures for anti-trust review of proposed transfers of lease rights have been established and actual reviews by the Department of Justice have begun. This has taken place without any significant interruption in the business of producing oil and gas from the OCS. Similarly, arrangements have been made so that the Federal Energy Regulatory Commission (FERC) authorities as to pipelines can be exercised on grants of rights-of-way and easements. An interim arrangement was established by which grants of rights-of-way and easements for pipelines issued since September have incorporated requirements specifically under FERC's authorities to assure competition, as stated in sections 5(e) and (f) of the Act. Again, no significant delays in pipeline construction activity were experienced. Pipeline authorizations are also conditioned upon providing maximum environmental protection by utilizing the best available and safest technologies, including the safest practices for pipeline burial.

#### Regulation Changes

Even before the Amendments became law, the Department had been preparing for changes in the program. Several aspects of implementation were anticipated by the Department before the bill passed the Congress and was signed into law. The Department began reviewing all existing regulations, revising them where necessary. In some

instances completely new regulations are now being drafted. A great deal of work has been done in the three months since the bill was signed. A great deal more remains to be done.

With some exceptions, which I shall address in more detail, virtually all new regulations and regulation changes required by the OCS Lands Act Amendments of 1978 for which the Department of the Interior is responsible, have been drafted and will appear in the Federal Register as proposed rules by the end of January 1979. Most of the changes will be in the Register by the end of this month.

Rather than go through a litany of the sections in the bill and what needs to be done in each instance, I have attached a chart prepared by the Department showing the status of regulation changes and I respectfully request that you include them in the hearing record. This chart indicates the section in the Act that requires a change, the type of change required, whether it is major, minor, or a new regulation, and, where appropriate, those areas where other Departments or agencies have responsibilities. I might mention that, with few exceptions, the Department's express responsibilities are contained in titles II and VI of the Act.

### Five-year Leasing Program

On October 26, 1978, the Department issued a call for comments on the design and location of a new five-year leasing program. This program will comply with the numerous guiding principles contained in Section 18 of the Amendments. We plan to have a draft proposed program sent to the Governors for review by March 2, 1979. A new final lease planning schedule should be approved by January 15, 1980. This complies with the statutory mandate to send a proposed program to Congress within nine months and issue final notice of the program within eighteen months. Additionally, we are planning to hold a series of meetings with interested groups after the proposed program is sent to Congress.

### Bidding Systems

We have been working closely with the Department of Energy on bidding systems. This work has been directed to both bidding systems in general and to systems that are to be used for particular sales. In addition to regular staff contact, a standing committee of representatives of the two Departments has been formed to deal with these matters and arrive at tentative agreements that can be proposed to the Secretaries.

The OCS Lands Act Amendments provided important new authorities for the use of bidding systems. The Department of the Interior began, even before the enactment of the Amendments, to study and

test bidding systems other than the cash bonus, constant or fixed royalty system. We are looking for systems that will assure the public a fair return for oil and gas leases, that will promote efficient and expeditious exploration and development of OCS resources, and that will improve competition. In testing new systems we are trying to insure that hidden or unexpected costs are not incurred.

I would like to review our recent use of new bidding systems and our plans for the future. We began, as I mentioned earlier, before the Amendments were passed, with systems authorized by the original OCS Lands Act and current regulations.

The first test offered 34 percent of the tracts in the 1977 Cook Inlet lease sale under royalty bidding with fixed cash bonuses. A subsequent test of this system was proposed for 41 percent of the 128 tracts in the Georges Bank lease sale. The Georges Bank sale has not yet taken place because of litigation which is still pending.

The fixed cash bonuses in these tests were set at levels greater than the minimum to avoid very high royalty rates. As you know, excessively high royalties can be a disincentive to produce oil and gas in areas where the resource is not producible at very low cost. Although we will not be able to draw definite conclusions on such production effects until later in the history of our newer leases,

we are building a bank of bidding data from which to evaluate royalty rates. In light of potential production losses, it is fair to say that royalty bidding is not a superior alternative.

The second new system which is being tested is the sliding scale royalty, cash bonus bidding system. This system uses a sliding scale to fix a higher royalty on tracts that turn out to have large reservoirs with higher production rates. It is designed to reduce bonus levels and thus increase competition without the production losses caused by royalty rates which are set too high.

We used the linear or straight-line sliding scale royalty on 30 percent of the tracts offered in Sale #43 (South Atlantic) and 11 percent of the tracts offered in Sale #45 (Gulf of Mexico).

In addition, we used a curved sliding scale (technically speaking, a semi-logarithmic scale) on 25 percent of the tracts offered in Sale #65 (Gulf of Mexico). We will be using it again on 40 percent of the tracts to be offered in Sale #51 this month in the Gulf of Mexico, and on 53 percent of the tracts to be offered in Sale #49, (Mid-Atlantic) in February. This form of the sliding scale was designed to avoid reductions in production rates on large reservoirs that could result from the linear form.

In our bidding system tests to date we have tried to find ways to reduce bonus levels without incurring production losses. Our plans for the future focus on a system that promises to do this very well: profit sharing. Under the profit sharing system, the Government takes a share of the profits, after the operator's investments are paid out, whenever oil or gas is found and produced. This can substantially reduce bonuses, and may thus improve competition. Unlike high royalty rates, however, high profit share rates should not provide a disincentive to produce oil and gas. Even though profits are shared, they are never reduced to zero as they can be under high royalty rates.

As you know, implementation of this system requires regulations establishing the method and accounting systems by which we will measure profits and determine the Government's share. The Department of the Interior has completed a study of profit sharing systems and their accounting requirements and will continue to work with the Department of Energy to develop the necessary regulations.

#### Cancellation of leases for Environmental Reasons

An important new provision authorizes the Secretary to cancel a lease under certain extraordinary circumstances. To implement this new important authority, the OCS lease form in current use has been changed to reflect the existence of this authority. We plan to

publish a proposed rulemaking in mid-December 1978, providing the details of full implementation of the provision.

#### Public Participation

Extensive public participation has been, and continues to be, a part of our procedures. As I mentioned, regulations to be published in December and January are to be in proposed rule form with a period for comment.

In two instances, we plan to arrange for additional public participation. The best available and safest technology requirement of section 21 and the air quality requirements of section 5 are important provisions. They must be implemented in a manner that reflects the intention of the Congress to assure safe operations on the OCS and adequate protection of coastal air quality. By the end of December, we will have published in the Federal Register a notice of intent to propose rules. This notice will tell all interested parties that a proposed rule will be drafted and request information and comment on various aspects of the problems associated with these areas of regulation. Subsequently, the public will be asked to comment on the rule that will be proposed. While the language in the Act is quite clear and concise in these two areas, as often happens in such instances, its application is quite complex and there are divergent views on many of the issues involved. "Best available and safest

technology" is an entirely new standard, not found in other statutes, and we want to be sure that it is implemented fairly and efficiently.

We fully realize that people in coastal communities want to improve or, for the more fortunate areas, maintain the quality of the air they breathe. We are working diligently to implement the air quality requirements of the Act. We have been in close consultation with the Environmental Protection Agency and expect to continue to depend on them for the skills and knowledge they have in this area of pollution control. Our relationship could not be better. After full public participation, with EPA's help, we hope to have rules published for comment in early 1979.

#### State Consultation and Participation

Another major aspect of the 1978 Amendments is to assure that States, and, through the States, local communities, are informed of OCS activities and given an opportunity to participate in decisions. Many of the procedures required by the Act, such as the 60-day period for Governors to review the Secretary's proposed sale decisions, were already a part of the Department's standard procedures. There are, however, some new requirements. For example, there is a provision for consultation and revenue sharing when oil and gas underlie a State-Federal boundary. We are now implementing this particular requirement (section 8(g)). I mention it to illustrate

that we are not only aware of but actively pursuing our obligation to consider State and local interests in OCS matters.

I might mention here, and attempt to clarify, an unfortunate misunderstanding as to information being made available to the Governors. On November 1 we published in the Federal Register a notice suspending parts of a regulation published in January of this year. That regulation, dealing with exploration plans, among other things, required that the States be given 30 days to comment on exploration plans and related material. The Amendments, however, require the Secretary to approve or disapprove an exploration plan within 30 days from the time it is submitted. To correct this anomaly, the regulation was changed to make the plans available under conditions acceptable to all parties, but not to delay approval for a definite period of time until comments were received. This has, apparently, caused some confusion. The intent of the Department is to continue to make exploration plans available to any affected State that may want to review and to consider comments. This availability is not only required by the Amendments but is a part of the Secretary's firm determination to earn and build on a cooperative relationship with States and local Governments. The new law does require an approval decision within 30 days, however.

Obviously, under the statutory time limitation, the sooner an affected State can submit their comments, the longer the Department will have to consider their views.

#### Data and Information

In addition to our responsibilities for assuring adequate and timely exchange of information with States, we also deal with large amounts of data and information acquired from industry.

We will continue to obtain new data on the geology of the OCS from public and private sources, through permits, contracts and interagency agreements. The Amendments authorize acquisition of industry interpretations of these data. While such industry conclusions and opinions can be very useful, it is necessary for the Department to maintain an independent capability to evaluate oil and gas potential. The Geological Survey maintains a staff of professional employees that makes its own interpretations and will continue to do so. The authority in new Section 18(g) in the law to obtain information from private sources will be used initially in comparison with Geological Survey interpretations and to determine the benefits and costs of gathering and using such information.

Regulations dealing with confidentiality of data obtained from leased lands and in pre-lease situations are being amended, as necessary, to comply with the provisions of the Act.

Federal Purchase of Oil and Gas

Mr. Chairman, another area of activity in which your letter to the Secretary indicated a special interest, deals with Federal purchase and disposition of oil and gas.

The Department of Energy Organization Act transfers certain responsibilities in this area to DOE. We are currently assisting DOE in the promulgation of their royalty oil regulations. These new regulations will supersede current Departmental regulations. Major points under discussion are: (1) a definition of market price; (2) the administrative fee currently being charged; and (3) the necessary consultation procedures between the Department and DOE. DOE estimates that new regulations will be in place by April 1979. To accommodate DOE, the Secretary has approved a 6-month extension of existing royalty oil contracts. These contracts are due to expire on July 1, 1979. Since we anticipate that the procedures to allocate available supplies of royalty oil to small refiners will take at least 6 to 8 months to complete, we will initiate the process during the first quarter of 1979 so that there will be no gap in royalty oil availability to small refiners in the period during which the Department transfers activities in this area to DOE.

Coordination within the Executive Branch

The Department of Energy is one of several Federal Departments with which we have dealings on OCS issues. Cooperation and consultation

with DOE are quite extensive. Under the provisions of the DOE Organization Act, under which DOE has authority to promulgate certain regulations, the two departments necessarily work closely together. Principally, this occurs in matters concerning bidding, diligence, production rates, royalty oil and gas, and competition.

Our relationship with the Department of Transportation has always been close and cooperative. The Amendments have added new opportunities to enlarge the scope of this effective partnership on training of platform personnel, accident investigation, inspection of facilities, and the adequacy of safety and health regulations. We are working closely with the Coast Guard on all of these matters.

Similarly, we have always worked closely with the Department of Commerce, particularly the Office of Coastal Zone Management. The OCS clearly has impacts on coastal zones and the changes found in Title V recognize this situation. Under Title IV authorities, the National Marine Fisheries Service is implementing the Fisherman's Contingency Fund. The Department of the Interior is drafting regulations for equipment marking and we have been assisting Commerce in establishing area accounts for the contingency fund and schedules for assessment of lessees and permittees. Collections, by the Department, will commence when Commerce has fully implemented the Title.

I have already mentioned our extensive contracts and consultations with the Department of Justice as it proceeds with analyses and recommendations on competition.

Conclusion

In conclusion, Mr. Chairman, I wish to say again that the Department welcomes this opportunity to discuss the OCS program with the Committee. The Amendments are a much needed part of the program. The Department is thankful for all the work that has been done to help realize offshore oil and gas production in an environmentally safe and effective manner. My colleagues and I would be happy to answer any questions you may have.

Implementation of  
OCS Lands Act  
Amendments of 1978

Section No.	Action	Target Date	Comment
201	Minor changes in regulations	Continuing with regulations issuance and revision	Lease form re-issued with changes September 24, 1978
New definitions and revised definitions			
202 section 3	Minor changes	December 1978 (proposed rules)	National policy statement reflected in regulation
203 section 4 Boundary issues	Inter-government coordination and notice to lessees	1979 (procedures)	
204 section 5(a) (1) (suspensions)	Minor changes	January 1979 (proposed rules)	Changes in regulations by mid-December (1978) and lease from re-issued
204 section 5(a) (2) (cancellation)	Major change in regulation	January 1979 (proposed rules)	Lease form reflects authority
204 section 5(a) (3)-(6)	Minor or no changes to current regulation	January 1979 (proposed rules)	Assignments, unitization, storage easements, diligence
204 section 5(a) (8)	New regulation	February 1979 (proposed rules)	Notice to Intention to prepare rules - December 1978
204 section 5(b) (assignments/transfers)	Procedures to comply with Justice review	Completed	October 25, 1978
204 section 5(c)-(d) (cancellation/non-compliance)	Minor changes	January 1979 (proposed rules)	Lease form reflects requirements
204 section 5(e) & (f) (pipeline placement)	Changes in regulations and establishing of procedures	Regulations - Mid-January 1979 (proposed rules) procedures - issued October 4, 1978	Arrangements with FERC subject to review after trial period

Implementation of  
OCS Lands Act  
Amendments of 1978

Section No.	Action	Target Date	Comment
204 section 5(g) (production rates)	Minor change in regulations	December (proposed rules)	Regulations change to reflect DOE responsibility
204 section 5(i) (Flaring)	New regulation - minor change	January 1979 (proposed rules)	
205 section 8(a) (1) (granting leases)	Minor changes in regulations	December (proposed rules)	Procedural aspects of bidding for Leases
205 section 8(a) (3) (royalty reduction)	Minor changes	December (proposed rules)	
205 section 8(a) (bidding systems)	Major addition to regulations	Uncertain	DOE regulations. Contract com- pleted by DOI on net profit accounting issues
205 section 8(b) (lease form revisions)	Major	Completed	Revised form used in lease sales
205 section 8(c) (AG review of lease sale)	New procedures	Completed	Additional data requirements being met
205 section 8(d) (diligence/bidders)	Major addition to regulations	Uncertain	DOE coordination required. Analyses initiated
205 section 8(e) (AG review of transfers)	New procedures	Completed	Reviews by AG initiated November 1, 1978

Implementation of  
OCS Lands Act  
Amendments of 1978

Section No.	Action	Target Date	Comment
205 section 8(g) (3 mile zone/revenue distribution)	Procedures required	Partially completed	Difficulties in full implementation due to information transfer and timing for sales in 1978 (90 day period authorized by Act)
208 section 11 (exploration)	Major revision of regulations	December 1978 (proposed rules)	
208 section 18 (Leasing program)	New regulations (final) call for information	Completed	Subsequent procedures and timing specified in the Act
208 section 18(g) (confidential data)	Revise regulation	December 1978 (proposed rules)	Current protection of confidential data sufficient. See Section 26 notes.
208 section 19 (State input/sales and plans)	New procedures (sales) regulation changes (plans)	Completed December 1978 (proposed rule)	..
208 section 20 (environmental studies)	Minor changes	December 1978 (proposed rule)	New regulation issued January 27, 1978
208 section 21(a) (Study of safety and health regulations)	Coordinate with USCG	Uncertain	Study plan under preparation Possible 2 Year study
208 section 21(b) (best available and safest technology)	Major regulation changes	December 1978 (notice of intent to propose rules)	Notice of intent procedure will assure maximum participation by interested parties
208 section 22(b), (c), & (d) (safety)	Minor regulation & procedure changes	January 1979 (proposed rules)	

Implementation of  
OCS Lands Act  
Amendments of 1978

Section No.	Action	Target Date	Comment
208 section 22 (e) & (f) (safety-violations and subpoena)	Major change in procedures	January 1979	
208 section 23 (process violations)	Major changes in procedures/ regulations	January 1979 (proposed rules)	Adjusted current procedures being used in the interim
208 section 24 (assessment of penalties)	Major procedural changes	January 1979	
208 section 25 (review of plans)	Major regulation changes	December 1978 (proposed rules)	30 CFR 250, also applicable to parts of sections 5, 8, 21, 22, 23, and 24
208 section 26 (information)	Major regulation changes	December 1978 (proposed rules)	30 CFR 252 (major changes) 43 CFR 3300 (minor changes)
208 section 27 (purchases and disposition of oil and gas)			DOE responsibility Revised lease form conforms with Act
208 section 29 (restrictions on employment)	Modify code of ethics	Uncertain	Statutory restrictions current applicable

Implementation of  
OCS Lands Act  
Amendments of 1978

Section No.	Action	Target Date	Comment
403 (b) (equipment marking)	Major - new regulation	January 1979 (proposed rule)	Extensive Coordination with Department of Commerce, on implementing Fisherman's Contingency Fund (title IV)
605 (sunshine in government)	Minor changes	December 17, 1978	Current procedures are similar to new requirements
Reports required by titles II 601, 602, 605, 606, and 607.	and VI (Department of the Interior responsibility) are defined in sections 8, 15, 18, 20, 21, Statutory requirements for timing and content shall be met.		



United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

NOV 16 1978

Honorable George C. Wallace  
Governor of Alabama  
Montgomery, Alabama 36104

Dear George:

In accordance with section 3 (g) of the Outer Continental Shelf Lands Act, as amended, certain information is to be made available to a State when areas within 3 miles of the coastal boundary of the State are included in a Call for Bids. The Call for Bids and Consent for sale 62 was issued in September and includes all areas within 3 miles of the seaward boundary of your State which are not currently under lease.

The following information is enclosed:

1. A report on the geology of the region and estimated potential mineral resources.
2. Material on ecological characteristics of the region including:
  - (a) A copy of the most recent Environmental Statement (sale 50) proposal for the area of the Call for Bids and Consent for sale 62.
  - (b) Summaries of reports on environmental studies.
3. Estimates of oil and gas reserves in the areas proposal for leasing.

No specific identification of any field, geological structure or trap located within 3 miles of the State-Federal boundary is enclosed. Until additional information is collected and analyzed, the Department will be unable to provide information of this nature.

During the multi-year process in preparation for the proposed sale a great deal more data and information will become available. As has been the Department's policy in the past, we will be consulting and meeting with your representatives on numerous occasions during the preparatory period. Before any final decisions are made as to whether to hold this sale, and if so what to offer for bidding and under what operational constraints, I shall have asked you for your comment on virtually every aspect of the proposal.

I thank you for the cooperation you and your staff have given the Department, and look forward to a continuing progressive relationship as we proceed to develop the Nation's energy resources in an environmentally safe manner.

Sincerely,

SECRETARY

Mr. BREAUX. Thank you very much for your testimony and presentation. I know Chairman Murphy has some questions he would like to get to, and he should be back very shortly.

I also know the staff has a number of questions for the department that we might not be able to get to in oral questioning but these would be submitted to the Department in writing.

I have some questions that I would like to ask regarding some of the comments that you made on page 10 with regard to state consultation, which, of course, was in old legislation, and I think has been strengthened in the new legislation that we enacted, with regard particularly to consultation with the States in areas where the Outer Continental Shelf overlaps State jurisdiction in the State leasing areas.

With regard to sale 51—is that the next sale?

Ms. HELLER. Yes.

Mr. BREAUX. With regard to sale 51 in the Gulf of Mexico off the coast of Louisiana, I know the State of Louisiana feels that there was a great deal less than consultation and, as a result, I think they are on record at this point as objecting to sale 51.

They informed me—which I might add is a very unusual step for the State of Louisiana to object to an offshore lease sale—which indicates to me and I guess everyone that they would have to have some very serious reasons for objecting.

The information I have is that there wasn't very much consultation, depending what the definition of consultation is. They tell me that they were informed that sale 51 possibly could contain areas of overlapping jurisdiction—specifically seven tracts in sale 51 overlapped with State jurisdiction within the 3-mile limit.

They say basically there was no consultation—we were informed of that—and that the Secretary offered an agreement for escrowing revenues from these tracts which would be required by the Outer Continental Shelf Act.

I have a number of questions with regard to that, to try to find out exactly where we are.

Specifically, I know the State law requires that a severance tax be paid to the State on oil and gas that is taken from the State jurisdiction. I take it that the proposal that the Department of the Interior sent to the State did not make any provisions for collection of any of the State severance taxes.

Could someone comment on that? Who has been handling sale 51 as far as consultation with the State?

Ms. HELLER. If I may try and answer that, Mr. Chairman.

We have a little bit of a problem with sale 51 because one of the requirements in the act is that there be a 90-day period for the State and the Federal Government to come to some agreement.

As you probably know, it hasn't been 90 days since the Outer Continental Shelf amendments were enacted, so we could not possibly have had 90 days to try and come to agreement.

We have been in close contact with the State, the Governor, and with his secretary of natural resources.

Mr. BREAUX. What type of contact, because they say they really were not consulted at all.

Ms. HELLER. I would like to ask Mr. Powers, who has been in close touch with them over the last few weeks, to respond to that.

Mr. BREAUX. Sure.

Mr. POWERS. The assertion is correct that we did not have much close contact with them prior to their receipt of the letter for reasons that Barbara Heller explained relating to the 90-day period.

Mr. BREAUX. Let's get to that point. Before the letter was sent saying this is what the agreement will be, why wasn't there any consultation?

Mr. POWERS. When the decision was made to go ahead with the sale, to keep the sale on schedule, we thought that the first thing we needed to do was to get a letter on the record advising them of this particular action and the particular problem which we jointly faced. So that went out immediately.

We have been in contact, as Ms. Heller mentioned, considerably since that letter. I have been in discussions with Secretary Huls a couple of times, for example, and expect to talk with him later this afternoon.

After the State of Louisiana sent us the initial letter objecting to the entire sale we received a subsequent letter saying that they withdrew the objection to the entire sale, but were concerned still about the particular seven tracts which we had identified as overlying pools where there was joint ownership with the State.

Subsequently, the geologists in the Geological Survey have completed their final detailed geological interpretation of those tracts. We now believe that the initial list of seven is too large and we are now discussing that with Secretary Huls, too. We think it is probably more in the order of four or five tracts.

But the reason there wasn't the prior consultation as anticipated by the law was because of the problem dealing with the 90 days. We think we are in line with them again, and the consultations are now underway.

Mr. BREAUX. I think they felt correctly that the consultation was kind of a statement of here is how it is going to be operated, and that really wasn't much consultation.

I don't know. I think that a phone call could have really been a step in the right direction, saying what do you think about this, this is our proposal.

Mr. POWERS. I wouldn't disagree with you that we should have made the phone call earlier. That would have helped a lot.

Mr. BREAUX. Let me ask some questions about the particular arrangement. This is really the first sale under the new law, I take it, right?

Mr. POWERS. The second.

Mr. BREAUX. If this is an indication of the type of consultation we have, I am fearful it is not what we intended. I realize you have some 90-day problems. But it is very, very important.

It is a key example of an area where I think the Congress wanted the Department to consult with an adjacent State on something that is very, very critical to the State's needs, financially as well as from an environmental standpoint.

If we have a common pool such as the one this sale will cover, will the Department make provisions for collecting the State's portion of the State severance tax that would be attributable to the

State for oil that is taken out, out of the common pool? How would that happen?

Mr. POWERS. I can't answer that question. We have not resolved that issue yet.

Ms. HELLER. I think the details, Mr. Chairman, of the arrangement are being worked out now. Although this is not the first sale since the act passed, it is the first one in which this provision of the act has been applied because it is the only one so far to which it does apply.

We are in the process of trying to work out those details in consultation with the Governor and his office.

Mr. BREAUX. OK. Let me ask you this, then. One of the things that the act provides is that any moneys derived from production from a common pool, the funds, I take it, would be impounded until we determine exactly how much of the facts the State is entitled to.

Would the funds be put into an interest-bearing account?

Mr. POWERS. We are trying to work that out also, to see to what extent we can accomplish that. I cannot give you a definitive answer quite yet. I understand that is the intent of the act and we are trying to get that accomplished for those instances when funds might be deposited in escrow.

Ms. HELLER. May I offer, Congressman Breaux, to send you as soon as we have worked out the details exactly what we have worked out?

Mr. BREAUX. I would expect to get that from someone.

OK. 205(g)4 of the act talks about any moneys impounded. It says they shall be impounded until a district court, if it has to go to that point, determines what is the fair and equitable disposing of such revenues and any interest which has accrued.

I guess you are saying that that indicates to you that the Congress intended that it would be in an interest bearing account.

Mr. POWERS. It surely does. We are trying to work that out. I cannot be specific about the mechanism for getting that accomplished.

We have been in consultation with the Department of Treasury. We are attempting to get that worked out in a way that will meet the mandate of the law and be acceptable to the affected coastal States as well.

Mr. BREAUX. OK. Another portion of the consultation indicated what happens, rather, when you have a State lease, as in this situation, where on the common pools the State was getting at least 20 percent plus a cash bonus, plus 20 percent royalties.

I understand sale 51 will be a cash bonus plus a fixed royalty of 16 $\frac{2}{3}$  percent.

Mr. POWERS. Correct.

Mr. BREAUX. So, if the State is going to receive its fair share, how do you work that out because you have a difference in the royalty.

Do you give the State a fair share based on a 16 $\frac{2}{3}$  percent royalty, or on what the State has the royalty fixed for the State-owned lands?

Mr. POWERS. No. I think we would hope to work out an agreement wherein they would get a share that would be expected under their contract terms, not under our contract terms.

Mr. BREAUX. It would take into consideration what the State was receiving under their lease.

Mr. POWERS. Absolutely.

Mr. BREAUX. OK. The other point I have is the initial letter to the State indicated that the administrative cost of the implementation of the agreement with the State, whatever that cost would be, would be deducted from the amount owing to the State, the full cost.

My question is, why should the State be charged the full amount of working out the arrangements of administration of the common pooling? Why wouldn't it be a sharing, at least a sharing by the Federal Government?

Mr. POWERS. It would be a sharing. They would not be charged for the full cost. It would be a sharing of such administrative costs.

Mr. BREAUX. The letter, I take it, is incorrect then because it says, "An administrative charge equivalent to the actual costs to the Federal Government in the implementation of this agreement would be deducted from the amount owing to the State."

Mr. POWERS. I interpret it differently than you do.

Mr. BREAUX. How can you interpret that any differently than actual costs meaning the total costs?

Mr. POWERS. I interpret it to mean the costs to be associated with managing the State's share of the resources and revenues—

Mr. BREAUX. It's probably just a bad choice of words.

Mr. POWERS. Perhaps.

Mr. BREAUX. OK. These are just some of the problems I wanted to get into. I don't want to belabor the point. I take it the whole question of sale 51 and the State of Louisiana's objections to some of the proposals are being reviewed and considered in trying to come to some amicable agreement with the State.

Mr. POWERS. Yes, sir.

Mr. BREAUX. And that is all part of the consultation that we intended?

Mr. POWERS. That is correct.

Mr. BREAUX. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman.

Two areas that I want to get into. First, I want to talk about Federal exploration, which is not a new subject, and what the Department's intention is in seeking funding for Federal exploration by the Department.

Ms. HELLER. As you know, Congressman Forsythe, the Department and the Federal Government have no intention at the moment of seeking any such funding. The Secretary recently made a decision to allow, if industry so desires, prelease onstructure wells similar to the COST well program that has previously been in existence. It is to be funded by industry, not by the Government.

We have no intention to seek Government funding at this time for any kind of exploratory drilling.

Mr. FORSYTHE. Well, that leads right really into my second area, of onstructure drilling. As you know, the act is silent on it, however it is in the definition. But what is the Department's intention

as far as onstructure is concerned? We heard from industry yesterday their amazement that you seemed to be emphasizing onstructure drilling.

We heard also testimony that every lease sale perhaps should have onstructure drilling before the lease sale was held. I would like to know just where the Department stands.

The Secretary has offered one opportunity to explore on structure. I remain concerned that if we are going to continue to increase or emphasize the so-called onstructure operations we are going to add costs, delay eventual production, and perhaps disseminate misleading information. I am really bothered by these things because we know the history and problems of exploration.

We don't find what is in a structure from one well. The record on discoveries per well drilled is something that would be alarming if we were relying on onstructure for prelease information and I think it could create a lot of confusion.

So, is the Department going to be moving in the manner in which you said of permitting onstructure drilling based on the interpretation of the 1953 act which was mentioned yesterday—that the authority is implied in the original act and you don't need to rely on anything in the 1978 amendments in this regard.

Ms. HELLER. The Secretary made a decision about a month ago, to allow permittees to drill the equivalent of a COST well onstructure before a lease sale. We will be publishing proposed regulations relatively soon with plenty of time for public, private, industry, and Government agency comment.

Mr. FORSYTHE. This is at least one well that you are dealing with at this point? Or is there a pattern that you have already considered of going beyond this one? Are you going to do this one, do these studies and so forth?

Ms. HELLER. We have not, at this date, considered going beyond allowing onstructure wells. As I said, you will be seeing some proposed regulations fairly soon. They will not be final for quite a while.

The onstructure activities will be administered in basically the same manner as the COST well program has been administered offstructure.

Mr. FORSYTHE. I think this is one area that I hope that the committee will be very careful looking at, and that we have an adequate opportunity to fully assess what happens here.

I know it would be wonderful if we could inventory our Outer Continental Shelf resources and then start selling them like groceries off the store shelf. This is almost what some witnesses are talking about, in terms of the hopes of this kind of exploration.

When you move onstructure, it is a little hard to say that this is purely data gathering. It has to really be a wildcat well that you are drilling in the area that you have in some way determined is a structure.

So, if we are going into prelease wildcatting, I think we have got some problems.

So, I want to strongly restate my concern, and say I think we should be very, very careful before we move into onstructure activities.

Does Dr. Menard have any further comment?

Ms. HELLER. He said no earlier, but he may wish to comment now.

Mr. FORSYTHE. Do you feel it is as simple as some people view it—that we can go and do this without having some major problems in terms of really not developing correct information?

Say you have a dry hole onstructure. That doesn't say the structure is dry. Also, you have got a showing of a fairly adequate resource. That doesn't measure the resource in the structure.

Dr. MENARD. Yes; I quite agree with that. Any hole you drill, however, gives you information. The oil companies themselves have banded together and to this point drilled 13 COST holes on the Continental Shelf. They come to us for permission to take such an action.

If it is environmentally safe and they are following the various regulations, we grant such a permission. So, it has been their judgment that they wanted to collect such information.

The level of uncertainty is illustrated by the fact that even though the companies do their best to avoid oil, they recently had shows of oil and gas in a COST well off California. I think this merely indicates what a chancey business it is.

The largest oilfield in the 48 States, east Texas, which contained 5 billion barrels of oil, was discovered by a wildcatter who didn't have a clue, according to the geologists at the time, of what he was doing.

As is the case with offstructure drilling, we have no expectation of being able to fully judge structures from the information collected from drilling a well onstructure.

The difference is that when you drill onstructure you have a greater chance of finding out whether there is actually oil and gas present.

It seems to me that is a very valuable contribution to assessing the general value of the resource in an undeveloped area.

We know—and everybody in the industry knows—that one hole doesn't tell you everything. It tells you more than you knew before—whether it hits oil or not.

Mr. FORSYTHE. Well, I guess I am really kind of concerned that if one hole gives you some information, are we going to get to the point where people demand we have to have more drilled—then we might be told we have to do a dozen—that kind of a situation.

I think as you well know, industry has almost uniformly been very, very violently opposed to the concept of onstructure drilling as a pattern. So, I say I am concerned about it, in light of its inability to do what its advocates say it can, in really reducing uncertainty as to the price to be paid for a lease. I think we want to watch what is going on very, very closely.

Of course the information, if you do do these things, goes only to those who have paid the price of a well and the department, right?

Dr. MENARD. Yes; that is correct, unless they hit oil and gas.

Mr. FORSYTHE. And then?

Dr. MENARD. And then we are required to make an announcement that there has been a significant discovery of oil or gas. We don't say anything else about it, but that it is significant.

Ms. HELLER. That is under the current regulations, for COST wells.

Mr. FORSYTHE. And then you make that announcement. Nobody owns a lease.

Ms. HELLER. That is right.

Mr. FORSYTHE. And then what happens?

Dr. MENARD. Then we have more information, and when we go ahead with the lease everyone will know that there was a significant show of oil or gas. If there is no such announcement—

Mr. FORSYTHE. Will they have access to all the information or just the announcement that there was a showing?

Dr. MENARD. Those people who are not a part of the COST consortium or not in the Government will not have access to any other information, except after a period of 5 years after the lease or unless there is a lease within 50 miles of that particular hole.

Ms. HELLER. Again, let me emphasize that that is under our current COST regulations.

Mr. FORSYTHE. But you are working—

Ms. HELLER [continuing]. On new proposed regulations.

Mr. FORSYTHE. Well, as I say, I think we are going to want to be a part of looking at that very closely down the road.

There are a whole number of questions, but we have an awful lot of witnesses today. I think I would like to ask the chairman if we can submit questions to the Department, to expedite the session.

The CHAIRMAN. Yes; we have for the committee, as well as for certain members, a series of questions that we will submit in writing. I think they are the type of questions that can probably be directly answered without any cross-examination, and those we will submit to the Department.

Mr. FORSYTHE. Thank you.

The CHAIRMAN. Mr. Studds?

Mr. STUDDS. Thank you, Mr. Chairman.

Ms. Heller, I apologize for having to be away. It may be that you have answered at least in part some of the questions that I have. I am going to ask a couple of them in any event that I would like to get on the record in one place, in concentrated form, the responses.

I also know to a certain extent some of it has been dealt with directly or tangentially in your testimony. But I am going to try to see if I cannot line up in a row the most comprehensive, exhaustive, and complete responses to the questions yet compiled.

You know very well that, at least for those of us in New England, our principal concern, with respect to our own area, has been to have the protections of this act in place prior to the lease sale and prior to drilling.

I know even when I was here I heard you in part respond to some of these questions. Let me ask you your best estimate with respect to specific dates upon which the following provisions of the law will come into full effect in the publication of final regulations, and I underline "final," not proposed. Final.

First of all, lease suspension and cancellation procedures.

Ms. HELLER. At the moment I can only tell you with assurance when the proposed rules will be published. We expect to have the cancellation provisions as final rules published by May.

Mr. STUDDS. Final rules by May.

Ms. HELLER. Final rules by May, we hope.

Mr. STUDDS. All right.

Second, the use of new bidding systems.

Ms. HELLER. That I think and I hope you will ask the Department of Energy, since they are responsible for writing the regulations. They have been working very hard on their regulations, and we have been working with them. But I cannot give you a date. We are working on that.

Mr. STUDDS. Can you give us a guesstimate or an expression of frustration?

Ms. HELLER. No. We have been working very well and closely but I don't have an answer to the date.

Mr. STUDDS. Not even a guess? Are we talking in your lifetime or mine, or talking this fiscal year?

Ms. HELLER. I certainly hope so. I hope we are talking very soon. I think we are.

Mr. STUDDS. We are.

Ms. HELLER. Yes.

Mr. STUDDS. Now, that isn't quite the position I was anticipating. Is the Department of Energy on the witness list?

Ms. HELLER. They will be testifying later.

Mr. STUDDS. OK. That is where it stands. How about the preparation of exploration plans by lessees?

Ms. HELLER. I am told April.

Mr. STUDDS. April for final?

Ms. HELLER. Yes.

Mr. STUDDS. How about requirements for regularly scheduled onsite inspections?

Ms. HELLER. Congressman Studds, may I provide you with these responses for the record? I can send them to your office.

Mr. STUDDS. All right. It would be interesting to know, with all the panoply of advice you have in the room, a veritable interagency task force behind you, if we can't—Yes; I was terribly afraid that process was going on. But I think the very fact that some of these answers are not apparent with all the people in this room says something in and of itself.

Ms. HELLER. We will have dates soon for final regulations. Our immediate concern was to get the proposed regulations published and out for public comment.

The date for final publication in some of those may vary depending on the extent of public comment. We hope to be able to process the comments as quickly as possible.

Mr. STUDDS. OK. I am not having great success, but let me try a few more here. How about the regulations for the sharing of proprietary information with selected State officials?

Ms. HELLER. May.

Mr. STUDDS. How about the regulations for the oilspill liability fund?

Ms. HELLER. I am told that that will be in place within 6 months, as required by the law. But again the regulations are not—

Mr. STUDDS. Within 6 months of the passage of the act, that is correct?

Ms. HELLER. Yes.

The CHAIRMAN. The Coast Guard will be on next and respond to that.

Ms. HELLER. I believe the Federal Register notice came out on December 4 with proposed rules.

Mr. STUDDS. As far as you know that is on target, with respect to the statutory requirements?

Ms. HELLER. Yes; as far as I know everything that is required in the statute will be in place within the statutory deadlines.

Mr. STUDDS. How about the fishermen's gear compensation fund? I think responsibility is shared somewhat.

Ms. HELLER. It is shared somewhat. We have been working with NOAA but the publication of regulations is their responsibility. My understanding is that they will be out by the spring.

Mr. STUDDS. The spring?

Ms. HELLER. We plan to have draft regulations next year, and final rulemaking by April or May.

Mr. STUDDS. In the spring?

Ms. HELLER. Spring.

Mr. STUDDS. Obviously, as you well know, we have sent a letter to the Secretary of Interior asking some of these questions.

Our concern overwhelmingly is to get these firmly, securely, and finally in place, before we are confronted with a lease sale on the Georges Bank. I know you share that concern.

Ms. HELLER. That is a very safe statement.

Mr. STUDDS. Because of the time and the number of witnesses, I will skip almost everything else. But I want to ask you one thing, in spite of the fact it upsets my colleagues, by talking about onstructure drilling.

I understand that you said that the proposed regulations will be issued fairly soon for onstructure stratigraphic drilling; is that correct?

Ms. HELLER. We expect to be in the Federal Register with proposed rules in 2 weeks.

Mr. STUDDS. Do you have any indication whether or not the industry might be willing to conduct such drilling in the Georges Bank area?

Ms. HELLER. I don't have any definite signals like that. I don't know that the Geological Survey has, either. They tell me no.

Mr. STUDDS. To your knowledge is there anything involved in the current lawsuit affecting lease sale 42 which would prohibit or preclude such drilling?

Ms. HELLER. Of a prelease—

Mr. STUDDS. Yes.

Ms. HELLER. I would have to defer to our lawyers. But to my knowledge there is not.

Mr. STUDDS. Are you aware of industry interest anywhere in the country in general with respect to this provision of the law?

Ms. HELLER. This is something with which we have had some conflicting signals from the industry. Some companies are willing to say privately things they are not willing to say publicly.

We have had some industry representatives who are adamantly opposed, as you very well know, to any kind of prelease exploration. On the other hand, a couple of them have come in and said: "Well, we agree—if you're going to spend the money to drill a well, it may make more sense to drill it onstructure." But they will not say it publicly.

Mr. STUDDS. Thank you.

I know Mr. Hughes is particularly interested in this. Thank you. Thank you very much, Mr. Chairman.

[The following letter was received in reply to the foregoing:]

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., December 28, 1978.

HON. GERRY E. STUDDS,  
House of Representatives,  
Washington, D.C.

DEAR MR. STUDDS: In response to your request of November 27, 1978, the best estimates for the promulgation of regulations in final form in the areas of Departmental responsibility which you listed are: Lease suspension and cancellation procedures—June 1979; preparation of exploration plans by lessees—May 1979; requirements for regularly scheduled onsite safety inspections—June 1979; and regulations for the sharing of proprietary information with selected State officials—May 1979.

The best estimate for final regulations for the oil spill liability fund, to be issued by the Department of Transportation is, we are told, March 1979. The final regulations from the Department of Commerce on the Fisherman's Gear Compensation Fund should be published, we are told, in May 1979. Regulations on the use of bidding systems are the responsibility of the Department of Energy. This area will require a number of regulations, for various bidding systems and for associated purposes such as for the calculation of net profits. We are not sure, at this time when these regulations will be published in final form.

I agree with you that the Department should do everything possible to conduct lease sales in a manner fully consistent with the purposes and policies contained in Public Law 95-372. I fully intend that all sales, not only the proposed Georges Bank sale, are so conducted.

As to your specific request for assurance, I do intend, by balancing competing demands on the OCS, to minimize multiple use conflicts in proposed sales areas. As to Georges Bank, a number of actions have been taken, or are planned, to protect the fishing industry there. There is, of course, Title III of the Act, the Fisherman's Contingency Fund, which should be in place in the very near future. The gear marking requirement of section 403 will help in compensating fishermen and may have a deterrent effect on the creation of obstructions in the fisheries. It will be implemented by regulation in early 1979. Several stipulations are being considered for Georges Bank area leases which would require fisheries training programs for oil industry personnel, require the burial or shrouding of pipelines, and, to protect better the living resources of the Banks, require the disposal of drilling by-products below the surface of the ocean or in areas pre-selected as disposal sites. I feel confident that the steps being taken should satisfy our responsibilities to issue oil and gas leases under environmentally acceptable conditions.

Your final request was for information on the implementation of section 20 of the OCS Lands Act, as amended, as it affects the northwest Atlantic. Existing studies in the northwest Atlantic meet the requirements of section 20(a)(1) and (2), (studies to be commenced 6 months before a lease sale to assess and manage environmental impacts). Ongoing and projected studies fill the requirement of section 20(a)(3), (to attempt to predict the effects on marine biota from oil spills, drill cuttings and mud, and from laying pipe; and also the effects on coastal areas from offshore development).

I hope this information is useful and responsive to your needs. Please let me know if I can be of any further assistance.

Sincerely,

CECIL D. ANDRUS,  
Secretary.

The Chairman. Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman.

I apologize for not being here during your testimony. I was actively engaged on the floor. As you know, we are in caucus on rule changes.

On onstructure drilling, as I understand it, you are presently developing the proposed regulations and you should be going to the Federal Register within the next several weeks.

Ms. HELLER. Yes; within about 2 weeks.

Mr. HUGHES. That will be in the form of an invitation to the industry to seek a permit.

Ms. HELLER. No; it will be proposed rules for administering that program, similar to the ones that we have for dealing with the COST offstructure program.

Mr. HUGHES. Is it likely perhaps that the regulations would be in place in time for the next projected sale in the mid-Atlantic region?

Ms. HELLER. In time to ask for applications before that proposed sale? No.

Mr. HUGHES. That particular sale is still online for February?

Ms. HELLER. It is currently being planned for February.

Mr. HUGHES. Let me ask you—just within the past couple of weeks there has been some indication that there has been sediment change on the continental slope in the mid-Atlantic region. NOAA, for instance, has indicated that movement of sediment has been detected which is of recent origin. Is it contemplated that you will have an additional environmental impact statement before you go to the next sale for the mid-Atlantic region?

Ms. HELLER. We will not have another impact statement. We do not see any need for one. In fact, I was pleased to hear Mr. Berle compliment us on progress in making impact statements better.

Mr. HUGHES. Is it felt that an additional environmental impact assessment is not necessary, where there has been some apparently significant changes in the continental slope, which have been detected and which could very well be related to some of the drilling that is taking place now?

Ms. HELLER. I will ask the Survey to respond to this specifically, but the Secretary, in making his announcement and issuing the proposed notice of sale, deleted 27 tracts because of sediment and slumping problems.

My understanding is that the potentially unstable tracts have been deleted for those reasons.

Mr. HUGHES. Do you have any idea of what is causing the sediment movement on the continental slope that has been likened to avalanche type of occurrence?

Dr. MENARD. No, sir; although I am a marine geologist by profession, have been for 30 years, I am not aware of this particular occurrence. It is not uncommon to have slumping on the continental slope. In any event, if a lease was sold, and if there were any information suggesting that for some reason the bottom had become less stable than we knew it to be at the time we issued the lease, we require the lessee to produce a platform which we find will be safe to use.

Mr. HUGHES. We do not know what the cause of the avalanches is. We do not know their effect and, as I understand it, that is the case. Then is it prudent to move ahead with additional lease sales before we do an environmental assessment to try to determine just what the cause is and what impact it is going to have?

Dr. MENARD. I was about to say we had eliminated all the tracts directly at the top of the continental slope where our own records showed that there was a possibility of instability, so it may be, although I confess ignorance as to the occurrence you describe, it may be that we have already eliminated that tract.

Ms. HELLER. If I may add a comment on the press that appeared on this. The Bureau of Land Management contacted Dr. Bonnie McGregor, who had made the presentation you have mentioned. Dr. McGregor apparently told BLM that the newspaper article was inaccurate in that the use of the term "avalanche" was a misnomer. There are a number of other technical things that were apparently wrong.

We would be glad to get in touch with her and either put her in touch with you or get for you more detailed information on whatever studies she may have done.

Mr. HUGHES. That might be helpful.

The Chairman. Would the gentleman yield for a moment?

Mr. HUGHES. I will be happy to yield.

The Chairman. Is that the slope off the Mississippi Trench in the gulf that you are talking about?

Mr. HUGHES. It might be off the Mississippi Trench. They found sediment also in the mid-Atlantic region. There were two areas.

Will the chairman tell me, does the chairman intend to go through and not answer the vote on the floor?

The Chairman. I intended to just sit through this particular vote. This is a vote of the caucus, incidentally, on requiring that conference reports be printed in the Daily Digest 24 hours before a vote.

Mr. HUGHES. I would like to catch the vote, but let me if I may go to another line of inquiry.

How many holes have we sunk in the mid-Atlantic region to date since lease sale No. 40?

Ms. HELLER. I believe it is nine.

Mr. HUGHES. I am talking about onstructure.

Ms. HELLER. You are talking about——

Mr. HUGHES. I am talking about how many——

Ms. HELLER. How many wells are being drilled in the Baltimore Canyon?

Mr. HUGHES. That is correct, excluding any wells drilled prior to lease sale No. 40.

Ms. HELLER. I think it is nine.

Mr. HUGHES. Nine wells. How many rigs do we have working at the present time in the Baltimore Canyon?

Ms. HELLER. Six.

Mr. HUGHES. How much acreage does that comprise totally that we are presently exploring?

Ms. HELLER. Well, each tract is about 5,000 acres——it is close to 55,000 acres.

Mr. HUGHES. You are talking about tracts, but I am talking about areas where we are actually exploring. As I understand it, within a tract of 5,000 acres, sometimes you can move the rig over 1,500 yards and hit a new structure. I am talking about how much acreage we have actually explored. How much area have we actually explored with the wells that have been sunk so far?

Ms. HELLER. I am not sure that I can give you an answer. Although you may move 1,500 yards and find another structure, there may be many structures that cross tract lines as well. Until we have some better definition of the structures I do not think it is possible to answer that accurately.

Mr. HUGHES. How many acres were involved in lease sale No. 40; how many, 700,000 or 800,000?

Ms. HELLER. I think that is close. I do not have the exact figures with me.

Mr. HUGHES. One of the responses I get from oil companies when I ask them why they do not have more rigs in place and why they want more acreage, is that they do not have more rigs in place because sometimes rigs are not available. Yet here we are, moving ahead with another lease sale to offer more acreage to the same companies that are presently exploring. How can we rationalize that particular policy?

As I understand it, the policy is to try to identify commercially extractable quantities of hydrocarbons. The companies are not only involved in the mid-Atlantic but they are involved in the Gulf of Alaska, the Gulf of Mexico, off the California coast, so they are already spread fairly thin. Their response when you ask them why they are not exploring some of the tracts they have not even touched yet is, "Well, we don't have the equipment, it is not available at the present time, we have capital problems, we are involved in this part of the world or in California or the Gulf of Mexico."

How can we justify at this time moving ahead and offering additional acreage?

Ms. HELLER. I think there is a good answer to that question. If you follow what the Secretary of the Interior has done over the last 2 years to implement the Outer Continental Shelf program and over the last 3 months to implement this act, it is quite clear.

There are several things we need to make a successful program. One is a schedule, a planning schedule, that treats all areas of the country fairly. A schedule is needed so that industry can plan for its capital and technology commitments, so that the Department of the Interior can plan for its administrative commitments, and so that coastal counties and communities and States can plan for the onshore impacts.

We have in the past, when we came out with our August 1977 schedule, very carefully structured that schedule to account for all of those interests, generally allowing 3 years between sales in an area so that States can have adequate time to plan. That was done at the request of the States.

In addition to having a schedule, the Secretary feels strongly that it is necessary, to get at some of the concerns which you have just mentioned. For that reason he has become very, very strict on diligence, so that when companies came in and asked for suspensions of production or for extensions of the primary terms of leases, he is very strict, and where there is no diligent development plan, those leases revert to the Federal Government.

As you know, Congressman, that has happened a number of times. Similarly, when companies have come in and asked for unit agreements, 3 to 6 months before a primary term lease was due to expire, leases which they had had for 5 years or in one case almost 10 years, the Secretary said, "No, you have not diligently developed. You do not have a plan for diligent development. We are taking those leases back."

What has happened because of that, in my view, is that the companies have begun to develop the leases they already have and to develop the oil and gas. To give you an example, gas production in the gulf has increased considerably, and although there are other reasons that are tied into that—

Mr. HUGHES. Let me just interrupt you.

There is no question but that I think that your department and the present administration has done a much superior job of trying to enforce the primary term of the lease, but we are talking about a 5-year term. What pressure is there, for instance, for oil companies within that 5-year period to try to identify hydrocarbons in tracts that are not even touched?

In lease sale No. 40, for instance, the great majority of those tracts have not been touched yet, and yet we are talking about once again offering additional acreage, which in essence is just going to build up real estate portfolios for the same companies. It is going to exacerbate the problem with regard to capital formation, because the capital formation problems are no easier this year as I see it than they were last year. We still have the problems with trying to get equipment.

The companies are spread around the world, not just around the country. You know even though you talk in terms of trying to enforce primary terms, and I commend that, it does not really get to the real heart of the problem, dealing with what you can do to put pressure on companies within that 5 years, not only until the 4 years and 8 months have gone, but when 1 year and 3 months or 4 months have run, to get them to move with equipment on tracts that are not being explored at the present time.

Naturally, if I were an oil company I would want to build as much of my real estate portfolio as I could, because it is better than money in the bank, which is not too advantageous today obviously.

I am concerned because here we are talking about another lease sale where the acreage is going to go to the very same companies, and I do not think we are going to achieve the desired end, that is to try to get a balanced program throughout the country. We already have them under way in the mid-Atlantic region, and there is no question, I do not think anybody can argue with the fact that they are capable of bringing more rigs into the mid-Atlantic region, and trying to explore for hydrocarbons in that area on existing lands that are presently titled in them on a lease basis, rather than to go the route of just providing additional acreage which is just going to make it that much more difficult.

Ms. HELLER. In partial answer to your comments, one of the things that the Department is working on now is some standard of diligence for the primary term, which, as you might imagine, is a difficult concept because of the 5 year primary term. We have been looking at that problem, and we expect to come up with some guidelines.

Mr. HUGHES. Let me end up on a very positive note. Let me just say that I am very happy to see the department moving ahead with prelease onstructure drilling. I think that is a major step in the right direction.

Thank you, Mr. Chairman.

Mr. BELSKY. Ms. Heller, one of the witnesses yesterday expressed some concerns about the implementation of bidding systems, and one particular problem that was raised was the so-called determination of net profits problem. The witness indicated that the Department of the Interior had conducted a study to determine what should be the calculation of net profits, and that study was completed and ready to go.

The Department of Energy thereafter issued its own contract for a separate and different study as to net profits, and because of that separate and different study, no net profit regulations could be implemented. A number of industry witnesses stated that they operate on the net profit system throughout the world, and that there are a varied number of net profit systems in existence today that could be plucked out and put into place right now.

The question is, why has this coordinated mechanism between the Department of the Interior and the Department of Energy seemed to have failed in this particular situation?

Ms. HELLER. The two studies are very different. For the study that was done under contract to the Department of the Interior, the contract was initially let before the Outer Continental Shelf amendments were enacted. Interior's study looked at different possibilities for profit-sharing systems. It was quite a broad study.

The Department of Energy study, which I presume you will be asking them about, and I will not presume to impinge on their explanation, is a narrower study. It is designed to look specifically at implementing and setting up an accounting system. Again, I would stand corrected by the Department of Energy, but our study was much broader than that.

Mr. BELSKY. Staying with bidding systems for a second, if I can, a number of the witnesses yesterday were concerned about the so-called multiple bidding system alternative, which is in the act at the request of the Department of the Interior. The Outer Continental Shelf Amendments allow Interior to require bidders to submit bids using more than one system on a particular tract or a particular lease area. The witnesses indicated that they were concerned that this can sometimes be time-consuming; second, that sometimes it is absurd and reveals information much more obviously to other bidders than would a single system.

Two questions.

First of all, are you working on this or is the Department of Energy, or are you working together? And second of all, do you foresee the actual use of this double or dual bidding alternative in the near future?

Ms. HELLER. We have no plans to use that provision in the near future. We have been concentrating on implementing the parts of the act that require regulations as quickly as possible, and frankly just have not focused on that at all. We will in the future. We will look at it. We will evaluate it, but at the moment we have no such plans.

Mr. BELSKY. One other question, a couple of questions really.

Obviously one of the purposes of the bill that was discussed yesterday and discussed this morning is coordinated Outer Continental Shelf action, and the bill establishes a mechanism for certain data, information and actions to be forwarded, to Interior

which has the responsibility to put this together, make comments if necessary, and notify Governors of an affected State.

Have you already implemented this mechanism or what are your plans for implementation of this coordinated process, where there will be a process where all decisions have to come to Interior, and the results of all those decisions then go out to the States?

Ms. HELLER. We have just sent out a letter over the Secretary's signature to the heads of all the other agencies to begin to set up that system.

Mr. BELSKY. Two other quick questions.

First of all, has the President's hiring freeze affected your ability to implement the Outer Continental Shelf Lands Act?

Ms. HELLER. No it has not.

Mr. BELSKY. Where are you getting the bodies to do some of the things that we have been told yesterday and this morning are required to be done?

Ms. HELLER. We think that currently we have the capability to implement the act. We will do everything necessary to implement it effectively. If necessary, we will use personnel from other lower priority areas in the Department to temporarily help us implement the act. If necessary, we could go back to OMB, but we expect to be able to implement the act fully within the President's anti-inflation program.

Mr. BELSKY. The last question has to do with something related to the Department of Interior in general and other departments and agencies. Yesterday and this morning a lot of people expressed their concern about what and where Outer Continental Shelf administration will be in the upcoming months. Particularly there was a discussion yesterday about a Department of Natural Resources, whatever the name is now or whatever is being contemplated now.

Do you have any information about the status of the proposal for a Department of Natural Resources? What would be in it? What would be Interior's role in it and what would be other agencies' role?

Ms. HELLER. No, and I do not think anybody could give you an answer to that. No proposal has gone to the President. It is still being debated within the administration. No, I cannot answer that.

The CHAIRMAN. Mr. Forsythe.

Mr. FORSYTHE. Mr. Chairman, I have just one more.

You, in talking to Mr. Hughes about diligence, said that you are working on regulations for due diligence in the primary term of the lease in the first 5-year term.

Ms. HELLER. I did not say regulations. I said we are trying to develop some standards for diligence. Whether or not that will result in regulations remains to be seen.

Mr. FORSYTHE. I was wondering if you were, where you got the authority for measuring diligence before the end of that primary term. I mean that is the point where it becomes an issue.

I do not quarrel too much with Mr. Hughes' concern that the activity has to start before 4 years and 11 months, but also, there are many other complications, as one witness testified yesterday.

Ms. HELLER. Certainly.

Mr. FORSYTHE. One witness testified that his company has had a lease for 2 years and has not yet been able to get a permit to drill. These kinds of things are not totally dependent on capital, availability of rigs and so forth. It seems to me that would be another beautiful bucket of worms to get into.

Thank you.

The CHAIRMAN. Yesterday we had an industry witness recommend that the Department be required to do a development impact statement, in order to assist industry in its longer range planning for the development of oil and gas. Would you address yourself to that proposal?

Ms. HELLER. I do not think I understand the proposal.

The CHAIRMAN. The proposal was made, I think, probably because industry is concerned that the burden of all environmental impact statements and other plans is all on industry; that industry is in many instances operating with a narrow view of what the overall intent of the Department is, and they were looking to see if a development impact plan was being considered by the Department.

Ms. HELLER. A development plan? For each lease sale?

Mr. BELSKY. Specifically, they say that just as we have an environmental impact statement to review the environmental effects of activities, there should be a developmental impact statement to develop the increased need for hydrocarbon resources, and that those should be done simultaneously so that we would know what the effect would be on our imports of oil and gas, for example, by adopting the suspension regulations or requiring development plans or environmental plans, et cetera.

Ms. HELLER. We include that information both in our environmental impact statements and in the secretarial issue documents that go to the Secretary for decisions on these sales.

Mr. BELSKY. You presently include them?

Ms. HELLER. Yes.

The CHAIRMAN. I had asked witnesses yesterday as to what effect the denial of Iranian oil to the United States would have, and they did not answer at the time, but they did send me a document which I will put in the record. It lists all of the sales of Iranian oil to the United States, most of which went to the east coast, and some to the gulf coast, a total of 174 million barrels in the first 9 months of this year, and I think loss of that oil would cause a significant impact on the United States, perhaps not on the west coast or the gulf coast as much as it would in the Middle Atlantic region, and particularly Ohio.

We saw shortages last year develop that caused closing of schools, closing of industry, loss of jobs, and generally a very severe impact on the United States, and when we see that a major supplier such as Iran could be cut off for political or other reasons, I think it certainly is a support for one of the motivating factors behind the formation of this committee, and that was to expedite the development of oil and gas on the American Continental Shelf.

I think that it certainly is important that 9 million of those barrels went into a strategic petroleum reserve, and I think that we had better get on with the expeditious movement of developing the Continental Shelf.

I have a further statement which I will put into the record at this time about it.

[The statement follows:]

STATEMENT OF JOHN M. MURPHY, CHAIRMAN, AD HOC SELECT COMMITTEE ON OUTER CONTINENTAL SHELF ON THE IRANIAN OIL CRISIS—DECEMBER 7, 1978

Despite assurances from Representatives of the administration that the OCS legislation we passed to retrieve petroleum hydrocarbons from the shelf as quickly as possible—considering environmental safeguards—I think a serious question has been raised thus far during these hearings over whether or not the law is being put into operation at the rate we anticipated when the Congress passed it.

It is unusual when both the environmental groups and the industry come to the committee on this subject and agree on something. The environmentalists are concerned that the delays in the implementation of the law will result in the safeguards that it contains not being brought into force. The industry is concerned restating their original fears that passage of the law would cause crippling delays in retrieving oil and gas which even under normal circumstances are critically needed by the United States.

Yet this country is currently in a situation that I might characterize as approaching a state of emergency. The unstable condition in Iran, a source of nearly 10 percent of the oil needs of the United States in general and the eastern half of the United States in particular, could cause skyrocketing fuel prices with the advent of deep winter. This will further feed inflation, disrupt many States such as Ohio and other Midwestern States where no fuel will be available at any price just as developed last winter and perhaps we might even reach the chaotic conditions that we experienced in the dreadful winter months of 1973.

We are talking here about speedy retrieval of oil and gas off of the east coast, and we are confronted with the fact that Iran, a major supplier, of the most populated part of the United States, may be lost to us. I have just received the figures on the U.S. imports from Iran for the first 9 months of 1978. In these 9 months, 173,865,886 barrels of oil were shipped to ports along the east coast and gulf. The vast bulk of the oil is used in the areas where we had hoped OCS oil might relieve our dependence on such foreign imports. If we do not proceed at a quicker pace in the implementation of this legislation and if the situation in Iran continues to deteriorate, the entire eastern seaboard and States east of the Mississippi could, in all likelihood, suffer the most severe shortages in history. We all recall the closing of schools, the loss of vital community services, factory closings—with their attendant layoffs and unemployment—and the halting of a whole host of activities that brought entire parts of the Nation to a virtual standstill last winter.

In the final analysis, this is what these hearings are concerned with. And I urge the representatives of the administration, of the involved States, and of the environmental community, to eliminate unnecessary delays, frivolous legal actions, and the like, so that this country can survive until more permanent solutions are found for our energy problems. To the extent that these hearings contribute toward a renewed effort on the part of everyone concerned to achieve this goal, these 2 days of hearings will have served their purpose.

I submit for the record this 27-page document which delineates for the first 9 months of 1978, the quantities of imported Iranian oil, the importing companies, and the destinations of this vitally needed fuel.

I would point out that 9 million barrels of this oil—approximately a million barrels a month—is going into our strategic petroleum reserve and the salt domes of Louisiana to be used by this country in the event of a national emergency. For this and all of the above reasons I have pointed out, as chairman of this committee I urge everyone who has appeared here to work in the best interests of the people of the United States.

U. S. IMPORTS FROM IRAN  
IMPORTER: AMOCO OIL COMPANY

Port of Entry	Recipient	Destination	Qty./Bbls.	Fee	Sulphur Content	API Gravity
<b>JANUARY</b>						
Newport News, Va.	Amoco	Yorktown, Va.	492,254	P	.140	45.90
Newport News, Va.	Amoco	Yorktown, Va.	504,552	F	1.370	32.60
			996,806			
<b>FEBRUARY</b>						
<b>MARCH</b>						
Galveston, Tx.	Amoco	Tex City, Tx.	425,019	F	2.510	28.60
Newport News, Va.	Amoco	Yorktown, Va.	189,777	F	2.600	31.00
			614,796			
<b>APRIL</b>						
Galveston, Tx.	Amoco	Tex City, Tx.	1,138,995	F/P	2.510	28.60
Newport News, Va.	Amoco	Yorktown, Va.	1,150,372	F/P	1.400	33.50
			2,289,367			
<b>MAY</b>						
Corpus Christi, Tx.	Armada	Corpus Christi, Tx.	394,240	P	2.300	33.00
Galveston, Tx.	Amoco	Tex City, Tx.	957,863	F/P	2.120-2.610	27.50-31.50
Galveston, Tx.	Amoco	Tex City, Tx.	1,391,719	F/P	1.050-1.860	34.40-40.60
Newport News, Va.	Amoco	Yorktown, Va.	1,549,175	P	1.070-2.310	27.60-33.00
			4,292,797			
<b>JUNE</b>						
Delaware City, De.	Getty	Delaware City, De.	436,170	P	1.960	27.90
Galveston, Tx.	Amoco	Tex City, Tx.	395,056	F	1.920	35.10
Galveston, Tx.	Amoco	Tex City, Tx.	956,216	F/P	1.950-1.960	27.90-29.80
Galveston, Tx.	Amoco	Tex City, Tx.	740,026	F	1.370-1.400	33.80-36.00
Newport News, Va.	Amoco	Yorktown, Va.	214,864	P	1.960	27.90
Newport News, Va.	Amoco	Yorktown, Va.	452,052	P	1.400	33.40
			3,194,344			
<b>JULY</b>						
Bayway, N.J.	Exxon	Bayway, N.J.	459,624	P	1.450	33.40
Galveston, Tx.	Amoco	Texas City, Tx.	861,890	F	1.450-1.810	34.20-36.00
Galveston, Tx.	Amoco	Texas City, Tx.	798,260	F	2.580	26.90
Newport News, Va.	Amoco	Yorktown, Va.	748,585	P	1.450	34.20
			2,868,359			

U. S. IMPORTS FROM IRAN  
IMPORTER: AMOCO OIL COMPANY (Con't)

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>AUGUST</u>						
Galveston, Tx.	Amoco	Texas City, Tx.	332,000	F	1.820	36.40
Galveston, Tx.	Amoco	Texas City, Tx.	450,735	F	2.240	29.60
Galveston, Tx.	Amoco	Texas City, Tx.	155,850	F	1.540	37.60
Export News, Va.	Amoco	Yorktown, Va.	194,122	P	2.360	27.20
Export News, Va.	Amoco	Yorktown, Va.	416,196	P	1.300-1.420	33.50-33.70
Philadelphia, Pa.	Armada	Philadelphia, Pa.	450,000	P	1.300	33.70
			1,998,903			
<u>SEPTEMBER</u>						
Wester, Pa.	Sohio Petro.	Unknown	376,396	P	1.300	33.70
Galveston, Tx.	Amoco	Texas City, Tx.	985,655	F	1.550-2.340	27.30-35.60
New Orleans, La.	Shell	Unknown	450,088	P	1.300	33.70
New Orleans, La.	Armada	Unknown	448,102	P	1.300	33.70
Export News, Va.	Amoco	Yorktown, Va.	1,097,806	P	1.340-1.510	32.20-33.30
			3,358,047			

U. S. IMPORTS FROM IRAN  
IMPORTER: ASHLAND OIL, INC.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
New Orleans, La.	Ashland Oil	Catlettsburg, Ky.	1,214,840	F/P	1.410-1.420	33.80-34.30
New Orleans, La.	Ashland Oil	Canton, Oh.	500,000	F/P	1.410-1.420	33.80-34.30
			1,714,840			
<u>FEBRUARY</u>						
New Orleans, La.	Ashland Oil	Canton, Oh.	375,000	F/P	1.420-1.460	34.00-37.00
New Orleans, La.	Ashland Oil	Catlettsburg, Ky.	675,868	F/P	1.420-1.460	33.70-34.00
			1,050,868			
<u>MARCH</u>						
New Orleans, La.	Ashland Oil	Canton, Oh.	318,000	F/P	1.410-1.430	33.80
New Orleans, La.	Ashland Oil	Catlettsburg, Ky.	1,285,788	F/P	1.410-1.430	33.30-33.80
New Orleans, La.	Ashland Oil	Buffalo, NY	124,300	P	1.410-1.430	33.30-33.80
			1,728,088			
<u>APRIL</u>						
New Orleans, La.	Ashland Oil	Catlettsburg, Ky.	1,325,938	F/P	1.400-1.450	33.60-33.90
New Orleans, La.	Ashland Oil	Buffalo, NY	110,000	F/P	1.400	33.60-33.90
New Orleans, La.	Ashland Oil	Canton, Oh.	277,000	F/P	1.400	33.60-33.90
			1,712,638			
<u>MAY</u>						
New Orleans, La.	Ashland	Buffalo, NY	240,000	F/P	1.400-1.440	33.60-33.80
New Orleans, La.	Ashland	Catlettsburg, Ky.	802,370	F/P	1.400-1.440	33.60-33.80
Philadelphia, Pa.	Arco	Phila., Pa.	394,370	P	1.440	33.60
			1,436,740			
<u>JUNE</u>						
New Orleans, La.	Ashland	Buffalo, NY	80,000	P	1.500	33.70
New Orleans, La.	Ashland	Canton, Oh.	250,000	P	1.500	33.70
New Orleans, La.	Ashland	Catlettsburg, Ky.	736,439	P	1.500	33.70
			1,066,439			
<u>JULY</u>						
Freeport, Tx.	Ashland	St. Paul Dk., Mn.	706,313	F/P	1.440-1.470	33.60-33.50
Freeport, Tx.	Ashland	Buffalo, NY	348,928	F/P	1.450-1.470	33.50
New Orleans, La.	Ashland	Catlettsburg, Ky.	530,306	P	1.480	33.50
New Orleans, La.	Ashland	Canton, Oh.	250,000	P	1.450	33.50
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	383,913	P	1.400	33.50
			2,219,460			

U.S. IMPORTS FROM IRAN  
 IMPORTER: ASHLAND OIL, INC. (Con't)

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
AUGUST						
New Orleans, La.	Ashland	Catlettsburg, Ky.	643,650	F	1.420	33.50-33.6C
New Orleans, La.	Ashland	Louisville, Ky.	8,000	F	1.420	33.50
SEPTEMBER						
New Orleans, La.	Ashland Oil	Catlettsburg, Ky.	651,650			
			249,267	F	1.440	33.50

U. S. IMPORTS FROM IRAN  
IMPORTER: ATLANTIC RICHFIELD CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	927,840	F/P	1.170-1.350	33.00-33.40
<u>FEBRUARY</u>						
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	1,617,705	F/P	1.250-1.350	33.20-33.50
Houston, Tx.	Arco	Houston, Tx.	332,584	P	1.400	33.50
<u>MARCH</u>						
Chester, Pa.	Arco	Marcus Hk., Pa.	379,565	P	1.200	40.40
Houston, Tx.	Arco	Houston, Tx.	356,503	F	1.800	33.00
New Orleans, La.	Arco	St. James, La.	487,862	P	1.200-1.210	40.40
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	414,300	F/P	1.260	33.60
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	106,186	F	1.180	32.90
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	427,062	F	1.300-1.360	33.30-33.70
			<u>2,171,478</u>			
<u>APRIL</u>						
Gramercy, La.	Arco	St. James, La.	396,787	P	1.260	33.50
Houston, Tx.	Arco	Houston, Tx.	354,939	F/P	1.850	33.40
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	833,627	P	1.200-1.550	33.00-33.30
			<u>1,585,353</u>			
<u>MAY</u>						
Corpus Christi, Tx.	Champlin	Corpus Christi, Tx.	387,616	P	.570	33.50
Houston, Tx.	Arco	Houston, Tx.	1,517,945	P	1.210-1.850	32.90-33.30
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	951,935	F/P	1.210-1.250	32.50-32.90
			<u>2,857,496</u>			
<u>JUNE</u>						
Houston, Tx.	Arco	Houston, Tx.	375,453	F	1.850-2.070	33.60-35.30
Houston, Tx.	Arco	Houston, Tx.	2,008,037	F/P	1.250-1.400	33.00-33.50
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	298,335	F	1.260	33.40
			<u>2,681,825</u>			

U.S. IMPORTS FROM IRAN  
IMPORTER: ATLANTIC RICHFIELD CO. (Con't)

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JULY</u>						
Houston, Tx.	Arco	Houston, Tx.	48,216	F	1.890	33.10
Houston, Tx.	Arco	Houston, Tx.	1,189,518	F	1.380-1.470	33.40-33.50
St. James, La.	Marathon	St. James, La.	385,411	P	1.250	33.50
			<u>1,623,145</u>			
<u>AUGUST</u>						
Houston, Tx.	Arco	Houston, Tx.	1,047,190	F	1.270-2.200	33.30-33.30
Houston, Tx.	Arco	Houston, Tx.	350,970	P	2.050	33.20
Philadelphia, Pa.	Arco	Philadelphia, Pa.	200,979	P	1.160	32.70
			<u>1,599,139</u>			
<u>SEPTEMBER</u>						
Houston, Tx.	Arco	Houston, Tx.	2,068,072	F/P	1.210-2.130	33.10-33.30
Philadelphia, Pa.	Arco	Philadelphia, Pa.	1,381,695	F/P	1.160-1.560	32.70-33.30
St. James, La.	Crude	St. James, La.	367,528	P	1.300	33.10
			<u>3,817,295</u>			

U.S. IMPORTS FROM IRAN  
 IMPORTER: CHEVRON, USA

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
Perth Amboy, N.J.	Chevron	Perth Amboy, N.J.	308,938	F	2.100	33.30
Perth Amboy, N.J.	Chevron	Perth Amboy, N.J.	229,748	F	.210	32.40
			<u>538,686</u>			
<u>FEBRUARY</u>						
Perth Amboy, N.J.	Chevron	Perth Amboy, N.J.	290,900	F	1.900	32.60
<u>MARCH</u>						
Marcus Hk., Pa.	Sohio	Marcus Hk., Pa.	292,484	P	2.100	33.50
Perth Amboy, N.J.	Chevron	Perth Amboy, N.J.	741,819	F	1.300-1.400	33.20-33.60
			<u>1,034,303</u>			
<u>APRIL</u>						
Perth Amboy, N.J.	Chevron	Perth Amboy, NJ	526,687	F	1.300-1.500	33.30-33.70
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
 IMPORTER: CHARTER INT'L Oil Co.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
St. James, La.	Clark O & K	Blue Island, Il.	1,005,346	F	1.400	33.80-34.80
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u>						
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
 IMPORTER: COASTAL STATES GAS CORP.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u> Corpus Chr, Tx.	Coastal Pet.	Corpus Christi, Tx.	659,166	P	1.600	30.80-30.90
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u> Corpus Christi, Tx.	Champlin	Corpus Christi, Tx.	98,997	P	1.640	35.50
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
 IMPORTER: CONTINENTAL OIL CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u> Wilmington, De.	Getty	Delaware City, De.	200,000	F	1.600	30.80
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
IMPORTER: CROWN CENTRAL PETR. CORP.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u> Houston, Tx.	Crown	Pasadena, Tx.	102,897	F/P	1,310-1,740	33.60-33.80
<u>MAY</u> Houston, Tx.	Crown	Pt. Arthur, Tx.	18,462	P	1,390	33.70
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAQ  
 IMPORTER: DELTA REF. CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u> New Orleans, La.	Delta	Memphis, Tn.	426,760	F/P	1.300	34.50
<u>FEBRUARY</u> New Orleans, La.	Delta	Memphis, Tn.	415,489	F/P	1.300	34.50
<u>MARCH</u> New Orleans, La.	Delta	Memphis, Tn.	425,437	F	1.300	34.50
<u>APRIL</u>						
<u>MAY</u> New Orleans, La.	Delta	Memphis, Tn.	396,934	F/P	1.400	33.40
<u>JUNE</u> New Orleans, La.	Delta	Memphis, Tn.	822,929	F	1.360-1.600	31.00-33.10
<u>JULY</u>						
<u>AUGUST</u> New Orleans, La.	Delta	Memphis, Tn.	418,838	F	1.360	33.70
<u>SEPTEMBER</u> New Orleans, La.	Delta	Memphis, Tn.	802,367	F/P	1.360	33.10

U.S. IMPORTS FROM IRAN  
IMPORTER-ENERGY COOPERATIVE INC.

<u>rt of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
JANUARY Philadelphia, Pa.	Arco	Philadelphia, Pa.	1,127,304	F/P	1.300-1.480	33.00-33.60
FEBRUARY Philadelphia, Pa.	Arco	Philadelphia, Pa.	147,294	P	1.350	33.60
Philadelphia, Pa.	BP Oil	Marcus Hook, Pa.	237,780	P	1.350	33.60
			<u>385,074</u>			..
MARCH Philadelphia, Pa.	Arco	Philadelphia, Pa.	648,078	F	1.160-1.520	33.50-33.80
APRIL Philadelphia, Pa.	Arco	Philadelphia, Pa.	1,116,864	P	1.400-1.520	33.10-33.40
MAY Houston, Tx.	Arco	Houston, Tx.	300,000	P	1.400	33.50
Philadelphia, Pa.	Arco	Phila., Pa.	413,365	P	1.480	33.00
Wilmington, De.	Getty	Delaware City, De.	188,934	P	1.420	33.10
			<u>902,299</u>			
JUNE						
JULY						
AUGUST Houston, Tx.	Arco	Houston, Tx.	455,066	P	1.550	33.10
SEPTEMBER Hester, Pa.	BP Oil	Marcus Hk, Pa.	487,459	F/P	1.310	33.30

U. S. IMPORTS FROM IRAN  
IMPORTER: EXXON CORP.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
Houston, Tx. NY, NY	Exxon USA Exxon USA	Baytown, Tx. Bayway, NJ	3,349,281 4,543,676 7,892,957	F/P F/P	1.420-1.790 1.420	33.30-33.80 33.30-33.80
<u>FEBRUARY</u>						
Baton Rouge, La. Houston, Tx. NY, NY	Exxon USA Exxon USA Exxon USA	Baytown, Tx. Baytown, Tx. Bayway, NJ	26 507,883 5,770,798 6,278,707	P P F/P	1.420 1.420 1.420	33.00 33.40 33.10-33.70
<u>MARCH</u>						
New York, NY	Exxon USA	Bayway, NJ	5,346,720	F/P	1.420	33.00-33.70
<u>APRIL</u>						
New York, NY	Exxon USA	Bayway, NJ	3,013,230	F/P	1.420	33.20-33.50
<u>MAY</u>						
Galveston, Tx Houston, Tx. New York, NY	Exxon USA Exxon USA Exxon USA	Baytown, Tx. Baytown, Tx. Bayway, NJ	84 1,004,327 2,362,580 3,366,991	P F F/P	1.420 1.420 1.420	33.10 33.40 33.10-33.90
<u>JUNE</u>						
Corpus Christi, Tx. Delaware City, De. Houston, Tx. New York, NY New York, NY	Champlin Getty Exxon USA Exxon USA Exxon USA	Corpus Christi, Tx. Delaware City, De. Baytown, Tx. Bayway, NJ Bayway, NJ	495,924 501,261 521,207 686,827 1,564,305 3,769,524	P P F P/F P	1.500 1.420 1.420 1.500 1.420	33.30 33.30 33.20 32.80-33.40 32.40-34.00
<u>JULY</u>						
Houston, Tx. New Orleans, La. NY, NY	Exxon, USA Marathon Exxon, USA	Baytown, Tx. Garyville, La. Bayway, NJ	1,629,637 397,332 1,846,843 3,873,812	F P P	1.420 1.420 1.420	33.40 33.50 33.10-33.60

U. S. IMPORTS FROM IRAN  
IMPORTER: EXXON CORP. (Con't)

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
AUGUST						
Corpus Christi, Tx.	Exxon USA	Baytown, Tx.	113,821	F	1.420	33.40
Houston, Tx.	Exxon USA	Baytown, Tx.	3,240,621	F/P	1.420	32.70-33.50
NY, NY	Exxon USA	Bayway, NJ	2,939,980	F/P	1.420	33.00-33.50
			6,294,422			
SEPTEMBER						
Houston, Tx.	Exxon USA	Baytown, Tx.	2,582,222	F/P	1.420	33.00-33.40
NY, NY	Exxon USA	Bayway, NJ	1,827,675	F/P	1.420	32.60-33.70
			4,409,897			

U.S. IMPORTS FROM IRAN  
IMPORTER: GETTY REG. & MKTG.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u>						
Beaumont, Tx.	Getty	El Dorado, Ks.	405,258	F/P	1.600	30.80
<u>APRIL</u>						
<u>MAY</u>						
Philadelphia, Pa.	Getty	Delaware City, De.	185,872	P	1.600	33.20
Wilmington, De.	Getty	Delaware City, De.	1,683,494	F/P	1.650-1.660	30.70-31.10
			1,869,366			
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
Nederland, Tx.	Getty	El Dorado, Ks.	360,264	F/P	1.600	31.00
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
 IMPORTER: MOBIL OIL CORP.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u> New Orleans, La.	Mobil	Joliet, Il.	307,601	F	1.400	33.50
<u>APRIL</u>						
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u> Beaumont, Tx.	Mobil	Beaumont, Tx.	1,247,433	P	1.200	33.40
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
IMPORTER: MARATHON

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
FEBRUARY New Orleans, La.	Marathon	Garyville, La.	3,028,744	F	1.810	31.20
MARCH New Orleans, La.	Marathon	Garyville, La.	1,774,644	F	1.780	31.30
APRIL New Orleans, La.	Marathon	Garyville, La.	410,815	F	1.760	31.10
MAY New Orleans, La.	Marathon	Garyville, La.	3,093,361	F	1.650-1.840	31.00
JUNE New Orleans, La.	Marathon	Garyville, La.	2,166,284	F	1.750	31.00
JULY New Orleans, La.	Marathon	Garyville, La.	1,657,901	F	1.760	31.10
AUGUST New Orleans, La.	Marathon	Garyville, La.	2,484,603	F	1.600-1.710	31.00-30.50
SEPTEMBER New Orleans, La.	Marathon	Garyville, La.	2,151,770	F	1.730	30.90

U.S. IMPORTS FROM IRAN  
 IMPORTER: PHILLIPS PET. CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u> Freeport, Tx.	Phillips	Kansas City, Ks.	449,052	F	1.560-1.610	34.30-34.70
<u>MARCH</u>						
<u>APRIL</u> Corpus Christi, Tx.	Champlin	Corpus Christi, Tx.	228,992	P	1.400	33.50
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
IMPORTER: PRIDE REF. INC.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u> Corpus Chr, Tx.	Coastal Pat.	Corpus Christi, Tx.	446,063	F	1.600	30.80
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u>						
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
 IMPORTER: SABER REFINING CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u>	Champlin	Corpus Christi, Tx.	40,229	F	.300	34.00
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM IRAN  
IMPORTER: SHELL OIL CO.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
Corpus Chr, Tx.	Champlin	Corpus Christi, Tx.	410,359	P	1.410	33.50
Gramercy, La.	Shell	Wood River, Il.	403,707	F	1.480	34.10
Houston, Tx.	Shell	Deer Pk, Tx.	1,037,109	F/P	1.360-1.410	33.50-34.1
			1,851,175			
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u>						
Gramercy, La.	Shell	Wood River, Il.	198,946	F/P	1.410-1.610	33.30-33.5
<u>MAY</u>						
Chester, Pa.	Arco	Philadelphia, Pa.	321,692	P	1.410	33.50
Gramercy, La.	Shell	Wood River, Il.	325,610	P	1.480	33.70
Gramercy, La.	Clark O & R	Hartford, Il.	108,683	P	1.480	33.70
			755,985			
<u>JUNE</u>						
Gramercy, La.	Shell	Wood River, Il.	150,000	F	1.410	33.50
New Orleans, La.	Marathon	Garyville, La.	825,681	P	1.410	33.50
			975,681			
<u>JULY</u>						
Gramercy, La.	Shell	Wood River, Il.	160,081	P	1.410	33.50
New Orleans, La.	Marathon	Garyville, La.	423,225	P	1.450	33.90
Philadelphia, Pa.	Arco	Phila, Pa.	631,777	P	1.410	33.50
			1,015,083			
<u>AUGUST</u>						
Gramercy, La.	Shell	Wood River, Il.	753,656	F/P	1.190-1.260	33.60
<u>SEPTEMBER</u>						

U. S. IMPORTS FROM IRAN  
IMPORTER: STANDARD OIL OHIO

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u> Beaumont, Tx. Wilmington, De.	Sohio Getty	Toledo, Oh. Delaware City, De.	380,086 400,562 780,648	P P	1.400 1.400	33.30 33.90
<u>FEBRUARY</u> Chester, Pa.	BP Oil	Marcus Hook, Pa.	595,457	F/P	1.400-1.420	33.20-33.60
<u>MARCH</u> Philadelphia, Pa. Philadelphia, Pa.	Derby Arco	Philadelphia, Pa. Ft. Mifflin, Pa.	390,409 237,780 628,189	F/P P	1.420 1.410	33.40 34.00
<u>APRIL</u> Beaumont, Tx. Chester, Pa.	Sohio BP Oil	Toledo, Oh. Marcus Hk., Pa.	388,845 354,244 743,089	F/P F/P	1.430 1.400	33.60 33.70
<u>MAY</u> Beaumont, Tx. Chester, Pa. Corpus Christi, Tx.	Sohio BP Oil Derby	Toledo, Oh. Marchus Hk., Pa. Corpus Chr, Tx.	457,635 1,339,348 399,979 2,196,962	P F/P P	1.430 1.400-1.530 1.410	33.60 33.20-33.70 33.20
<u>JUNE</u> Chester, Pa. Chester, Pa.	Getty BP-Oil	Delaware City, De. Marcus Hk., Pa.	198,092 198,999 397,091	P F	1.570 1.570	33.50 33.50
<u>JULY</u> Beaumont, Tx.	Sohio	Toledo, Ohio	398,434	P	1.400	33.50
<u>AUGUST</u> Chester, Pa.	BP Oil	Marcus Hk., Pa.	743,543	F/P	1.400	33.80
<u>SEPTEMBER</u> Chester, Pa.	BP Oil	Marcus Hk., Pa.	624,085	F/P	1.380-1.410	33.30-33.60

U.S. IMPORTS FROM IRAN  
IMPORTER: STRATEGIC PETRO. RES.

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
Baton Rouge, La. Beaumont, Tx.	Nordix Term. Sun Term.	Sunshine, La. Nederland, Tx.	347,082 <u>811,080</u> 1,158,162	- -	- -	33.30 34.00-34.1c
<u>FEBRUARY</u>						
<u>MARCH</u>						
Baton Rouge, La. Beaumont, Tx. Cramarcy, La.	Nordix Sun Oil Koch Ref.	Bayou Choctaw, La. West Hackberry, La. Bayou Choctaw, La.	183,349 613,252 99,130 <u>895,731</u>	P P P	- - -	33.60 33.50-34.0 34.50
<u>APRIL</u>						
Baton Rouge, La. Beaumont, Tx.	Nordix Sun Oil	Bayou Choctaw, La. West Hackberry, La.	653,483 299,024 <u>952,507</u>	P P	- -	33.30-33.9 33.30-33.8
<u>MAY</u>						
Baton Rouge, La. Beaumont, Tx.	Nordix Sun	Bayou Choctaw, La. West Hackberry, La.	504,501 1,445,345 <u>1,949,846</u>	P P	- -	33.50-34.6 33.00-33.6
<u>JUNE</u>						
Baton Rouge, La. Beaumont, Tx. Freeport, Tx.	Nordix Sun Seaway	Bayou Choctaw, La. West Hackberry, La. Bryan Mound, Tx.	546,337 408,420 248,859 <u>1,203,616</u>	P P P	- - -	33.20-33.7 33.40-33.5 33.20
<u>JULY</u>						
Baton Rouge, La. Beaumont, Tx.	Nordix Sun Oil	Bayou Choctaw, La. West Hackberry, La.	817,133 1,100,821 <u>1,917,954</u>	P P	- -	33.20-33.7 33.10-33.9
<u>AUGUST</u>						
Beaumont, Tx.	Sun Oil	West Hackberry, La.	766,340	P	-	33.40-34.c
<u>SEPTEMBER</u>						

U. S. IMPORTS FROM IRAN  
 IMPORTER: SUN OIL CO

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u>						
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u> Marcus Hk., Pa.	BP Oil	Marcus Hk., Pa.	33,123	P	1.470	33.90
<u>MAY</u>						
<u>JUNE</u>						
<u>JULY</u>						
<u>AUGUST</u>						
<u>SEPTEMBER</u>						

U.S. IMPORTS FROM FINAN  
 IMPORTER: SUN OIL CO. - PUERTO RICO

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>JANUARY</u> Humacao, PR	Sun - P.R.	Yabucao, P.R.	1,072,097	F	1.450-1.660	32.10-33.60
<u>FEBRUARY</u>						
<u>MARCH</u> Humacao, PR	Sun - P.R.	Yabucao, PR	630,569	F	1.600-17.00	31.20-31.40
Humacao, PR	Sun - P.R.	Yabucao, PR	437,652	F	1.440	33.10
			<u>1,068,221</u>			
<u>APRIL</u> Humacao, PR	Sun - PR	Yabucao, PR	607,496	F	1.470-1.560	33.10-33.50
<u>MAY</u> Humacao, PR	Sun - PR	Yabucao, PR	328,575	F	1.600	32.30
<u>JUNE</u> Humacao, PR	Sun - PR	Yabucao, PR	529,948	F	1.700	32.50
<u>JULY</u>						
<u>AUGUST</u> Humacao, PR	Sun - PR	Yabucos, PR	748,163	F	1.260-1.370	33.20-33.40
<u>SEPTEMBER</u>						

<u>Port of Entry</u>	<u>Recipient</u>	<u>Destination</u>	<u>Qty./Bbls.</u>	<u>Fee</u>	<u>Sulphur Content</u>	<u>API Gravity</u>
<u>U. S. IMPORTS FROM IRAN</u>						
<u>IMPORTER: TEXACO INC.</u>						
<u>JANUARY</u>						
New Orleans, La.	Texaco	Pt. Arthur, Tx.	50,516	P	1.350	33.80
Pt. Arthur, Tx.	Texaco	Pt. Arthur, Tx.	485,781	F/P	1.350	33.40
			536,297			
<u>FEBRUARY</u>						
<u>MARCH</u>						
<u>APRIL</u>						
<u>MAY</u>						
<u>JUNE</u>						
Philadelphia, Pa.	Arco	Fort Mifflin, Pa.	167,417	P	1.430	33.40
Wilmington, De.	Getty	Delaware City, De.	288,441	P	1.430	33.40
			455,858			
<u>JULY</u>						
Houston, Tx.	Exxon USA	Baytown, Tx.	359,403	P	1.350	33.20
Wilmington, De.	Getty	Delaware City, De.	750,670	P	1.350	32.90-33.
			1,110,073			
<u>AUGUST</u>						
Wilmington, De.	Getty	Delaware City, De.	736,294	P	1.430	33.40
<u>SEPTEMBER</u>						
Philadelphia, Pa.	Arco	Ft. Mifflin, Pa.	428,840	P	1.430	33.30

The CHAIRMAN. We did have some witnesses yesterday talk about trying to expedite development. We had others actually state that there should be no hydrocarbon development in the Georges Bank area, and that the area just should not be considered for lease sale for years to come, and I certainly think that this flies in the face of the evidence that we have received over 4 years here, and of course, of this latest indicator of a very real and possible disruption of a major supplier to the United States.

I think what we will do now is recess for 1 hour and then we will come back and finish up with the three remaining panels that are scheduled.

[Whereupon, at 12:55 p.m., the committee recessed, to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

Our Federal agency panel No. 1 is Capt. Frederick Schubert, of the Coast Guard; Mr. Bud Walsh, Deputy Administrator, NOAA; Basil Whiting, Deputy Assistant Secretary, OSHA; Dr. David Shakow, Attorney Advisor on Tax Legislation of Treasury; Mr. Rosenberg, Carriers, Drawback, U.S. Customs Service; Mr. Paul Giguere, Classification and Value Division of Customs; Mr. Tom Jorling, Assistant Administrator for Water and Hazardous Materials, Environmental Protection Agency.

Gentlemen, we will start with Captain Schubert.

STATEMENT OF CAPT. FREDERICK P. SCHUBERT, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY CAPT. WILLIAM MARKLE, U.S. COAST GUARD, OFFICE OF DEPUTY, MARINE SAFETY; BUD WALSH, DEPUTY ADMINISTRATOR, NATIONAL OCEANOGRAPHIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE, ACCOMPANIED BY ROBERT KNECHT; BASIL WHITING, DEPUTY ASSISTANT SECRETARY, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR; DAVID SHAKOW, ATTORNEY ADVISOR ON TAX LEGISLATION, OFFICE OF THE COUNSEL, DEPARTMENT OF TREASURY; MR. ROSENBERG, CARRIERS, DRAWBACK, AND BOMBS, U.S. CUSTOMS SERVICE, DEPARTMENT OF TREASURY; TOM JORLING, ASSISTANT ADMINISTRATOR FOR WATER AND HAZARDOUS MATERIALS, ENVIRONMENTAL PROTECTION AGENCY

Captain SCHUBERT. Thank you, Mr. Chairman.

I have a fairly long statement, and with your permission I would like to submit the full statement for the record and deliver an abbreviated statement at this time.

The CHAIRMAN. Your statement will be placed in the record in its entirety, and if you gentlemen would proceed by summarizing them, then we can get to the questions.

[The statement follows:]

#### STATEMENT OF CAPT. FREDERICK P. SCHUBERT, U.S. COAST GUARD

Good morning Mr. Chairman and members of the committee. I am Captain Frederick P. Schubert, Acting Chief of the Office of Marine Environment and Systems of the U.S. Coast Guard. Thank you for this opportunity to present the

views of the Department of Transportation concerning implementation of the Outer Continental Shelf Land Act Amendments of 1978. As you know, the principal responsibilities of the Department of Transportation under this legislation fall into three general areas: First, maritime safety and environmental protection tasks under Title II of the Amendments; second, matters related to pipeline safety also under Title II of the Amendments; and third, administration of the offshore oil pollution compensation fund under Title III of the Amendments. I would like to discuss initially those matters related to pipeline safety which are the responsibility of the Materials Transportation Bureau and then cover those tasks in Titles II and III which are the responsibility of the U.S. Coast Guard.

Concerning pipeline safety, the Department of Transportation's Materials Transportation Bureau (MTB) currently prescribes standards governing the design, construction, operation and maintenance of petroleum and natural gas pipelines—both onshore and offshore. The issuance of these standards and the MTB's monitoring and enforcement of them are being carried out for the most part under the Transportation of Explosives Act and the Natural Gas Pipeline Safety Act. To the extent that there is an overlap of authority between the MTB and the Department of the Interior, that overlap has been addressed in a 1976 Memorandum of Understanding (MOU). Under that MOU, the Department of the Interior assumed exclusive responsibility for pipeline safety matters on OCS production platforms leaving the MTB with safety regulatory responsibility for the pipelines from the platforms to the shore.

Turning to those specific implementation matters which are the responsibility of the Coast Guard, I would like to discuss first, maritime safety and environmental protection tasks.

The Coast Guard has had general authority to promote safety of life and property on the OCS through regulation and to require marking of OCS installations for the safety of navigation since 1953. Under that authority, the Coast Guard has enforced regulations governing lifesaving and firefighting equipment, means of escape, certain operations and safety zones on the OCS and also established requirements for marking OCS installations for aids to navigation purposes. The Coast Guard is also charged with enforcement of environmental protection laws on the Nation's waters. The Clean Water Act of 1977 expanded the Coast Guard's geographic area of responsibility for pollution prevention, surveillance, enforcement, and response activities to the Outer Continental Shelf, and, in some cases, beyond it. The 1978 OCS Amendments complement and expand these basic authorities.

Tasks assigned to the Coast Guard by Section 208 of the OCS Amendments fall into the two general categories of standards development and enforcement. In meeting its responsibilities in both categories, the Coast Guard has been following the Congressional intent that Federal agencies coordinate their activities on the OCS with the Secretary of the Interior. To this end, we have been meeting regularly with representatives of the U.S. Geological Survey of the Department of the Interior concerning implementation of these Amendments, and we have also begun discussions with OSHA, EPA, the Corps of Engineers, and the Department of Commerce with respect to specific responsibilities. Through representatives to the Secretary of the Interior's OCS Advisory Board, the Coast Guard also provides data and expert testimony at regular Advisory Board meetings. These and other efforts ensure that Coast Guard actions on the OCS will be integrated with those of other Federal agencies.

In the area of standards development, the Coast Guard on November 16, 1978 published final rules for commercial diving in the Federal Register. These rules become effective on February 1, 1979 and will apply to commercial diving associated with OCS activities. The rules cover, among other items, equipment requirements, periodic tests and inspections, operations, and casualty reporting requirements. With your permission, Mr. Chairman, I would like to submit a copy of the document publishing these rules for the record.<sup>1</sup> Diving safety on the OCS was a major concern of Congress during development of the safety sections of this legislation, and we anticipate that these rules for commercial diving will do much to improve the safety aspects of OCS diving operations. The Coast Guard will, of course, continue to monitor OCS diving activities to ensure that this desired improvement is achieved. These diving regulations were developed in consultation, and with the cooperation of, the Occupational Safety and Health Administration of the Department of Labor. It is our expectation that similar cooperation between the Coast Guard and OSHA will continue in development of personnel qualification and medical standards for commercial diving, and in other areas of safety and health where the two agencies share mutual concerns. The Coast Guard is participating in

<sup>1</sup> The document was placed in the files of the committee.

the planning for the study of underwater diving techniques and equipment to be conducted by the Department of Commerce pursuant to Section 21(e) of Section 208.

The Coast Guard also published on December 4, 1978, final regulations for Mobile Offshore Drilling Units (MODU's), that will become effective on January 3, 1979. These rules provide an integrated set of regulations for U.S. flag MODU's. They address such issues as stability, structural fire protection, ventilation, life-saving and firefighting equipment, and industrial systems safety. With your permission, Mr. Chairman, I also would like to submit a copy of these rules for the record.<sup>2</sup>

The Coast Guard is continuing work on an international code for MODU's through the auspices of the Intergovernmental Maritime Consultative Organization (IMCO). A proposed international code for these vessels was discussed at the most recent meeting of the Design and Equipment Subcommittee of the Maritime Safety Committee of IMCO in London the week of November 27th and will be taken up by the full Maritime Safety Committee when it meets next May.

Several other rulemaking efforts have been started by the Coast Guard in response to Title II, although all are in preliminary stages of development. These include: (1) Establishment of Personnel Job Safety Requirements for Fixed Installations on the OCS, (2) Establishment of Personnel Job Safety Requirements for Industrial Vessels on the OCS, (3) Provision for a general revision of 33 CFR Subchapter N, Artificial Islands and Fixed Structures on the OCS, to bring it in line with the requirements of the 1978 Amendments, (4) Identification and, if necessary, regulation of any presently unregulated hazardous working conditions on the OCS, and (5) Establishment of qualifications for Crane Operators on OCS facilities. Other projects to develop rules concerning documentation, manning, and design, construction, alteration and repair standards for OCS vessels and facilities pursuant to Section 30 of Section 208 have also been initiated.

The Coast Guard, along with the U.S. Geological Survey, is developing a study plan to provide for the joint study of the adequacy of existing safety and health regulations and the technology available for OCS exploration, development and production, provided for by Section 21(a) of Section 208. Pursuant to Section 607 of Title VI, the Coast Guard is also providing the U.S. Geological Survey with recommendations for training of personnel responsible for pollution prevention equipment.

Concerning the inspections mandated by Section 22(c) of Section 208, different technical skills and training will be required for inspection of safety items directly associated with drilling and processing operations than are required for inspection of other safety items such as lifesaving and firefighting equipment. As a result, it is anticipated that Geological Survey and the Coast Guard, each possessing different expertise, will both continue to inspect all OCS facilities for matters each agency regulates. As of January 1978 there were approximately 2,300 fixed structures, 120 MODU's, 75 diving systems and 1,200 support vessels engaged in operations on the U.S. OCS. It is the Coast Guard's intention to direct its enforcement efforts toward vessels and manned facilities with emphasis on personnel safety and health.

Concerning implementation of Section 22(d) on investigations, the Coast Guard intends to investigate and report on major fires, major oil spills, deaths, and some, but not all serious injuries. We anticipate this section to add 800-1,000 serious injury investigations annually, which is beyond our present capability. Our intention, therefore, will be to direct our efforts to the most critical situations until the investigative staff needed to conduct all serious injury inquiries becomes available.

To implement Section 22(e) on alleged violations of safety regulations, Coast Guard field units have been directed to investigate any allegations of violations of occupational safety and health regulations that are reported. The rulemaking project for revision of 33 CFR Subchapter N, Artificial Islands and Fixed Structures on the OCS, will include appropriate notice to the public concerning this item.

I would like to note that implementation of Coast Guard responsibilities under Title II of the 1978 OCS Lands Act Amendments must also be integrated with Coast Guard responsibilities under various other Federal statutes and international treaties to which the United States is a party. For example, the Coast Guard is charged with implementing the Clean Water Act Amendments of 1977 and the major initiatives contained in the Port and Tanker Safety Act of 1978, which became law on October 17, 1978. Many parts of these statutes directly affect OCS operations, and resolution of conflicts between shipping requirements for safe port access, mineral development activities, and environmental protection on the OCS will require extensive cooperative efforts between the Coast Guard, the Bureau of Land Management and the Geological Survey of the Department of the Interior, the Environmental

<sup>2</sup> The document was placed in the files of the committee.

Protection Agency, the Corps of Engineers and the National Oceanic and Atmospheric Administration.

The other major task under this Act is the administration of the Offshore Oil Pollution Compensation Fund established under Title III. It is the intent of the Administration to again submit Superfund legislation in the 96th Congress as a matter of high priority. That proposed legislation, if enacted, would supersede the Title III Fund. In the interim, the Coast Guard is proceeding with implementation of the Title III Fund. The following implementation steps have been taken:

(a) A notice of proposed rulemaking has been published in the Federal Register containing the regulations necessary to implement the duties assigned by Title III to the Secretary of Transportation as well as duties assigned to the President which may be delegated to the Secretary. In an effort to implement the Fund within the time limits set by Title III and to meet the requirement for public involvement in the rulemaking process, the Coast Guard, acting as prospective Fund administrator, has assigned personnel and funds on a temporary basis to the various Fund implementation tasks.

(b) A draft Executive Order has been developed delegating to the Secretary of Transportation, or other appropriate departmental heads, the functions assigned to the President under Title III.

(c) A draft Secretarial Order has been developed delegating to the Commandant of the Coast Guard the major portion of the functions assigned to the Secretary of Transportation under Title III, or delegated under the draft Executive Order to the Secretary.

(d) Efforts have been initiated to propose a supplemental appropriation to activate the Title III Fund. Before any funds can be obligated or expended, Section 313(c) requires that authority to do so must be provided in appropriation acts enacted after September 18, 1978. In order for the Fund to function on March 17, 1979, the authority to borrow, collect fees and to spend funds must be granted by Congress.

(e) Planning has been initiated for the 12 month study required by Title III to assess the availability and adequacy of private oil pollution insurance protection.

(f) A request for proposals (RFP) for claims adjustment services has been initiated.

(g) Recommendations for internal organization for the administration of the Fund have been prepared. For the most part, provisions of Title III become effective simultaneously, creating potential operational problems. For example, one provision requires all owners or operators of offshore facilities or vessels to establish evidence of financial responsibility. From a practical standpoint, it may take months for these operators to acquire the required certificate of financial responsibility. The existing U.S. Geological Survey Leasehold requirements for financial responsibility will be examined and, where appropriate, endorsed as an interim certification of financial responsibility.

(h) Coordination has been effected with all agencies assigned functions under Title III or the proposed Executive Order.

Based on these steps in progress, we also plan the following actions:

(1) Continue planning efforts to minimize actual processing time for employees once hiring authority is granted. In the interim, we will continue Fund assignments of employees on loan from other coast Guard programs.

(2) Continue efforts to reduce rulemaking timetable.

(3) Prepare contracts with private claims adjusting firms to be effective March 17, 1979, or on passage of appropriations.

(4) Seek passage of a FY 1979 supplemental appropriation Act prior to March 17, 1979 under Section 313 of Title III.

The Coast Guard has developed detailed schedules that address all of its responsibilities with respect to these amendments. Further, qualified personnel have been assigned to complete the regulatory actions called for in these amendments and instructions are being prepared for our operating personnel to enforce this new legislation.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or the other members of the Committee may have.

Captain SCHUBERT. Good afternoon, Mr. Chairman. I am Capt. Frederick P. Schubert, Acting Chief of the Office of Marine Environment and Systems of the U.S. Coast Guard.

As you know, primary DOT responsibilities under the Outer Continental Shelf Lands Act amendments include maritime safety, pipeline safety, and marine environmental protection under title II

and administration of the offshore oil pollution compensation fund under title III.

Addressing title II first, the Materials Transportation Bureau now prescribes construction and safety standards for oil and natural gas pipelines both onshore and offshore. Regulatory and enforcement authority is derived primarily from the Transportation of Explosives Act and the Natural Gas Pipeline Safety Act.

Through a memorandum of understanding with the Department of the Interior, the Materials Transportation Bureau has assumed full responsibility for pipeline safety matters for all pipelines on the Outer Continental Shelf from the platforms to the shoreline.

Turning to Coast Guard responsibilities, we have been regulating certain equipment and operations on the Outer Continental Shelf since 1953. Title II of the amendments assigned the Coast Guard additional responsibilities in standards development and enforcement.

Under standards development, the Coast Guard has published final rules for commercial diving on the Outer Continental Shelf in the Federal Register of November 16. These rules include requirements for certain equipment, periodic tests and inspections, operations standards, and casualty reporting.

These regulations were developed in consultation with the Occupational Safety and Health Administration—OSHA—and we expect to continue to work with OSHA in the development of personnel qualification and medical standards for commercial diving.

The Coast Guard has also published final regulations for mobile offshore drilling units—MODU's—on December 4, which provide an integrated set of safety and construction regulations for U.S. flag MODU's.

With your permission, Mr. Chairman, I would like to submit copies of both sets of regulations for the record. We also have a number of other rulemaking projects in the preliminary stages of development. These are listed on page 5 of my statement for the record.

In the area of enforcement, the Coast Guard intends to cooperate closely with the Geological Survey in carrying out our related inspection responsibilities. Our primary emphasis will be on personnel safety and health on vessels and manned facilities.

Concerning required investigations under section 22(d) of the amendments, we initially intend to investigate major fires, major oilspills, deaths, and some, but not all, serious injuries.

We will concentrate on situations that we consider most critical until the investigative staff needed to conduct all investigations becomes available.

As a final observation concerning Coast Guard responsibilities under title II, our activities under the legislation must be integrated with those carried out under other statutes, the most recent of which are the Clean Water Act of 1977 and Port and Tanker Safety Act of 1978.

The complexity of these statutes requires extensive interagency cooperation. We have taken what we judge to be the necessary steps to assure that adequate liaison and coordination is maintained with other responsible agencies.

The other major DOT tasks under these amendments is the administration of the offshore oilspill pollution fund provided by title III.

The Coast Guard published a notice of proposed rulemaking in the Federal Register on December 4 containing proposed regulations for implementing duties of the President and the Secretary of Transportation under title III.

If you desire, Mr. Chairman, I can provide a copy of this notice of proposed rulemaking for the record.

The CHAIRMAN. It will be included in the record with your statement.<sup>1</sup>

Captain SCHUBERT. Thank you, Mr. Chairman.

The Coast Guard has initiated a number of other projects to implement the title III fund in a timely manner, which are enumerated in my statement for the record.

Mr. Chairman, I would like to thank you for the opportunity to discuss the DOT program relative to this legislation this afternoon. I would be pleased to answer any questions you or the other members of the committee may have at this time.

The CHAIRMAN. Thank you, Captain Schubert.

We will direct questions when we finish with the panel.

Mr. Walsh?

#### STATEMENT OF MR. WALSH

Mr. WALSH. Thank you, Mr. Chairman.

Mr. Chairman, members of the select committee, I am pleased to appear before you today to discuss NOAA's implementation to date of the Outer Continental Shelf Lands Act Amendments of 1978.

As you know, the Outer Continental Shelf amendments change or add to NOAA's direct program responsibilities in four primary areas: The allocation of funds to States to cope with the impacts of offshore energy development; the provision of compensation to fishermen damaged by offshore operations; the charting and surveying of obstructions on the Outer Continental Shelf; and the performance of research relevant to Outer Continental Shelf activities.

Further, NOAA is vitally interested in the implementation of the trusteeship responsibilities under the offshore oilspill pollution fund.

Finally, the Outer Continental Shelf amendments and the Outer Continental Shelf program relate to NOAA responsibilities under the Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Endangered Species Act, and the Marine Protection, Research, and Sanctuaries Act, among others. Achieving the objectives of the Outer Continental Shelf amendments and these statutes will require close cooperation and coordination between NOAA and the Department of the Interior. I will touch briefly on each of these matters this morning.

First of all, the Outer Continental Shelf amendments significantly modify the coastal energy impact program—CEIP—established under section 308 of the Coastal Zone Management Act of 1972. Both the formula grants provision—section 308(b)—and the planning grants provision—section 308(c)—have been amended, as has

<sup>1</sup> The document was placed in the files of the committee.

the Federal consistency requirement set out in section 307. NOAA is working to implement these changes as rapidly as possible.

NOAA, through its Office of Coastal Zone Management—OCZM—intends to publish proposed regulations in the Federal Register by January 1 reflecting the basic statutorily mandated changes in formula grants under the CEIP.

One change under the recent amendments that we are not making immediately is that relating to the Secretary's discretionary authority to describe geographic areas in which public facilities and public services are presumed to be required as a result of Outer Continental Shelf energy activity. We are discovering this is a much more complicated process than anticipated. Therefore, we are going through an indepth examination of this provision before coming forward with regulations.

We are taking the following steps regarding the new Outer Continental Shelf administrative grants program for State participation. As of October 1, we have sent letters to the Governors of coastal States describing the Outer Continental Shelf administrative grant program and asking for designation of State points of contact to work on program implementation. We expect to publish draft regulations by January 1, 1979, and hope to have final regulations in effect on March 1. In addition, the Office of Coastal Zone Management is revising the Federal consistency regulations under section 307 in order to incorporate the most recent changes made by the Outer Continental Shelf amendments.

A fishermen's contingency fund is created under title IV. This fund is funded by assessments against the holders of Outer Continental Shelf leases, permits, easements, or rights of way. The purpose is to compensate domestic fishermen suffering loss of, or damage to, fishing vessels or gear—and resulting lost profits—due to Outer Continental Shelf oil or gas activities. Two important efforts, primarily within NOAA's Office of Fisheries, are currently underway to implement this title.

First, we are in the process of gathering data needed to develop a rationale for establishing Fund area accounts and estimating the amount of annual claims activity. Second, we are developing rules for the submission and processing of claims. We hope to have these ready to publish in proposed form in the Federal Register by January 1, 1979.

In addition, the Outer Continental Shelf amendments specify that a survey be made of natural and manmade obstructions on the Outer Continental Shelf and these obstructions be charted for the benefit of commercial fishermen. The Outer Continental Shelf amendments assign this task to the Secretary of Commerce and NOAA's National Ocean Survey—NOS—has begun examining the means of carrying out this new provision.

In developing a work plan, contacts have been established between NOAA and the Interior Department and Interior's views have been solicited. Our people have talked to the Atlantic and Gulf States Marine Fisheries Commissions and we are contacting various fishermen's groups as well.

In the preliminary preparation of the work plan, we have discovered that 2 years may be too short to develop the immense amount of information that is required in order to do a detailed job of

identifying obstructions to fishing activity on the Outer Continental Shelf. Much of the Outer Continental Shelf in the areas of oil and gas development is yet to be intensively studied, and we feel that it is going to take much longer than 2 years to complete a major survey effort.

Our primary objective will be to produce charts and maps that will portray the location of objects that are considered hazardous to the operations of fishermen. We are identifying the areas of priority where leasing is already underway or will shortly be underway, so we can have these maps and charts available as soon as possible.

With regard to research and development, Mr. Chairman, we conduct an Outer Continental Shelf environmental assessment program in Alaska in conjunction with the Bureau of Land Management. We are already providing information on many of the key areas that are on the leasing schedule. Recently we published some preliminary information on the Beaufort Sea area, which I will be glad to make available for your staff, if you desire it.

In the area of marine resource protection, we have recently established an Office of Habitat Protection within the National Marine Fisheries Service. We consider it most important that adequate protection be given to renewable marine resources of the Outer Continental Shelf during the process of developing non-renewable resources such as oil and gas.

In addition, under section 21(e) of the new act we are authorized to conduct studies of underwater diving techniques and equipment, and preparation of a plan for that study is underway.

Mr. Chairman, in conclusion I wanted to mention that in the process of developing oil and gas resources on the Outer Continental Shelf, it is quite clear that there will be conflicts with other uses of the ocean and controversy about the impact of oil and gas exploitation on the marine and coastal environment will develop.

National Oceanic and Atmospheric Administration's responsibilities under the legislation that I have mentioned may be directly affected by Outer Continental Shelf leasing decisions. For example, there is substantial concern that oil and gas leasing in the Georges Bank area could adversely affect the New England groundfish fishery, which is subject to regulation by NOAA.

In its marine sanctuaries program, NOAA is seeking to identify those areas where uniquely valuable marine ecosystems call for special protection from human activities.

Acting under the Endangered Species Act, NOAA has expressed strong concern to the Department of Interior about the possible impacts of oil and gas exploitation in the Beaufort Sea on the endangered bowhead whale and its critical habitat.

Mr. Chairman, NOAA is presently working as expeditiously as possible to implement the new Outer Continental Shelf amendments. I am confident we will be able to fulfill the intent of this committee and Congress in a responsible, efficient, and timely manner.

Thank you.

[The statement follows:]

TESTIMONY OF  
JAMES P. WALSH  
DEPUTY ADMINISTRATOR  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
ON IMPLEMENTATION OF THE  
OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS  
BEFORE THE HOUSE AD HOC SELECT COMMITTEE ON  
THE OUTER CONTINENTAL SHELF

December 7, 1978

Mr. Chairman, Members of the Select Committee:

I am pleased to appear before you today to discuss NOAA's implementation to date of the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. No. 95-372 (the "OCS Amendments"). As you know, the OCS Amendments change or add to NOAA's direct program responsibilities in four primary areas: the allocation of funds to states to cope with the impacts of offshore energy development; the provision of compensation to fishermen damaged by offshore operations; the charting and surveying of obstructions on the Outer Continental Shelf; and the performance of research relevant to OCS activities. Further, NOAA is vitally interested in the implementation of the trusteeship responsibilities under the Offshore Oil Spill Pollution Fund. Finally, the OCS Amendments and the OCS program relate to NOAA responsibilities under the Fishery Conservation and Management Act, the Marine

Mammal Protection Act, the Endangered Species Act, and the Marine Protection, Research, and Sanctuaries Act, among others. Achieving the objectives of the OCS Amendments and these statutes will require close cooperation and coordination between NOAA and the Department of the Interior. I will address all these issues in my testimony this morning.

(1) The Coastal Energy Impact Program

The OCS Amendments significantly modify the Coastal Energy Impact Program ("CEIP") established under section 308 of the Coastal Zone Management Act of 1972. Both the formula grants provision (section 308(b)) and the planning grants provision (section 308(c)) have been amended, as has been the Federal consistency requirement set out in section 307. NOAA is developing regulations to implement these changes as rapidly as possible.

NOAA, through its Office of Coastal Zone Management ("OCZM"), intends to publish proposed regulations in the Federal Register by December 15 reflecting the basic statutorily mandated changes in formula grants under the CEIP. These regulations will spell out the revised formula factors, the weight to be given such factors, and the new 2% floor and 37-1/2% ceiling on formula amounts.

Additionally, they will eliminate formula grant requirements deemed unnecessary by Congress, e.g., that other CEIP financing, such as credit assistance, be unavailable before a state or local community can utilize formula grants.

One change in section 308 is not being implemented immediately. Implementation of the provision giving the Secretary of Commerce discretionary authority to describe geographic areas in which public facilities and public services are presumed to be required as a result of OCS energy activity is being studied to identify the impacts of various approaches. Delaying the implementation of this provision will not hinder the granting of funds to meet state needs. After a thorough analysis of the implications of this provision, we expect to proceed with implementation.

OCZM is taking the following steps regarding the new OCS administrative grants program for state participation:

October 1, 1978      -- Letters were sent to Governors  
of coastal states describing

the OCS administrative grant program and asking for designation of state points of contact to work on program implementation.

- November 1, 1978 -- Governors were to have designated state points of contact.
- December 8, 1978 -- Technical papers describing program implementation will be sent to the states.
- January 1, 1979 -- Draft regulations are scheduled to be published in the Federal Register.
- March 1, 1979 -- Final regulations will be published in the Federal Register.

Lastly, OC2M is revising the Federal consistency regulations in 15 C.F.R. Part 930 to incorporate the changes required by section 504 of the OCS Amendments. In essence these changes qualify the six-month time

period available for states to review OCS exploration, development, and production plans to insure that such plans are consistent with approved state coastal management programs.

(2) The Fishermen's Contingency Fund

Title IV of the OCS Amendments establishes a Fishermen's Contingency Fund funded by assessments against the holders of OCS leases, permits, easements, or rights of way. The purpose of the Fund is to compensate domestic fishermen suffering loss of, or damage to, fishing vessels or gear (and resulting lost profits) due to OCS oil or gas activities. Two important efforts, primarily within NOAA's Office of Fisheries, are currently underway to implement this Title.

First, we are in the process of gathering data needed to develop a rationale for establishing Fund area accounts and estimating the amount of annual claims activity. Second, we are developing rules for the submission and processing of claims. We hope to have these ready to publish in proposed form in the Federal Register by January 1, 1979. At the same time, we will

be entering into agreements with the Treasury and the Interior Departments relating to establishment of the Fund and the mechanics for handling receipts and disbursements. We are generally coordinating all Title IV activities with representatives of the Interior Department.

(3) Charting and Surveying

The OCS Amendments specify that a survey be made of natural and manmade obstructions on the OCS and these obstructions be charted for the benefit of commercial fishermen. The OCS Amendments assign this task to the Secretary of Commerce, and NOAA's National Ocean Survey ("NOS") has begun examining the means of carrying out the provision.

In developing a work plan, contacts have been established between NOAA and the Interior Department and Interior's views have been solicited. Further, NOAA/NOS personnel attended a joint meeting of the Atlantic and Gulf States Marine Fisheries Commissions for the purpose of better defining user requirements and to discuss production problems associated with fishing obstruction charts

Additionally, NOS personnel attended the Annual Fisheries Exposition in Boston in October to discuss details of the proposed charts, i.e., scales, format, and form of presentation.

A work plan is being developed which contemplates that a full survey may take more than the two years specified in the OCS Amendments. We believe that a practical program may require seven years for completion of the entire task, but priority will be given to those areas where oil and gas exploration and production are already taking place.

In developing a work plan we will want to determine what the contents of an obstruction chart should be. We will also have to assess what data are available and what additional data may be needed.

The kinds of information which may be included in obstruction charts are:

- o Fishing obstructions;
- o LORAN-C and LORAN-A lattices;

- o Aids to navigation, fixed lights, marine and aero radio beacons, and radio broadcast stations;
- o Oil and gas structures; and
- o Safety fairways and other marine limits, e.g., the territorial sea.

Our primary objective will be to produce charts which will accurately portray the location of objects considered hazardous to the operations of fishermen employing bottom trawls. Natural and manmade objects which project short distances above the bottom must be located and delineated. NOS intends to utilize all existing sources of data wherever possible to minimize the need for new hydrographic surveys.

(4) Research and Development

Section 208 of Title II of the OCS Amendments, adding new sections 20 and 21 to the Outer Continental Shelf Lands Act, recognizes two important NOAA research functions. First, under section 20(f), Congress recognizes the continuing need for the Department of the Interior to

utilize, on a reimbursable basis, our capabilities in carrying out environmental studies. This is the kind of relationship we currently have, for example, in the Outer Continental Shelf Environmental Assessment Program ("OCSEAP") and within our fisheries research centers. Also, in the area of marine environmental studies and resource protection, we have recently established an Office of Habitat Protection within the National Marine Fisheries Service ("NMFS"). We consider it most important that adequate protection be given to renewable marine resources of the OCS during the process of developing non-renewable resources such as oil and gas. We would like to see NMFS capabilities utilized as fully as possible. Second, under section 21(e), we are authorized to conduct studies of underwater diving techniques and equipment.

With our Office of Research and Development ("R&D") in the lead, we are discussing with the Department of the Interior the best way to provide useful research to the OCS leasing program. Further, this Office is developing, in cooperation with other interested agencies, a work plan to conduct studies of underwater diving techniques and equipment.

(5) Trustee for Natural Resources

Although no decision has been made by the President on the delegation of the responsibility given him by section 303(b)(3), NOAA views this activity as a vital element in the effective implementation of the Offshore Oil Spill Pollution Fund, both to place the full cost of pollution on the polluter and to restore, rehabilitate, or acquire the equivalent of such natural resources whenever possible. We anticipate being involved with this effort.

(6) Cooperation for Protection of Resources

In the process of developing oil and gas resources on the OCS, it is likely that there will be conflicts with other uses and controversy about the impact of oil and gas exploitation on the marine and coastal environment. NOAA's responsibilities, under such legislation as the Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Endangered Species Act, and the Marine Protection, Research, and Sanctuaries Act may be directly affected by OCS leasing decisions. For example, there is substantial concern that offshore

oil and gas leasing in the Georges Bank area could adversely affect the New England groundfish fishery, which is subject to regulation by NOAA. In its marine sanctuaries program NOAA is seeking to identify those areas where uniquely valuable marine ecosystems call for special protection from human activities. Acting under the Endangered Species Act, NOAA has expressed strong concern to the Department of the Interior about the possible impacts of oil and gas exploitation in the Beaufort Sea on the endangered bowhead whale and its critical habitat.

Within NOAA, two efforts are underway to reduce the possibility of conflict and insure better agency coordination. First, we are making contacts with appropriate officials in the Department of the Interior so that, when and if conflicts should arise, paths of communication will be open and a mechanism established to insure that consultation takes place. In the marine sanctuaries program, for example, where we have under consideration proposals for sanctuaries in the Flower Garden Banks and certain areas offshore in California, we are already

consulting with the Department of the Interior and EPA on the relationship of those unique resources to the development of oil and gas in nearby areas.

Second, NOAA is beginning to develop a framework for ocean use assessment and coordination that will be helpful in evaluating the location and operating techniques for oil and gas development in light of environmental constraints and other ocean uses. This effort includes collecting a comprehensive information base on ocean resources, developing basic tools of analysis of potentially conflicting ocean uses, and working with other Federal agencies and coastal states in helping to determine priorities among ocean uses. This framework, when ultimately developed, will allow us to comment more intelligently and constructively on major OCS activities.

#### CONCLUSION

In sum, I believe that NOAA is proceeding expeditiously to implement the OCS Amendments. I am confident that we will be able to fulfill the intent of Congress in a responsible and efficient manner.

Thank you.

The CHAIRMAN. Mr. Whiting?

STATEMENT OF MR. WHITING

Mr. WHITING. Thank you, Mr. Chairman.

In a hearing that focuses at least in part on occupational safety and health, and as one whose task is to help administer an agency, the chief agency in the Nation concerned with safety and health, I think it is appropriate to open this Statement with a sense of my own deep regret and loss at the untimely passing of your colleague, Mr. Steiger.

All of us involved in safety and health over the years have worked closely with him in one way or another, and his loss will be deeply felt.

As you noted in your letter of invitation, Mr. Chairman, the amendments did not alter the existing authority of OSHA to protect workers engaged in activities on the Shelf. Nevertheless, we recognize that we have additional roles to play in promoting the implementation of the Outer Continental Shelf act and to assist in promoting its resource development and employee protection goals.

These roles include offering assistance to and consultation with those other agencies involved in protecting lives and resources pursuant to the legislation.

The interest of this committee and the conferees in our role was delineated in the legislative history of the 1978 amendments to the Outer Continental Shelf Act, and we believe the intent expressed in that history provides a sound foundation for protecting worker safety and health on the Shelf.

Our first priorities in aiding the implementation of the Outer Continental Shelf Lands Act amendments are to provide assistance to the Secretaries of Interior and Transportation in conducting the study required under section 21(a) of the 1978 amendments of the adequacy of existing health and safety regulations, and to provide assistance to the Secretaries of Commerce and Transportation and the Director of NIOSH in conducting the study of underwater diving techniques required under section 21(e).

As a first step, we have sent to the Secretaries of Commerce and Transportation and the Director of NIOSH a list of research needs for underwater diving techniques based on the deficiencies in knowledge uncovered during the development of OSHA's commercial diving standard.

This list should assist the affected agencies in assessing the safety and health problems associated with diving activity. With your permission, Mr. Chairman, I would like to submit a copy for insertion into the record.

The CHAIRMAN. That will be placed in the record.

[The information follows:]

LIST OF ISSUES OFFERED FOR STUDY

This is the list of issues which we are offering as suggested subject matter for the study mandated by section 21(e) of the OCS Lands Act Amendments. We have sent letters to Cecil Andrus, Secretary of the Interior, Brock Adams, Secretary of Transportation, William Foege, Director of the Center for Disease Control, and Juanita Kreps, Secretary of Commerce.

Our suggestions are aimed at achieving four goals: alleviating the dangers associated with decompressing divers, improving diving equipment, improving the breath-

ing gas mixtures currently in use, and developing better emergency procedures. The basic information needed for achieving these goals will come from a proposed epidemiological study which would provide comprehensive data on all hazards which divers face. We are discussing with NIOSH the prospects of doing such a study.

#### DANGERS ASSOCIATED WITH DECOMPRESSING DIVERS

Decompression sickness is the most common hazard associated with decompressing divers. The best means for protecting divers from this hazard is to make sure that the decompression tables in use provide acceptable levels of safety for the environment of the dive. Our efforts towards developing a method of reviewing these tables were hindered by trade secret problems. We highly recommend that you study the possibility of developing criteria for judging the appropriateness of the decompression tables in use.

A necessary complement to the development of review criteria for decompression tables will be a study to determine criteria for modifying the tables for cases where decompression sickness occurs. The proper completion of these two studies could lead to requirements mandating the steady improvement of decompression tables.

Research into the exact causes of decompression sickness and emboli would also be helpful in combatting these hazards. If the controversy surrounding the causes of these two conditions could be resolved, it might be possible to take better remedial and preventive measures.

The most serious chronic ailment associated with decompression is dysbaric osteonecrosis. We were unable in our standard to prescribe either preventive or remedial measures, for we found in the hearing record no consensus among the experts on the proper steps to be taken. We, therefore, recommend a long-term study of the causes and possible treatments of dysbaric osteonecrosis, and the development of criteria to determine whether afflicted divers should be allowed to dive, or if allowed, what special precautions must be taken.

Currently, SCUBA diving below 130 feet of sea water (fsw) is forbidden, and there is controversy over whether decompression SCUBA diving should be allowed. Recent tests of the National Oceanographic and Atmospheric Administration (NOAA) suggest that decompression-SCUBA diving at depths significantly greater than 130 fsw might be done safely. This study should be pursued further with particular attention given to the effects of environmental and task-level factors on the abilities of divers to withstand higher pressures.

#### EQUIPMENT IMPROVEMENT

The requirements on the equipment used in dives is stringent in both the OSHA and the CG standards, but we perceive two areas needing improvements in the present standards and on practice, the so-called "Hookah diving, which has gone unregulated. "Hookah" diving has resulted in several fatalities off the northwest coast of the U.S. the various techniques employed in these operations need to be surveyed, and regulations which insure acceptably safe conditions for all divers need to be promulgated.

The two areas needing improvements involve the standards for reserve gas supplies for SCUBA divers and helmets for surface-supplied divers. In both cases, the standards are quite general and need to be more specific. Research could lead to better correlation between the design of these pieces of equipment, the various environments they are used in, and the various tasks their users do.

#### BREATHING MIXTURE IMPROVEMENT

Two recent series of experiments with breathing mixtures have produced results which raise the possibility of diving deeper with adequate safety. NOAA's experiments on nitrogen/oxygen breathing mixtures show that certain mixtures might be used at deeper depths for longer times without increasing their level of nitrogen narcosis. The ability to use nitrogen at lower depths would allow divers to circumvent the problems inherent in helium such as increased susceptibility to hypothermia and changes in voice timbre.

The U.S. Navy and Duke University have studied using higher partial pressures of oxygen in breathing mixtures. If the oxygen pressure could be increased without increasing the danger of oxygen poisoning, divers might be less susceptible to decompression sickness, less susceptible to disorientation, and quicker in their reactions to brain impulses. Both lines of investigation merit further study, for their successful conclusion could grant the diving industry greater latitude in selecting diving methods without compromising worker safety.

## EMERGENCY PROCEDURES DEVELOPMENT

Emergency procedures need to be tightened in both the OSHA and CG standards. The standards require that a physician experienced in hyperbaric medicine be on call during dives, but there is no institutionally-established medical sub-specialty of hyperbaric medicine. Methods for qualifying physicians for examining and treating divers need to be developed. The standards require that a bag-type manual resuscitator be available at diving sites, but more research is needed to determine whether this is the definitive means for artificial respiration. The standards require a first aid kit "appropriate for the dive" to be at the diving site, but no specifications are given as to what is appropriate mean for hyperbaric conditions. We feel that research is needed into developing criteria for qualifying physicians for treating divers, into determining the best means of artificial respiration for divers, and into the specific requirements for a first aid kit that would be effective under hyperbaric conditions.

At a latter date, we will supply to the same departments information which we feel should be included in the study of other existing regulations called for in section 21(a). Work has already begun on the drafting of such a document.

Mr. WHITING. I would also like to describe a few of the items in more detail in order to familiarize you with the problems and to provide examples of the sort of issues of particular interest to us.

Dysbaric osteonecrosis, a disease associated with diving about which we have only limited information, is a decompression-related skeletal condition which can result in loss of joint function.

There is evidence that it is caused by gas bubbles which, when trapped in bone tissues, cause the death of bone tissue.

Currently, controversy exists on ways of preventing dysbaric osteonecrosis, ways of curing it, correlations between it and the various types of diving exposures, and ways of determining whether or not an afflicted diver should be allowed to dive.

A long-term study to find the causes of, cures for, and methods of prevention for this condition is necessary in order to promote appropriate control methods. We are recommending such a study to those agencies with the responsibility for conducting the study.

Another well-known problem is the extreme care that must be exercised in decompressing divers if decompression sickness is to be avoided. Federal standards thus require the use of appropriately designed decompression tables which provide explicit guidelines for safely decompressing the diver.

But no standard criteria exist by which either employers or the Government can review tables for their intended use. Similarly, no standard criteria exist for modifying the decompression schedule or table in the event of an incidence of decompression sickness.

Criteria for reviewing tables and for modifying them need to be developed in order for the tables to bring a uniformly high level of health and safety to the decompression process.

There have been three fatalities in the past year off the north-west coast of the United States associated with so-called Hookah diving. This mode of diving is not explicitly addressed in current Federal standards.

Hookah diving is similar to surface-supplied air diving except that the air pressure system is not as closely regulated, the air supply system is often not adequate in volume and/or pressure, and the usual diver support team is frequently not present.

The various techniques, procedures, and equipment currently in use need to be surveyed in order to determine what constitutes an acceptably safe practice.

Current standards require that because of the complex nature of mixed-gas diving, special precautions be taken when diving in this mode.

However, the National Oceanographic and Atmospheric Administration has performed studies which indicate that certain mixtures of nitrogen and oxygen, which would be considered a mixed gas under OSHA and Coast Guard definitions, might be safe enough to use without the extra precautions.

A definitive study on the uses of various nitrogen-oxygen mixes at various depths for various diving modes is needed in order to update the regulations concerning breathing mixtures.

Most important of all is the need for an epidemiological study of diver fatality and morbidity to develop the comprehensive data necessary for a thorough analysis of the full range of risks in the commercial diving industry.

We have been discussing with the National Institute for Occupational Safety and Health the prospects of doing such a study. The results would be of great value to the studies to be conducted pursuant to the 1978 Outer Continental Shelf amendments.

In analyzing diving hazards for the section 21(e) study, we have used the current OSHA and Coast Guard standards as a base. Our suggestions for research fall primarily in the areas of medical and physiological effects and work practices, as this has been the Department of Labor's traditional approach to safety and health.

We feel that our approach complements that of the Coast Guard, which has traditionally been oriented more toward the equipment performance and use problems involved in safety and health.

Further cooperation among all concerned agencies ought to produce a study of safety and health regulations which is both balanced in perspective and rigorous in its pursuit of detail.

While the diving study provisions on section 21(e) have been the focus of our immediate attention since enactment of the 1978 amendments, our continued cooperation for over 2 years with the Coast Guard on standards development, accident investigation, general enforcement activity, and related matters of concern has led to a solid working relationship across the entire range of our respective authorities.

Our relationship first became close and fruitful about 1 year ago, Mr. Chairman, when your colleague from New York, Mr. Biaggi, held hearings. I promised at those hearings to meet with Admiral Benkert, who was then the Chief of the Office of Merchant Marine Safety at the Coast Guard, to improve our relationship, and now we are working together closely in a wide variety of ways. Our relationship is based on three principles which were specifically endorsed by this committee and the conference committee with respect to operations on the shelf.

These are: Maximizing the safety and health protection of employees, avoiding duplication of effort, and avoiding undue burden on the maritime industry.

Since January 31, 1978, Coast Guard and OSHA have been operating under a memorandum of understanding entitled "Program To Resolve Interagency Conflicts," and we are currently working with the Coast Guard to develop a specific agreement to govern our working relationships with respect to shelf activities.

Thanks to the Coast Guard's prompt preparation of a draft memorandum of understanding, progress toward an agreement should be swift.

We share the intent of the conferees that the legislation will be administered in such a way so that our involvement assures that employees in workplaces on the shelf receive no less protection than under existing standards, and we will work to strengthen that protection whenever necessary, in cooperation with the Coast Guard.

We will, in the near future, submit to the involved agencies our suggestions for the study mandated in section 21(a). Our suggestions, Mr. Chairman, will not be limited to technical issues and particular hazards, but will also include whatever program advice we can provide, based on our own experience.

In conclusion, Mr. Chairman, I repeat that OSHA recognizes the significant role it has to play on the shelf, a role fully consistent with our statutory duty: "\* \* \* to assure as far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

I would now be pleased to respond to any questions you may have.

[The statement follows:]

STATEMENT OF BASIL WHITING  
DEPUTY ASSISTANT SECRETARY FOR OCCUPATIONAL  
SAFETY AND HEALTH  
BEFORE THE  
AD HOC SELECT COMMITTEE ON THE OUTER  
CONTINENTAL SHELF  
U.S. HOUSE OF REPRESENTATIVES  
December 7, 1978

Mr. Chairman (and members of the Select Committee):

I am pleased to be here today to assist your oversight activities with respect to the implementation of the Outer Continental Shelf Lands Act Amendments of 1978.

As you noted in your letter of invitation, Mr. Chairman, the Amendments did not alter the existing authority of the Occupational Safety and Health Administration (OSHA) to protect workers engaged in activities on the Shelf. We have a responsibility to pay appropriate attention under our own authority to the increasing number of workers engaged in the hazardous work on the Shelf. Nevertheless, we recognize that we have additional roles to play in promoting the implementation of the OCS Act and to assist in promoting its resource development and employee protection goals. These roles include offering assistance to and consultation with those other agencies involved in protecting lives and resources pursuant to the legislation. The interest of this Committee

and the conferees in our role was delineated in the legislative history of the 1978 Amendments to the OCS Act, and we believe the intent expressed in that history provides a sound foundation for protecting worker safety and health on the Shelf.

Our first priorities in aiding the implementation of the OCS Lands Act Amendments are to provide assistance to the Secretaries of Interior and Transportation in conducting the study required under section 21(a) of the 1978 Amendments of the adequacy of existing health and safety regulations, and to provide assistance to the Secretaries of Commerce and Transportation and the Director of NIOSH in conducting the study of underwater diving techniques required under section 21(e). As a first step, we have sent to the Secretaries of Commerce and Transportation and the Director of NIOSH a list of research needs for underwater diving techniques based on the deficiencies in knowledge uncovered during the development of OSHA's commercial diving standard. This list should assist the affected agencies in assessing the safety and health problems associated with diving activity. With your permission, Mr. Chairman, I would like to submit a copy for insertion into the record. However, I would also like to describe a few of the items in more detail in order to familiarize you with the problems and to provide examples of the sort of issues of particular interest to us.

Dysbaric osteonecrosis, a disease associated with diving about which we have only limited information, is a decompression-related skeletal condition which can result in loss of joint function. There is evidence that it is caused by gas bubbles which, when trapped in bone tissues, cause the death of bone tissue. Currently, controversy exists on ways of preventing dysbaric osteonecrosis, ways of curing it, correlations between it and the various types of diving exposures, and ways of determining whether or not an afflicted diver should be allowed to dive. A long-term study to find the causes of, cures for, and methods of prevention for this condition is necessary in order to promote appropriate control methods.

Another well known problem is the extreme care that must be exercised in decompressing divers if decompression sickness is to be avoided. Federal standards thus require the use of appropriately designed decompression tables which provide explicit guidelines for safely decompressing the diver. But no standard criteria exist by which either employers or the government can review tables for their intended use; and similarly, no standard criteria exist for modifying the decompression schedule or table in the event of an incidence of decompression sickness. Criteria for reviewing tables and for modifying them need to be developed in order for the tables to bring a uniformly high level of health and safety to the decompression process.

risks in the commercial diving industry. We have been discussing with the National Institute for Occupational Safety and Health the prospects of doing such a study. The results would be of great value to the studies to be conducted pursuant to the 1978 OCS Amendments.

In analyzing diving hazards for the section 21(e) study, we have used the current OSHA and Coast Guard Standards as a base. Our suggestions for research fall primarily in the areas of medical and physiological effects and work practices as this has been the Department of Labor's traditional approach to safety and health. We feel that our approach complements that of the Coast Guard's, which has traditionally been oriented more towards the equipment performance and use problems involved in safety and health. Further cooperation among all concerned agencies ought to produce a study of safety and health regulations which is both balanced in perspective and rigorous in its pursuit of detail.

While the diving study provisions have been the focus of our immediate attention since enactment of the 1978 Amendments, our continued cooperation with the Coast Guard on standards development, accident investigation, general enforcement activity and related matters of concern has led to a solid working relationship across the entire range of our respective authorities. This relationship is based upon three

principles specifically endorsed by this Committee and the conferees with respect to operations on the Shelf: maximizing the safety and health protection of employees, avoiding duplication of effort, and avoiding undue burden on the maritime industry. Since January 31, 1978, Coast Guard and OSHA have been operating under a Memorandum of Understanding entitled "Program to Resolve Interagency Conflicts," and we are currently working with the Coast Guard to develop a specific agreement to govern our working relationships with respect to Shelf activities. Thanks to Coast Guard's prompt preparation of a draft Memorandum of Understanding, progress towards an agreement should be swift. However, Mr. Chairman, even without a formal agreement, the working relationship established between the two agencies has already resulted in the kind of consultation and, cooperation which this Committee has worked to promote, and which we at OSHA hope will enhance the contributions we are able to make.

We share the stated intent of the conferees that the legislation will be administered in such a way so that our involvement assures that employees in workplaces on the Shelf receive no less protection than under existing standards, and we will work to strengthen that protection whenever necessary.

We will, in the near future submit to the involved agencies our suggestions for the study mandated in section 21(a). Our suggestions, Mr. Chairman, will not be limited to technical

issues and particular hazards, but will also include whatever program advice we can provide, based on our own experience.

In conclusion, Mr. Chairman, I would only repeat that OSHA recognizes the significant role it has to play on the Shelf, a role fully consistent with our statutory duty: "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." I would now be pleased to respond to any questions you may have.

The CHAIRMAN. Thank you, Mr. Whiting.  
Mr. Shakow?

#### STATEMENT OF MR. SHAKOW

Mr. SHAKOW. Thank you, Mr. Chairman.

I am pleased to have the opportunity to inform you of the status of the Treasury Department's implementation of the Outer Continental Shelf Lands Act Amendments of 1978.

The Treasury Department is concerned with the offshore oil pollution compensation fund created by section 302(a) of the act and collection of the fees which are deposited in the fund. The act also authorizes the establishment in the Treasury of a fishermen's contingency fund.

The offshore oil pollution compensation fund will be established on the books of the Treasury. Payments into the fund will, in accordance with the deposit requirement of oil owners for excise taxes, be made semimonthly on an estimated basis.

Payments from the fund will be made under a standard procedure which involves our writing checks to payees as directed by the certifying officer in the Department of Transportation.

Under section 302(e)(2) of the Outer Continental Shelf amendments, the Secretary of the Treasury may invest excess balances in the fund—as determined by the Secretary of Transportation—in interest-bearing special obligations of the United States.

Such special obligations may be redeemed in accordance with the terms of the issue and in accordance with Treasury regulations.

The task of collecting the fee imposed by section 302 of the Outer Continental Shelf amendments will be delegated to the Internal Revenue Service, which already collects several taxes on finished petroleum products.

Some of those liable for the new production fee already are paying one or more of these taxes and audit and other enforcement activities for the fee then could be coordinated with auditing of the other petroleum excises.

Since the prescribed fee is similar to an excise tax, we propose to adapt our collection procedure for the manufacturers and retailers excise taxes to the collection of the fee. A copy of the form 720,

which is already used for those excise taxes, is attached as an exhibit to my testimony.

The excise collection system has two phases—the deposit of the taxes and the filing of the return. If the taxpayer had liability of \$2,000 or more for all excises included on form 720 for the prior quarter, amounts due for each semimonthly calendar period must be deposited in an approved depository by 9 days after the end of the semimonthly period.

At the end of the quarter a return is filed summarizing the deposits and any balance due remitted with the return.

The tax law has a panoply of specific rules and penalties for failure to file and pay a tax, late filing, underpayment, and fraud. The new fee substitutes its own self-contained penalty provisions. Failure to collect or pay the required fee can result in a civil penalty assessed by the Secretary of the Treasury of not over \$10,000 plus the interest on the unpaid fee that would have been earned if paid when due and invested in the special Treasury securities which are to be purchased by the fund.

One problem that always arises where a new levy is imposed is informing all those required to pay of their obligation to do so. Any oil produced on the Outer Continental Shelf is already subject to a royalty payment made to the Department of the Interior.

Payment is made for all the owners by the lease operators, which we understand number less than 50. Aside from the publicity which trade publications will give to the fee, we can obtain the names and addresses of the lease operators from the Interior Department and request the operators to notify the other owners of the oil of their liability.

The great number of changes in the tax law which are contained in the Revenue Act of 1978 and the Energy Tax Act of 1978, many of which will go into effect this month or in January, require the IRS to promulgate many significant regulations in the next 2 months.

As a result, the IRS may not be able to complete regulations on the instant fee within that period. However, we believe the instructions which will be appended to the fee payment form will provide sufficient guidance for those required to pay the fee. The form will be available in adequate time for the making of the first required deposit.

The fishermen's contingency fund provided for by section 402(a) of the Outer Continental Shelf amendments will be established on the books of the Treasury at the request of the Secretary of Commerce.

Amounts to be paid by Outer Continental Shelf leaseholders are to be determined by the Secretary of Commerce, collected by the Secretary of the Interior, and deposited by the latter in the fund.

The detailed transactions of the fund will, however, be reflected in the administrative accounts of the Department of Commerce. Treasury will report only summary transactions as it does for other appropriation, fund, and receipt accounts of the Government.

I will be pleased to answer any questions.

[The information follows:]

Form **720**  
(Rev. March 1978)

Department of the Treasury—Internal Revenue Service  
**Quarterly Federal Excise Tax Return**

Use to report Excise Taxes for 1978

**Facilities and Services**

Toll telephone service . . . . .	4%	
Teletypewriter exchange service . . . . .		
Local telephone service . . . . .		
Transportation of persons by air . . . . .	8%	
Use of international air travel facilities . . . . .	\$3.00 per passenger	
Transportation of property by air . . . . .	5%	
Policies issued by foreign insurers . . . . .	(*)	

**Manufacturers**

Coal:

a Underground mined @ 50¢ per ton . . . . .	}	(*)	39
b Underground mined @ 2% of price per ton . . . . .			
c Surface mined @ 25¢ per ton . . . . .			
d Surface mined @ 2% of price per ton . . . . .			

Truck, bus, and trailer chassis and bodies; tractors . . . . . 10% 33  
Parts or accessories for trucks, etc. . . . . 8% 48

**Manufacturers—Con.**

Fishing rods, etc., and artificial lures, etc.	10%		41	
Bows and arrows . . . . .	11%		44	
Pistols and revolvers . . . . .	10%		32	
Firearms . . . . .	11%		46	
Shells and cartridges . . . . .	11%		49	
<b>Products and Commodities</b>				
Diesel fuel and special motor fuels . . . . .	(*)		61	
Gasoline (manufacturers tax) . . . . .	4¢ gal.		62	
Fuel used in noncommercial aviation	} Fuel other than gasoline (retailers tax)	7¢ gal.	69	
		3¢ gal.	14	
Lubricating oil . . . . .	6¢ gal.		63	
Tires	} highway vehicle type . . . . . 10¢ lb. laminated . . . . . 1¢ lb. other . . . . . 5¢ lb.		66	
Inner tubes . . . . .		10¢ lb.		67
Tread rubber (camelback) . . . . .		5¢ lb.		68
<b>TOTAL TAX (Enter here and in Item 1 below.)</b>				

\*See instructions on page 2.

\*See instructions on page 2.

- Total tax. (Before making entries in items 1 to 9, complete your total tax above.)
- Adjustments. (See instructions. Attach statement explaining adjustments.)
- Tax as adjusted. (Item 1 plus or minus item 2.)
- (a) Record of Tax Liability. (See instructions on page 4.)

Period	Amount of Liability		(b) Record of Federal Tax Deposits	
	Date of deposit	Amount	Date of deposit	Amount
First Month	1st-15th day			
	16th-last day			
	Total for month			
Second Month	1st-15th day			
	16th-last day			
	Total for month			
Third Month	1st-15th day			
	16th-last day			
	Total for month			

- (c) Total Liability for Quarter . . . . .
- (d) Final deposit made for quarter (see note under item 7) . . . . .
- (e) Total deposits for quarter (including final deposit made for quarter) . . . . .
- Overpayment from previous quarter . . . . .
- Total deposits (item 4(e) plus item 5) . . . . .
- Undeposited taxes due (item 3 less item 6; this should be \$100 or less). Pay to Internal Revenue Service . . . . .  
Note: If undeposited taxes due at the end of the quarter are more than \$100, the entire balance must be deposited. This deposit must be entered in the deposit schedule above in item 4(d).
- If item 6 is more than item 3, enter excess here \$ . . . . . and check if you want  applied to your next return, or  refunded to you.
- If not liable for returns in succeeding quarters, write "FINAL" here . . . . . and return this form to your Internal Revenue Service Center.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature >>> \_\_\_\_\_ Title (Owner, etc.) >>> \_\_\_\_\_ Date >>> \_\_\_\_\_

Please enter your name, address, employer identification number, and calendar quarter of return, if not printed. (If not correctly printed, please change.)

Quarter ending \_\_\_\_\_

Employer identification number \_\_\_\_\_

T	
FF	
FD	
FP	
I	
T	

If your address is now different from previous return, check here

Please return this form to your Internal Revenue Service Center  
(See last item of instructions, "Where to File")

## Instructions

Additional information on excise taxes is contained in Publication 510 available free from any Internal Revenue Service office.

**Name, address, and employer identification number.**—After you first file Form 720, a pre-addressed return will be mailed to you every three months. Please use the pre-addressed form. If it is lost, request another. Unless already shown on the pre-addressed form, enter at the right of the space provided for the taxpayer's name, the ending month and year of the calendar quarter for which the return is filed. If you must use a non-pre-addressed form, type or print your name, address, and employer identification number exactly as shown on previous returns. Do not use an employer identification number assigned to a prior owner.

You must file a return for each quarter whether or not you incurred any liability. If you have no tax to report, enter "None" in item 3.

**Adjustments.**—Generally, an adjustment may be allowed for all the taxes reported on Form 720 to correct mathematical errors or to adjust payments of tax on transactions, charges, or processing that are entitled to be made tax free.

Enter in item 2 the total of any adjustments claimed. If you claim an adjustment, attach a statement explaining the basis for it and state that you have the required supporting evidence. You must identify the IRS Numbers being adjusted, the amount of adjustment claimed for each, and the period in which the tax liability was previously reported.

**Exemptions.**—Some transactions are exempt from tax. As an illustration, certain exemptions are provided for export transactions and for transactions involving States, political subdivisions, certain nonprofit educational organizations, and certain aircraft museums.

**Records.**—Keep on file at your principal place of business or some other convenient location, duplicate copies of your return and accurate records and accounts of all transactions. They must contain sufficient information to indicate whether the correct amount of tax has been computed and paid. Also, keep records and information in support of all adjustments claimed and all exemptions. In the case of most taxes reportable on Form 720, keep your records at least four years from the date: (1) the tax becomes due, (2) the tax is paid, (3) an adjustment is claimed, or (4) a claim for refund is filed, whichever is later. If required, your records must be available for inspection by the Internal Revenue Service.

## Penalties and Interest

Avoid penalties and interest by correctly filing, depositing and paying tax when due. The law provides a penalty of from 5 percent to 25 percent of the tax for late filing unless reasonable cause is shown for the delay. If you are late filing a return or depositing tax, send a full explanation with the return. Penalties are provided for willful failure to collect and pay tax, keep records, file returns, and for filing false or fraudulent returns.

Penalties are also provided for late payment of tax and for not depositing the proper amount of tax when due. Neither penalty applies if you can show reasonable cause for failure to pay or deposit when due.

**Taxes not deposited when due.**—The penalty for failure to make deposits when due is 5 percent of the amount of the underpayment, without regard to how long the underpayment continues.

**Taxes not paid when due.**—The penalty for failure to pay taxes when due is 1/2 of 1 percent of the unpaid amount for each month or part of a month it remains unpaid—up to 25 percent of the unpaid amount. The penalty applies to any unpaid tax shown on a return. It also applies to any portion of additional tax shown on a bill if it is not paid within 10 days from the date of the bill.

These penalties are in addition to the interest charge on late payments.

## Facilities and Services

In determining the amounts paid for communications services, do not include the amount of State or local taxes imposed on these services, if the amount is separately stated in the bill to the customer.

**Policies issued by foreign insurers.**—The rates of tax not shown on the face of the form are:

(1) **Casualty insurance and indemnity bonds.**—Four cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond.

(2) **Life insurance, sickness and accident policies, and annuity contracts.**—One cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness or accident insurance, or annuity contract.

(3) **Reinsurance.**—One cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contract taxable under (1) or (2).

## Manufacturers

Effective April 1, 1978, a new tax is imposed on the sale of coal by the producer. The tax is \$30 per ton for underground mined coal and \$25 per ton for surface mined coal. The tax per ton may not exceed 2% of the price at which a ton of coal in each category is sold. See Notice 476 for further information.

**Light-duty Trucks.**—The 8 percent tax on truck parts and accessories is to be refunded or credited to the manufacturer if the part or accessory is sold on, or in connection with, the first retail sale of a light-duty truck (gross vehicle weight of 10,000 pounds or less.)

The resale of an article taxable as the chassis or body of a truck, truck tractor, or truck-trailer is not subject to additional manufacturers tax, if before the resale the chassis or body was merely combined with certain named items such as a fifth wheel, wrecker crane, or loading and unloading equipment. For full list of such items, see section 4063.

These taxes apply to the sale or use by the manufacturer, producer, or importer of the articles listed.

**Basie for tax and adjustments.**—Generally, the tax is computed on the price for which the taxable article is sold or leased. If a taxable article is sold or leased under a conditional sales contract, installment payment contract, or chattel mortgage arrangement, compute and pay tax on each payment received during the quarter covered by the return. For exclusion from the sale price of finance charges, and local advertising charges, consult your District Director. There are also special rules that apply to the lease of any article.

If charges for transportation, delivery, insurance, installation, and retail dealer preparation costs are included in the manufacturer's sale price, you may adjust the price by

deducting the actual amount paid or incurred for such expenses. For the circumstances under which adjustments may be made and about the evidence required to support such adjustments, consult your District Director or the applicable regulations. Adjustment of the manufacturer's sale price may also be made for discounts, rebates, and other similar allowances granted to the purchaser. But such discounts, etc., may not be anticipated. Adjustments may only be made if the purchaser has taken advantage of the discount, etc., before the return is required to be filed.

If the adjustments are made or the required evidence is obtained after the return is filed, the amount of tax involved may be considered an overpayment and you may then take a credit for that amount on a later return, or file a refund claim.

Tax shall be computed on a price established by the Commissioner of Internal Revenue if an article is sold by the manufacturer or producer at retail, on consignment, or otherwise than through an arm's-length transaction at less than the fair market price, or if the article is used by the manufacturer or producer in a manner subject to tax.

A tax of 11 percent is imposed upon the sale by the manufacturer, producer or importer of any bow with a draw weight of 10 pounds or more, and of any arrow which measures 18 inches or more in overall length. Included in this category are any parts or accessories suitable for inclusion in, or attachment to, a taxable bow or arrow, and any quiver suitable for use with such arrows.

## Products and Commodities

These taxes apply to the retail sale or use of diesel fuel, special motor fuels and fuel used in noncommercial aviation; the sale of gasoline, tread rubber, or the sale or lease of tires or inner tubes, by their manufacturer, producer, or importer; and the sale of lubricating oils by their manufacturer or producer. These taxes may also apply to one part of an otherwise untaxable item, such as tires on imported vehicles.

The rates of tax not shown on the face of the form are as follows:

### Diesel fuel and special motor fuels:

(A) Four cents a gallon if sold for use or used as a fuel in a highway vehicle, except that the tax is 2 cents a gallon if sold for use or used in a highway vehicle which (A) at the time of sale or use, is not registered and is not required to be registered for highway use under the laws of any State or foreign country, or (B) in the case of a highway vehicle owned by the United States, is not used on the highway.

(B) If fuel is sold subject to tax at the 2 cents a gallon rate, an additional tax of 2 cents a gallon is imposed on the user if the fuel is used in a highway vehicle which (A) at the time of use, is registered or is required to be registered for highway use under the laws of any State or foreign country, or (B) in the case of a highway vehicle owned by the United States, is used on the highway.

(C) Two cents a gallon on special motor fuels sold for use or used as a fuel in a motor boat or other vehicle that is not a highway vehicle.

**Aviation fuel.**—A tax is imposed on aviation fuel sold for use or used in noncommercial aviation. The retailers tax on aviation gasoline is in addition to the manufacturers tax. If fuel was taxed on its sale as a special motor fuel, but subsequently it is used as aviation fuel, the tax on the user would be the difference be-

(Instructions continued on page 4.)

Form **720**  
(Rev. March 1978)

Department of the Treasury—Internal Revenue Service  
**Quarterly Federal Excise Tax Return**

Use to report Excise Taxes for 1978

Facilities and Services		Rate	Tax	IRS No.	Manufacturers—Con.	Rate	Tax	IRS No.
Toll telephone service . . . . .		4%		22	Fishing rods, etc., and artificial lures, etc.	10%		41
Teletypewriter exchange service . . . . .					Bows and arrows . . . . .	11%		44
Local telephone service . . . . .					Pistols and revolvers . . . . .	10%		32
Transportation of persons by air . . . . .		8%		26	Firearms . . . . .	11%		46
Use of international air travel facilities . . . . .		\$2.00 per person		27	Shells and cartridges . . . . .	11%		49
Transportation of property by air . . . . .		5%		28	<b>Products and Commodities</b>			
Policies issued by foreign insurers . . . . .		(*)		30	Diesel fuel and special motor fuels . . . . .	(*)		61
<b>Manufacturers</b>					Gasoline (manufacturers tax) . . . . .	4¢ gal.		62
Coal:					Fuel used in noncommercial aviation { Fuel other than gasoline . . . . .	7¢ gal.		69
a Underground mined @ 50¢ per ton . . . . .	}	(*)		39	Gasoline (retailers tax) . . . . .	3¢ gal.		14
b Underground mined @ 2% of price per ton . . . . .					Lubricating oil . . . . .	6¢ gal.		63
c Surface mined @ 25¢ per ton . . . . .	}	(*)		39	Tires { highway vehicle type . . . . .	10¢ lb.		66
d Surface mined @ 2% of price per ton . . . . .					laminated . . . . .	1¢ lb.		67
Truck, bus, and trailer chassis and bodies: tractors . . . . .		10%		33	other . . . . .	5¢ lb.		68
Parts or accessories for trucks, etc. . . . .		8%		48	Inner tubes . . . . .	10¢ lb.		
					Tread rubber (camelback) . . . . .	5¢ lb.		
					<b>TOTAL TAX (Enter here and in item 1 below.)</b>			

\*See instructions on page 2.

\*See instructions on page 2.

- Total tax. (Before making entries in items 1 to 9, complete your total tax above.)
- Adjustments. (See instructions. Attach statement explaining adjustments.)
- Tax as adjusted. (Item 1 plus or minus item 2.)
- (a) Record of Tax Liability. (See instructions on page 4.)

(a) Record of Tax Liability. (See instructions on page 4.)			(b) Record of Federal Tax Deposits	
Period	Amount of Liability		Date of deposit	Amount
First Month	1st-15th day			
	16th-last day			
	Total for month			
Second Month	1st-15th day			
	16th-last day			
	Total for month			
Third Month	1st-15th day			
	16th-last day			
	Total for month			
(c) Total Liability for Quarter . . . . .				
(d) Final deposit made for quarter (see note under item 7) . . . . .				
(e) Total deposits for quarter (including final deposit made for quarter) . . . . .				
5 Overpayment from previous quarter . . . . .			→	
6 Total deposits (item 4(e) plus item 5) . . . . .				→
7 Undeposited taxes due (item 3 less item 6; this should be \$100 or less). Pay to Internal Revenue Service . . . . .			→	

Note: If undeposited taxes due at the end of the quarter are more than \$100, the entire balance must be deposited. This deposit must be entered in the deposit schedule above in item 4(d).

8 If item 6 is more than item 3, enter excess here \$ and check if you want it:  applied to your next return, or  refunded to you.

9 If not liable for returns in succeeding quarters, write "FINAL" here and return this form to your Internal Revenue Service Center. Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature ▶ Title (Owner, etc.) ▶ Date ▶

YOUR COPY

Type or print in this space your name, address, and employer identification number as shown on original. | Return for calendar quarter ending (Enter month and year as on original)

## Instructions (Continued)

tween the 7 cents rate and the 4 cents or 2 cents rate previously paid on the sale of the fuel to the user.

### Depository Method of Payment

If you are liable in any calendar quarter for more than \$100 of excise taxes, you are required to make semimonthly, monthly or quarterly deposits with an authorized financial institution or a Federal Reserve bank, in accordance with specific instructions on the back of the Federal Tax Deposit Form.

If you are liable for \$100 or less of taxes for a calendar quarter (or your total liability for a calendar quarter, less any deposits for the quarter, is \$100 or less), you must either pay the taxes with your quarterly return or deposit them with an authorized financial institution or Federal Reserve bank.

### Deposit Requirements

**Record of deposits and liabilities.**—If you are required to make semimonthly deposits, as discussed below, you must also record your semimonthly tax liabilities in Item 4, unless you come within the exceptions discussed in the section below headed "Important Notes." If you come within these exceptions, or are liable only for monthly deposits, you may record your liabilities in the monthly totals.

**Monthly deposits.**—If you are liable in any month (except the last month of a calendar quarter), for more than \$100 of taxes reportable on Form 720 and you are not required to make semimonthly deposits, you must deposit the amount on or before the last day of the next month. In the case of air transportation and communications taxes, the tax computed on the basis of amounts billed (communications) or tickets sold (air transportation) for a monthly period is considered as collected during the succeeding monthly period.

**Semimonthly deposits.**—If you had more than \$2,000 in excise tax liability for any month of a calendar quarter, you must deposit taxes for the following calendar quarter (regardless of amount) on a semimonthly basis as follows:

(A) If the amount is for air transportation or communications taxes and the tax is computed on the basis of amounts billed (communications) or tickets sold (air transportation), the tax computed for a semimonthly period is considered as collected during the second succeeding semimonthly period. Deposit the tax on air transportation or communications services within three banking days after the close of the semimonthly period for which it is considered collected or for which it actually is collected. A "semimonthly period" means the first 15 days of a calendar month or that part of the month after the 15th day.

(B) If the amount is for tax on policies issued by foreign insurers, deposit it:

- On or before the first day of the next month if the tax is for the first semimonthly period of a month; or
- On or before the 15th day of the next month if the tax is for the second semimonthly period of a month.

(C) If the amount is for taxes other than those described above in (A) or (B), deposit it on or before the ninth day following the semimonthly period for which it is reportable.

You meet the semimonthly deposit requirements if the amount you deposit for the semimonthly period is:

- Not less than 90% of the total tax collected during (or reportable for) the semimonthly period;
- Not less than 45% of the total tax collected during (or reportable for) the month;
- Not less than 50% of the total tax collected during (or reportable for) the second preceding month (first preceding month for air transportation and communications taxes); or
- For manufacturer's and retailer's taxes only—in the case of an amount you deposit for the second semimonthly period in the month, when added to the deposit for the first semimonthly period, not less than 90% of the total taxes reportable for the month.

In addition, if the semimonthly period is in either of the first two months of the quarter, you must deposit the underpayment for the month by the following date:

- The first day of the second month following such month in the case of tax on foreign insurance policies;
- The ninth day of the second month following such month in the case of manufacturer's and retailer's taxes; and
- The last day of the following month in the case of air transportation or communications taxes.

### Important Notes:

(1) If you use option 2, 3, or 4 to meet semimonthly deposit requirements, you may not be required to keep books and records (except as to deposits) on a semimonthly basis or record your tax liability on a semimonthly basis in Item 4. (See Sec. 48.6302(c)-1 and Sec. 49.6302(c)-1 of the Regulations.)

(2) You may not use option 2 or 3 if you collect more than 75 percent of the air transportation or communications taxes or if you incur more than 75 percent of the monthly liability for other taxes in the first semimonthly period in each month.

**Quarterly deposits.**—If your excise tax liability for a quarter (reduced by any monthly or semimonthly deposits for the quarter) is more than \$100, you must deposit the unpaid balance on or before the last day of the first month following the quarter. If however, the unpaid balance is for communications or air transportation taxes only, deposit the unpaid balance on or before the last day of the second month following the quarter. You may make deposits of \$100 or less, but are not required to do so.

This provision does not extend the time for depositing the taxes for the last semimonthly period of the quarter, nor relieve you of penalties for failure to make other required timely deposits.

**Federal Tax Deposit Form 504.**—You must deposit all excise taxes reportable on Form 720, in an authorized financial institution or a Federal Reserve bank, as explained on the

back of Federal Tax Deposit Form 504, unless the total liability for any calendar quarter less the amount of taxes previously deposited, is \$100 or less.

If you are paying a tax for the first time or need additional forms, contact the District Director or the Director of a Service Center (see "Where to File" below) in time to make required deposits. Any tax due and not deposited must accompany the return.

**Overpayment.**—If you deposited more than the correct amount of taxes for a quarter, you may elect to have the overpayment applied to your next return or refunded to you. Show the appropriate amount in the space provided in item 8. Any amount you elect to have applied to your next return should be entered in item 5 of your next return.

### When to File

A return must be filed for each quarter of the calendar year as follows:

Quarter covered	All excise taxes other than air trans. and comm. due on or before	Air trans. and comm. due on or before
January, February, March	April 30	May 31
April, May, June	July 31	August 31
July, August, September	October 31	November 30
October, November, December	January 31	February 28

For all excise taxes other than those on air transportation and communications, you are allowed an additional 10 days for filing your return if it shows timely deposits in full payment of the taxes due for the quarter.

### Where to File

If your principal business, office or agency, or legal residence in the case of an individual, is located in

	Use this address
New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Internal Revenue Service Center Holtville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Internal Revenue Service Center Andover, MA 05501
District of Columbia, Delaware, Maryland, Pennsylvania	Internal Revenue Service Center Philadelphia, PA 19255
Alabama, Florida, Georgia, Mississippi, South Carolina	Internal Revenue Service Center Atlanta, GA 31101
Michigan, Ohio	Internal Revenue Service Center Cincinnati, OH 45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Internal Revenue Service Center Austin, TX 73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Internal Revenue Service Center Ogden, UT 84201
Illinois, Iowa, Missouri, Wisconsin	Internal Revenue Service Center Kansas City, MO 64999
California, Hawaii	Internal Revenue Service Center Fresno, CA 93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	Internal Revenue Service Center Memphis, TN 37501

If you have no legal residence, principal place of business or principal office or agency in any Internal Revenue district, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

The CHAIRMAN. Mr. Rosenberg?

Mr. ROSENBERG. Mr. Chairman, I have no statement to make this afternoon. I am here primarily to help answer any questions which may arise with respect to the Customs Service role in enforcing the act.

The CHAIRMAN. Mr. Giguere?

Mr. GIGUERE. I do not have a prepared statement. But, I would say that the question concerning the customs administration here was the dutiability of the platforms for drilling and that following the passage of the amendments to the Outer Continental Shelf Act we have issued a ruling which makes these platforms dutiable.

There remains the possibility that some platforms may be exempted from duty under the generalized systems of preferences.

Thank you, Mr. Chairman.

The CHAIRMAN. We will get to that after Mr. Jorling is finished. Mr. Jorling.

#### STATEMENT OF THOMAS JORLING

Mr. JORLING. Thank you, Mr. Chairman.

Good afternoon, Mr. Chairman and members of the committee. I am Thomas Jorling, EPA's Assistant Administrator for Water and Waste Management.

I am pleased to present EPA's statement concerning our role in the implementation of the Outer Continental Shelf Lands Act Amendments of 1978.

We have these main areas of involvement: Issuance of permits under the national pollutant discharge elimination system—NPDES—for pollution sources on the Outer Continental Shelf; prevention of oilspills pursuant to the Clean Water Act; attainment of air quality goals pursuant to the Clean Air Act; analysis and comment on environmental impact statements on Outer Continental Shelf activities prepared by the Department of the Interior pursuant to the National Environmental Policy Act; and certain research activities.

The national pollutant discharge elimination system is the major vehicle for controlling our Nation's water pollution.

Under the NPDES, each discharger of pollutants into the waters of the United States is required to have a permit containing limitations on discharges based on technology and water quality standards.

Under the amendments to the Outer Continental Shelf Lands Act, all installations permanently or temporarily attached to the seabed for exploration, development, or production must comply with the NPDES.

To date, the Agency has issued permits to facilities in the Baltimore Canyon, off the coast of California, and in the Gulf of Alaska. Permit applications are currently being received for potential exploratory operations off the New England and Georgia coasts.

Approximately 2,500 oil- or gas-producing sites have been developed in the Gulf of Mexico over the past 30 years. Approximately 430 NPDES permit applications have been received from operations in the Outer Continental Shelf area outside State jurisdiction.

Until October 1976, the U.S. Geological Survey provided some environmental control for operations in the gulf because EPA region VI had to focus its limited resources on issuing permits for larger sources of pollution located onshore.

Also, EPA guidelines and standards for discharges from offshore operations have been under challenge by the industry since late 1975. In the interim, EPA has required submission of satisfactorily completed applications from all prospective permittees in the gulf.

The information in those applications is reviewed for proposals representing unusually high environmental risk or threat to unusually sensitive areas. In such areas, EPA proposes to issue permits which provide appropriate control for that situation.

To ease the burden on the Agency in the gulf, the Department of the Interior and the EPA have entered into negotiations which, if successful, may result in the USGS and EPA sharing responsibility for water pollution control on the offshore platforms in the Gulf of Mexico while EPA will retain authority to issue NPDES permits to proposed operations presenting unusually high environmental risk to especially sensitive areas.

The 1978 amendments to the Outer Continental Shelf Lands Act gives the Department of Interior needed flexibility to enforce against violations that may arise from operations which have not been issued NPDES permits.

Over the past several months EPA and DOI staff have discussed ways to speed up environmental review and permit issuance through earlier EPA involvement in the writing and processing of environmental impact statements to enable early issuance of draft NPDES permits and concurrent governmental and public review of both.

Section 21(a)—safety regulations—requires the Secretary, in consultation with other agency heads, to commence a joint study of the existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development and production of the minerals on the Outer Continental Shelf.

EPA stands ready to work with Interior in the implementation of this authority, pursuant to our oilspill authorities.

In the last 2 years it has come to EPA's attention that in some configuration Outer Continental Shelf oil projects, particularly in the development and production phases, can significantly affect the air quality in adjacent onshore areas, even though the projects may be centered miles offshore.

Their emissions can jeopardize the States' ability to comply with the Clean Air Act requirements to attain ambient air quality standards and to prevent the significant deterioration of air quality in areas cleaner than the standards.

Yet, when the project is located outside a State's jurisdiction, it is powerless, acting on its own, to deal with the problem.

As this committee is aware, EPA's first involvement in the control of such emissions was in connection with the Hondo facility located off the coast of Santa Barbara, Calif.

After doing a technical and legal analysis, EPA determined that the Clean Air Act and the Outer Continental Shelf Lands Act, as it existed prior to the 1978 amendments authorized the Administra-

tor to subject Outer Continental Shelf facilities that can significantly affect onshore air quality to the requirements of the Clean Air Act.

It further determined that the Hondo facility was subject to those requirements because it was shown that, as proposed, it would have such a significant impact.

As EPA's determination explained, the effect of subjecting offshore facilities to the requirements of the Clean Air Act was that prior to commencing construction, the owner-operators would have to obtain permits from EPA.

As with onshore facilities, they would need separate permits with respect to their impact on nonattainment areas—areas failing to attain ambient air quality standards—and attainment areas.

The developers of the Hondo facility have brought court actions challenging EPA's assertion of authority. These actions are now pending.

When this committee recommended amendments to the Outer Continental Shelf Lands Act this year, it was concerned about this problem. In taking final action on those amendments, Congress left virtually intact 43 U.S.C. 1333, the section upon which EPA based its authority to extend the Clean Air Act to Outer Continental Shelf activities.

Further, it enacted a new section 5(a)(8) of the act, which now requires the Secretary of the Interior to promulgate regulations "for compliance with the national ambient air quality standards pursuant to the Clean Air Act \* \* \* to the extent that activities authorized under this act significantly affect the air quality of a State."

The conferees recognized the April 18, 1978, EPA determination and expressly stated that they "do not intend to supersede the Clean Air Act or the responsibilities of the EPA administrator." They stated that:

There is no intent to affect, extend or reduce, whatever present authority the Environmental Protection Agency has in applying and enforcing the Clean Air Act, including the use of EPA's permitting authority.

The conferees also stated that they:

Intend that the Secretary of the Interior shall be guided by the Clean Air Act, in consultation with the Environmental Protection Agency, in promulgating regulations to maintain consistency with ambient air quality standards, and its procedures establishing the technological means for controlling air emissions.

These amendments provide a mechanism by which EPA and the Interior Department can work together and coordinate their requirements with respect to Outer Continental Shelf activities to assure both full implementation of the objectives of the Clean Air Act and expeditious development of natural resources on the Outer Continental Shelf.

Toward this end, we understand that DOI has begun work on the regulations required under the section 5(a)(8). The administrator has sent a letter to the Secretary of the Interior expressing his desire for the two agencies to work together in this endeavor. A copy of this letter is provided for the record of this hearing. Members of both EPA's technical and legal staffs have already met with DOI representatives on several occasions to discuss Clean Air Act

requirements and to begin the task of coordinating the two agencies' regulations.

#### ENVIRONMENTAL REVIEW ACTIVITIES

We are working with DOI on many aspects of the OCS oil and gas program. For example, we are presently commenting on the 1980-1985 leasing program regulations proposed pursuant to section 18 of the amendments. Our basic view is that areas where development would prove less threatening to the environment should be leased first, enabling necessary new technology to gradually emerge.

Under the environmental studies provisions of the bill we are compiling and analyzing predevelopment—and exploratory—biological and physical data on all lease areas. We need such environmental studies in order to prioritize biologically important areas. It is essential to begin the studies well enough in advance of leasing for them to have a role in lease decisions.

Section 25—oil and gas development production—requires that prior to development and production on an oil and gas lease in any area except the Gulf of Mexico, the lessee must submit a development and production plan to the Secretary for his approval. This plan is to be submitted to the Governors of the affected States and the concerned public. At least once the Secretary will declare the approval of a plan to be a major Federal action subject to the requirements of NEPA.

EPA has been among the strongest advocates of a dual environmental impact analysis where exploratory impacts could be examined in the lease sale environmental impact statement, and later development-level impacts could be analyzed in a second EIS once reserves were defined and development was being planned. We are pleased that there is now a mechanism for the second level analysis of the environmental impacts that will accompany development and production.

#### RESEARCH

In support of the agency's regulatory responsibilities in the Outer Continental Shelf, EPA's Office of Research and Development conducts a wide-ranging oil spills and oil development related research program. Major initiatives are underway to:

Develop oil spill control, cleanup, and monitoring methods and technologies to minimize adverse effects on the environment;

Improve our understanding of the health and environmental effects of spills on ecosystems, and to improve our capability to predict and assess the fate and effects of petroleum on plants and animals; and

Insure the successful transfer of research information through technical reports, manuals, workshops, seminars, and other methods of information dissemination.

Mr. Chairman, that concludes my prepared statement. I would be pleased to answer any questions you may have.

The Chairman. Thank you, Mr. Jorling.

Mr. Walsh, it has been reported that New York, New Jersey, and Delaware had engaged in an offshore border dispute which will

have an impact on Federal funds available to those States to ameliorate adverse coastal impacts from OCS activities. Final boundaries will be determined by NOAA.

Would you tell us what this problem involves and what negotiations are going on?

Mr. WALSH. Mr. Chairman, I believe one of the witnesses mentioned the lawyers' involvement, but let me sketch very briefly what the problem is. There are fairly well-known rules for determining offshore boundaries. Most of these rules are borrowed from international law. The problem is that their application in practice is of considerable complexity. Those of you who are aware of the conflicts between the States of Louisiana and Texas and the Federal Government over ownership of the Outer Continental Shelf are aware of the complexity.

In determining which States will get funds under the coastal energy impact program, we are, in essence, extending out the existing boundaries between States. The difficulty is that because of the geometry involved, different boundary lines are possible depending on what headlands or what point of reference you use. I should also mention that these boundaries are, by their very nature, ambulatory, that is to say, whenever the shoreline or the high watermark moves, these lines will move too.

In the Delaware and New Jersey situation, there are disputed areas, not unlike the disputed area that we have between Canada and the United States over the Georges Bank involving both fishing activities and Outer Continental Shelf development. We are presently seeking the legal opinions of the various States and hope to adjudicate the matter as soon as they have given us their material.

The CHAIRMAN. This is a question generally for the panel.

Has the President's freeze on hiring affected the efforts of the departments involved to gear up to implementation of the 1978 Outer Continental Shelf Act?

Mr. WALSH. Mr. Chairman, I will speak for NOAA. I can't speak for the rest of the panel.

We believe we can satisfy the requirements of the Outer Continental Shelf Lands Act amendments in a reasonable period of time with our existing resources. There are, of course, some constraints, but we believe we have adequate expertise and individuals on board to do the job. Much of the delay, however, will probably come from a complex new law that will have to be learned by officials in our Department, and that will require some time.

In addition, cooperation with other agencies is required. But, by and large, speaking for NOAA, we feel we can comply with the law within our existing personnel and budget ceilings.

The CHAIRMAN. But that freeze didn't stop the Department from hiring a new deputy general counsel.

Mr. WALSH. Well, Mr. Chairman, you have to understand that we looked at the complexity of the law and decided that instead of hiring 100 new lawyers, we would hire your chief counsel, Mr. Belsky, and we feel that will help us out a lot.

The CHAIRMAN. I think you have chosen wisely.

Captain Schubert?

Captain SCHUBERT. The freeze will obviously have an impact on the Coast Guard implementation of this new legislation. I think it becomes more a matter of priorities of resource utilization rather than the lack of manpower.

With the present set of priorities, though, I would say it would be very difficult to fully implement certain requirements of the act, specifically in the area of investigations and inspection.

We also are giving consideration to submitting a supplemental request for personnel to administer the title III fund.

The new legislation does require additional tasks to be performed and some manpower will be reprogramed from other Coast Guard sources, but we still feel that it will be difficult to meet the inspection and investigation requirements at the present time.

The CHAIRMAN. How many people do you think would be involved?

Captain SCHUBERT. Well, we have received already 32 positions for investigation or inspection purposes, which is a little over half of what we feel is needed for the inspections. We have done what we think is a pretty thorough analysis of the new workload requirements under this act. I don't have the exact numbers available at the present time, but I think for the entire act we are talking in excess of 200 positions. Little more than that.

The CHAIRMAN. We will get into that detail when we go over your authorization requests to a sister committee next Congress.

Captain SCHUBERT. Yes, sir.

The CHAIRMAN. Early next year.

Mr. Whiting?

Mr. WHITING. Mr. Chairman, OSHA's activities in this area would break down into two categories. The first category includes our advising the Coast Guard and the other agencies on setting appropriate standards and on conducting the studies mandated by the Outer Continental Shelf Act. We believe we can accomplish these tasks within the confines of our current resources. In fact, we have been working along these lines for the last year and a half with the Coast Guard without experiencing any serious resource problems.

The second category is our enforcement activities on the shelf—either enforcing OSHA standards before the Coast Guard has its regulations in place or assisting the Coast Guard with some of their inspection activities in areas where we possess special expertise. Personnel demands in this category will be worked into our general policy of focusing our resources on the most serious hazards.

We expect that the greatest demands would come from our region 6 in Texas and along the east coast.

The CHAIRMAN. Mr. Shakow?

Mr. SHAKOW. Because we hope to mesh the collections procedures under the act with our normal excise tax collection procedures, we would hope not to have any serious problems because of the freeze. The collection process and the disbursement process that is required from the funds shall not require very much commitment of personnel on the part of the Treasury, and shouldn't be affected by the freeze.

The CHAIRMAN. Mr. Rosenberg?

Mr. ROSENBERG. I will pass to Mr. Giguere.

Mr. GIGUERE. I would see no significant impact on the U.S. Customs Service. I don't think that anyone is contemplating that we should place customs inspectors out on these platforms. Under the present circumstances, I think, personally, there would be no significant impact.

The CHAIRMAN. Mr. Jorling?

Mr. JORLING. Mr. Chairman, the new amendments to the statute, did not extend to EPA any new authority. It simply added to the scope of our existing authorities. I don't anticipate any difficulties as a function of the freeze in our ability to carry those functions out. EPA, being a small agency, is certainly being affected by the freeze, but it is primarily in its growth areas and toxic substances, drinking water, and hazardous wastes under the Resources Conservation Act. But in this area, I don't anticipate any impact.

The CHAIRMAN. Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman.

I would like to ask the representatives of the Customs Service some questions. You made mention of the fact that you have implemented the committee's desire in regard to charging duties on the foreign-built platforms that were brought onto the Outer Continental Shelf.

Then you also quickly mentioned that there may be a possibility that some rigs may yet be exempt from these import duties through the GSP (Generalized Systems of Preference) procedures. I wonder if you might explain how that might come about.

Mr. GIGUERE. Yes. The rigs in question are classified under TSUS Item No. 65298, which is the general residual category for structures of base metal. This particular item number of the tariff schedules has been designated by the President as eligible for duty-free treatment for articles classified there which are manufactured in beneficiary developing countries.

There is a specific list of beneficiary developing countries and territories, some 127, I believe, at the current time. There is a list of 2,700 items in the tariff schedules for which duty-free treatment may be given. This is one such item.

So that if such a rig were manufactured in a beneficiary developing country, which for all practical purposes is all of the lesser developed countries in the world, then upon importation in the United States, it would be duty free.

It is entirely conceivable under the present circumstances for a Japanese manufacturer to complete the assembly or a substantial portion of the assembly of a platform in a beneficiary developing country so that he meets the 35-percent added value requirement, and with direct shipment to the United States, the platform would then be free of duty.

Mr. MILLER. So if I understand you correctly, you could fabricate a rig in Japan, for instance, and take it to Malaysia, assemble the rig, and put it on the U.S. Outer Continental Shelf, and if it was found that 35-percent value-added work had been done in Malaysia, it would enter duty free?

Mr. GIGUERE. Generally, that is possible.

Mr. MILLER. That is the formula?

Mr. GIGUERE. It would have to be shown that the platform is a product of Malaysia under the normal country-of-origin requirements that we have. I say 35-percent added value. It is not strictly added value, since it really is materials and processing costs in the beneficiary developing country. For example, a margin for profit would not be counted.

Mr. MILLER. Have we had any rigs imported from any GSP country?

Mr. GIGUERE. To the best of my knowledge, we have not. Based on our earlier rulings, we in fact have no record of any importations, since we did not consider that these things had been imported. The word "imported" in customs law is a term of art. It goes back over 200 years, and it applies to merchandise which is normally entered into the United States. The word "imported" is generally defined to mean that merchandise has come within the port limits in the United States, with the intention to unload the vessel.

Mr. MILLER. We also know that the intent of the Congress was to expand the applicability of customs duties, although perhaps not your word of art. When platforms are brought onto the Outer Continental Shelf for drilling, exploring for gas and oil, the law requires that a duty be levied on them, is that not correct?

Mr. GIGUERE. That is correct, and that is certainly what our ruling now states effective September 18, the date that the amendments went into effect.

Mr. MILLER. My concern is that I have been informed, and other members of this committee have been informed, that there is apparently a process by which that new law, and the will of this committee, can be circumvented by the scenario that I laid out. An exporting country can evade the duty by fabricating a platform in one country, assembling it in another, and bringing it onto the Outer Continental Shelf, thereby relieving themselves of the 9½-percent import duties?

Mr. GIGUERE. I would say your statement is correct, that that possibility certainly does exist.

Mr. MILLER. I just really fail to understand how that can be allowed to happen. It was my understanding that steel was a commodity that was given special consideration because there has been considerable concern in the Congress about the problems of our American steel industry and their competitive disadvantage with the Japanese makers, especially on the west coast, where I happen to reside. Now we find that we have set up a process, and I am not just saying it is the Customs Service, whereby once again we are going to allow that loophole to be maintained. In fact, it is further my understanding that you may have the case of 100-percent Japanese steel, you in many cases have 80- to 100-percent Japanese labor assembling the rig in Malaysia. Now it comes on as a Malaysian product, seeking to qualify for an exemption under the regulations. Is that true?

Mr. GIGUERE. I think it is true except when you state that it comes under the exemption under the regulations. I think that the Presidential proclamations that are issued pursuant to title V of the Trade Act of 1974 are in fact Executive orders. They are changes in the law which the President imposes upon the Customs

Service. What we have here is in fact a question of conflict. We have a conflict between a ruling and the intention of this committee, and in fact title V of the Trade Act of 1974, under which the President proclaimed duty free—

Mr. MILLER. Can you explain to me the procedure by which these rigs were placed on that list?

Mr. GIGUERE. The procedure for placing items on the list or designating countries as beneficiaries under the generalized system of preferences was delegated by the President to the Special Representative for Trade Negotiations. This was done under the regulations of the Special Trade Representative and the list was promulgated by the Special Trade Representative and proclaimed by the President.

Mr. MILLER. Can you tell me if that procedure under that Trade Act was followed in the case of these offshore oil rigs?

Mr. GIGUERE. Certainly it was followed in the case, although the rigs fail to be classified under a category which is generally for structures, I am sure that no one considered specifically oil drilling platforms at the time the designation was made. However, I would suggest that someone at STR would probably best answer that.

Mr. MILLER. As to the placing of the rig on the GSP list, your testimony here is that it went through the so-called GSP subgroup that is made up of the agencies and the trade representative. It went through the hearings and the Federal Register notice. It went to the Trade Policies Staff Committee. Then it went to the Trade Policies Review Group, and then Executive order of the President. All of those steps were followed?

Mr. GIGUERE. To the best of my knowledge, yes, for structures of base metals, yes.

Mr. MILLER. For steel platforms, not for structures?

Mr. GIGUERE. No, for structures.

Mr. MILLER. How did steel platforms get on the list?

Mr. GIGUERE. Because steel rigs are classified as structures.

Mr. MILLER. By whom?

Mr. GIGUERE. By the U.S. Customs Service.

Mr. MILLER. Under this process?

Mr. GIGUERE. Under that same process, no, sir. We classify merchandise under a ruling process which is a process which is interpretive of the tariff schedules of the United States.

Mr. MILLER. Wait a minute. Excuse me, Mr. Chairman, but I think since we are talking about almost 200,000 tons of steel potentially in the near future, I will take a moment with this. Under the Trade Act, structures were placed on a list for GSP treatment as I described and as you described under the procedures laid out under that act. Your interpretation of structures has now come to include steel platforms, that interpretation being made by the Customs Department. Is that what you are telling me?

Mr. GIGUERE. I would not put it quite in that order. I believe that rigs, platforms, were classifiable as structures long before the generalized system of preferences went into effect.

Mr. MILLER. That is even more interesting. But it is a determination by the Customs Department that steel rigs are structures, and therefore entitled to GSP treatment if they qualify?

Mr. GIGUERE. That is correct; yes.

Mr. MILLER. I just think that that is inconsistent with the whole idea of sensitive steel products, where we have tried to protect this industry. I do not understand quite how they even were placed on that list when there were no duties, under your prior interpretation, until we amended the law. There were no duties imposed upon them in any case, whether they came from Malaysia, Japan or wherever, because you had them exempted until the jacket and the platform were put on.

I think, Mr. Chairman, that we had better take a look at this, because we are talking about a rather significant amount of money in terms of investment in our domestic economy. We are told that at least 10 offshore platforms are going to be needed between August of 1978 and the second quarter of 1982, and we are told that that will require somewhere around 200,000 tons of steel. Obviously if you have a 10-percent advantage on your bid, and you have the other advantages to foreign competition that we are well aware of in the steel industry, I do not see how that fabrication of the steel, with all of the construction jobs, is going to take place in the American economy.

And so we once again have the Federal Government underwriting the competitive advantage of foreign competitors on a critical product. I do not think that there is any history to my knowledge that Malaysia or other countries have the technical capability to build these platforms. I do not think we are really building the domestic steel industry in these countries, and even if we are I do not think the Congress is going to stand for it.

I do not think they have either the labor capabilities or the steel production capabilities. It is a fraud, and I think it is outrageous, especially in light of the actions we just tried to take to give the domestic steel industry a chance in this whole operation now that we are accelerating the development of the Outer Continental Shelf. So I would be delighted to continue this discussion, both with the Customs Department and with the Special Trade Negotiator, Mr. Strauss, because I do not think we can continue to have this kind of evasion when the theory of this bill is, at least in part, as you know, with the American jobs manning requirement, that people in this country are going to share in the benefits, of this development. I would hope that you would help us get to the bottom of this problem, because obviously these bids are going to continue to be let in the very near future, and we are going to lose an awful lot of steel production, some of it right in the San Francisco Bay area.

Mr. CHAIRMAN. Let the record reflect that we initiated this investigation on December 7.

Mr. MILLER. I just got a note that said, "Go easy." I am disturbed. I appreciate the candidness of the answers, I want to say that, by the Customs Department. But I am concerned. I think that a brief has been filed questioning exactly how steel rigs specifically were placed on the GSP list. Now I do not know if it was the procedures within the Customs Department or under the Trade Act, but there certainly is contention by labor that all of those procedures may not have been followed. I would hope we could review those and find out, because I think we have got a very serious problem with the Outer Continental Shelf, if all of the rigs

are going to be built abroad, to the detriment of the American steel worker and industry. The public did not do very well with the Alaskan pipeline, and I do not think they do terribly well with this one.

Thank you very much for your time and for the indulgence of the committee.

Mr. CHAIRMAN. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Captain, first you talk about the priorities of your problem as far as manning is concerned. I just hope that it is not going to be our 200-mile fishing zone that is going to lose priority in terms of implementation of the Outer Continental Shelf amendments.

Captain SCHUBERT. No, sir, I am sure it is not.

Mr. FORSYTHE. You of course have a cooperative arrangement with OSHA under the act to promulgate and carry out the safety studies that apply there. I have got a series of questions here I would like to ask as a result of that situation.

Under the provisions of Public Law 95-372 you are given broad authority and responsibility as relates to the formulation of enforcement of health and safety standards. You also have added authority under the 1953 act under section 4(e), which remains intact. I would appreciate your explaining to this committee how you plan to implement sections 21 and 22, particularly in light of the fact congressional intent requires you to seek the cooperation of other agencies such as OSHA carrying out these responsibilities. Could you do that briefly?

Captain SCHUBERT. Yes, sir. We have initiated a number of cooperative efforts with the interested agencies that have responsibilities in these same areas, and not just restricted to OSHA. For instance, we have had intensive discussions leading to technical agreements with the Geological Survey which will eventually lead to updating of present memorandums of understanding and the issuance of new ones. We will have to work very closely in connection with the fairway requirements of the Port and Tanker Safety Act, with a number of agencies, and while fairways are under that authority, they relate directly to the Outer Continental Shelf.

A number of agencies, for instance, have a definite interest, in fairways such as the Corps of Engineers. We have a cooperative effort ongoing right now with the corps in the New York District, where we are working on a new scheme for port access routing.

Also included in this effort, are the Bureau of Land Management, the States who are affected, the EPA, and NOAA. There is an interagency effort that has been ongoing for sometime to coordinate Federal activities on the Outer Continental Shelf. Technical agreements between agencies are being reached before formal memorandums of understandings are executed. I think that pretty well categorizes the type of interagency work that is going on. Each one of these responsibilities where more than one agency is involved, of course, is a cooperative effort. You can take any specific requirement and define what specific interagency work is on going. I would be happy to provide that for the record.

Mr. FORSYTHE. I would appreciate it.

[The information follows:]

## OCSLA IMPLEMENTATION AND ADMINISTRATION SCHEDULE

The U.S. Coast Guard plans for implementing the particular requirements of Section 21 (Safety Regulations) and Section 22 (Enforcement) are identified as Items 10 through 21 on the OCSLA Implementation and Administration Schedule which is submitted for the record. Discussions have been initiated and are continuing for implementation of all these tasks with OSHA, USGS of the Department of the Interior, NOAA of the Department of Commerce and the Environmental Protection Agency, to develop the agreements that will provide the required interagency coordination.

Discussions with OSHA and USGS predated passage of this Act. Since the passage of the OCSLA, the Coast Guard has been meeting regularly with the agencies involved in OCSLA implementation. The most recent meeting was held with USGS on 30 November 1978 and included discussions of each agency's responsibilities under Section 21 and Section 22. Dialogues will continue with the appropriate agencies throughout the process of implementing the OCS legislation.



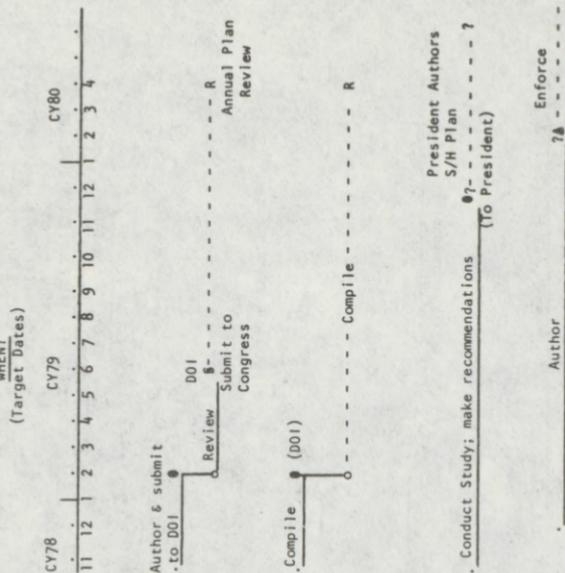


G-WMP  
G-HP-3/OCS  
G-MEP-1  
15 November 1978  
Revised 11 December 1978  
WHEN?

WHY?

WHO?

SECTION	OPERATING ELEMENT	TASK	WHY?	WHO?
8)	18 of OCSLA, as amended. (OCS Leasing Program.)	Author and submit to DOI suggestions on proposed leasing program with emphasis on: (1) Environmental Impact Statements. (2) Impact on Shipping Lanes.		
9)	20 of OCSLA, as amended. (Environmental Studies.)	Provide USCG Pollution Incident Reporting System (PIRS) data to DOC and DOI. Provide PIRS data on oil spills to DOC and DOI annually.		
10)	21(a) of OCSLA, as amended. (Safety Regulations)	Conduct joint USCG/USGS Study of adequacy of safety and health regulations and the technology available for exploring and developing the OCS; recommendations to the President. Develop and promulgate regulations to implement this section for the Coast Guard. Coordinate with DOI and Office of Pipeline Safety.		
11)	21(b) of OCSLA, as amended. (Best available and safest technology.)			



MILESTONE LEGEND

- IMPLEMENTATION TASK
- CONTINUING TASK
- LEGISLATED COMPLETION DEADLINE
- ▲ REGULATIONS
- △ MARINE SAFETY MANUAL AMENDMENT
- RECURRING SUBMISSION
- ◇ UNKNOWN START-UP COMPLETION
- DOCUMENT DELIVERED (Recipient)

G-MWP  
G-MP-3/OCS  
G-MEP-1  
15 November 1978  
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WHY? WHO? WHAT? (Target Dates)

SECTION	OPERATING ELEMENT	TASK	WHY?	WHO?	WHAT?	WHEN? (Target Dates)
12)	21(c) of OCSLA as amended. (Hazardous Working Conditions)	MP-3/OCS	Identify and, if necessary, regulate any presently unregulated hazardous working conditions.			CY78 1 2 3 4 5 6 7 8 9 10 11 12   CY79 1 2 3 4   CY80 1 2 3 4
13)	21(d) of OCSLA, as amended. (Preserves DOL/EPA Authority)	MP-3/OCS; coordinate with MVI.	Develop Agreement with OSHA concerning OCS responsibilities.		Author	Review
14)	21(e) of OCSLA, as amended. (Diving Studies)	MP-3/OCS MP-3/USP	Participate in Dept. of Commerce Study of diving techniques and equipment.			OSHA
15)	21(f) of OCSLA, as amended. (Federal Coordination)	MP-3/OCS; coordinate with WS on environmental matters.	Develop Agreement with DOI; coordinate implementation of OCS Amendments with USGS/DOI. Ensure coordination on Port and Tanker Safety Act Amendments implementation.			(EPA)
						Conduct Study
						USGS

MILESTONE LEGEND  
IMPLEMENTATION TASK  
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G-4/DUP  
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WHY?WHO?WHAT?

SECTION	OPERATING ELEMENT	TASK	WHEN? (Target Dates)	Author
16)	22(a) of OCSLA, as amended. (General enforcement authority)	Law Enforcement (General). Develop regulations and Marine Safety Manual amendments as necessary.	CY78: 11, 12 CY79: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 CY80: 1, 2, 3, 4	Author
17)	22(c) of OCSLA, as amended. (Inspections)	Develop policy and regulations to provide scheduled annual and periodic unannounced inspections of OCS facilities. (Part of Subchapter N Project)		Author
18)	22(d) of OCSLA, as amended. (Investigations)	Develop inspection program standards. Develop policy and regulations for investigation and public reports on fires, pollution, deaths and serious injuries in cooperation with USGS. (Part of Subchapter N Project)		Author

MILESTONE LEGEND  
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UNKNOWN START-UP COMPLETION  
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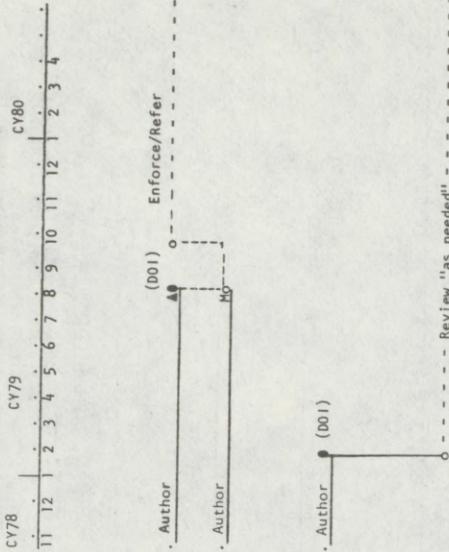
G-WDWP  
 G-MP-3/OCS  
 G-MEP-1  
 15 November 1978  
 Revised 11 December 1978

WHY?	WHO?	WHAT?	CY78	CY79	CY80
		(Target Dates)	11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4		
		<u>SECTION</u>			
19) 22(e) of OCSLA, as amended. (Complaints)	MP-3/OCS; MMI; MWI.	<u>OPERATING ELEMENT</u> Develop policy and regulations for investigations of allegations of violations of occupational safety and health regulations. (Part of Subchapter N Project)			
20) 22(f) of OCSLA, as amended. (Subpoena)	MP-3/OCS; MMI; LM. Coordinate with WEP for environmental matters.	Develop policy and regulations for implementing subpoena authority for OCS investigations. (Part of Subchapter N Project)	Author	MA	Enforce
21) 22(g) of OCSLA, as amended. (Annual Report)	MP-3/OCS; coordinate with MMI, MP-3/USP.	Provide data on violations of safety regulations and results of diving studies to DOI for inclusion in annual report.	Author	MA	Enforce
			Compile	R	Compile R

MILESTONE LEGEND  
 IMPLEMENTATION TASK  
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 A REGULATIONS  
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 ● DOCUMENT DELIVERED (Recipient)

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WHY2  
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WHEN?  
(Target Dates)



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WHAT?

**TASK**

Develop policy and regulations for injunctive actions and civil and criminal penalty procedures, including referrals to Secretary (001). (Part of Subchapter N Project)

Develop Marine Safety Manual Amendments.

Management of Coast Guard requirements to be included in DOI regulations, for oil and gas development and production plans.

Review development and production plans for OCS facilities including shore-side development, all areas other than the Gulf of Mexico.

WHO?

**OPERATING ELEMENT**

MP-3/OCS; LMI  
WEP

**SECTION**

22) 24(a) & (b) of OCSLA, as amended. (Penalties)

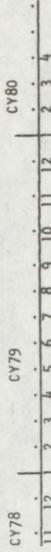
23) 25 of OCSLA, as amended. Oil & Gas Development & Production.

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WHEN?  
(Target Dates)



WHO?

OPERATING ELEMENT

MP-3/OCS; MWD

WHY?

SECTION

24) 30(1) of OCSLA, as amended. Documentation, Registry and Manning Requirements.

Explain requirements for documentation of OCS facilities.

25) 30(2) of OCSLA, as amended. (Design)

Develop regulations for design, construction, alteration and repair standards for OCS vessels and facilities in coordination with USGS.

26) 30(3) of OCSLA, as amended. (Manning)

Develop policy and regulations for manning of OCS facilities by U. S. citizens.

27) Sections 203 and 208 of OCSLA Amendments of 1978.

Develop and promulgate OS&H regulations for artificial islands, installations and other devices on the OCS.

Author

Author

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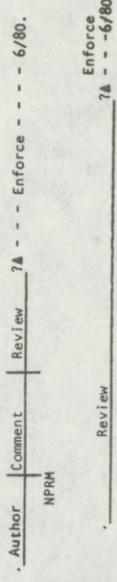
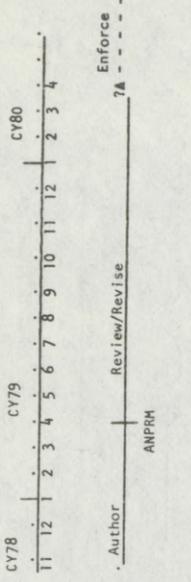
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- MILESTONE LEGEND
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Review/Revise 7▲ --- Enforce ---

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 G-WEP-1  
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 WHEN?  
 (Target Dates)



WHAT?

TASK

WHO?

OPERATING ELEMENT

WHY?

SECTION

Develop and promulgate OCSH regulations for industrial vessels on the OCS.

Develop and promulgate standards for crane operator qualifications for OCS operations.

Participate in review and development of policy for application of MARPOL regulations to OCS installations.

To the extent not already identified, revise Marine Safety Manual to conform with OCSLA, as amended, & implementing policy and regulations that are the responsibility of MP-3/OCS.

28) Sections 203 and 208 of OCSLA Amendments of 1978.

29) Section 4(a)(1) of OCSLA, as amended.

30) Section 21(b) of OCSLA, as amended; MARPOL '73.

31) CG-495

MP-3/OCS; HWP

MP-3/OCS; WEP (CORBETT); MHT: LHI

MP-3/OCS

- MILESTONE LEGEND
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SECTION	WHY?	WHO?	OPERATING ELEMENT	TASK	MILESTONE LEGEND																		
					CY78		CY79		CY80		Enforce		Process Applications/Issue Certificates/Enforce		Review								
					11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	
105.	305(a) (2) and (3) of OCSLA Amendments.		G-WDMP/Fund Administrator; District Commander for enforcement.	Promulgate regulations on denial and detention of vessels not producing upon request certification of financial responsibility and on access to vessels and offshore facilities for verification of certification.																			
106.	305(b) of OCSLA Amendments.		G-WDMP/Fund Administrator.	Promulgate regulations on establishment and maintenance of financial responsibility for offshore facilities.																			
107.	305(d) of OCSLA Amendments.		G-WDMP	Prepare an interim report on the adequacy and availability of private oil pollution insurance.																			
108.	305(d) of OCSLA Amendments.		G-WDMP/Fund Administrator.	Contract for and have prepared a final report on the adequacy and availability of private oil pollution insurance.																			

MILESTONE LEGEND  
 IMPLEMENTATION TASK  
 CONTINUING TASK  
 LEGISLATED COMPLETION DEADLINE  
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Fund Administrator to be designated by Commandant.



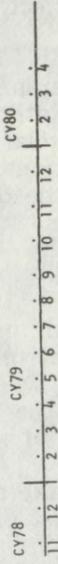


G-HP-3/OCS 15 November 1978  
 G-WEP-1  
 WHEN? Revised 11 December 1978  
 (Target Dates)

WHAT?

WHO?

WHY?



TASK  
 Recommendations for training program. Review and develop comments to be included in D01 recommendations for training personnel who are responsible for pollution prevention equipment.

OPERATING ELEMENT  
 MP-3/OCS  
 WEP  
 WLE

SECTION  
 201. TITLE VI:  
 Section 607 of  
 OCSLA of 1978.

Develop \_\_\_\_\_ Review as needed - - - - -

- MILESTONE LEGEND
- IMPLEMENTATION TASK
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Mr. FORSYTHE. How many new standards are in effect at this time, since the act?

Captain SCHUBERT. New standards?

Mr. FORSYTHE. Have you promulgated any new standards?

Captain SCHUBERT. Well, we have the two final regulation packages, as I mentioned, in my statement, the commercial diving regulations and the mobile offshore drilling unit regulations.

We still are going to work further with OSHA on the development of medical standards and personnel qualifications for commercial diving operations on the Outer Continental Shelf.

Mr. FORSYTHE. Is the Coast Guard doing its enforcing?

Captain SCHUBERT. I beg your pardon?

Mr. FORSYTHE. Is the Coast Guard doing the enforcing on that?

Captain SCHUBERT. Yes, sir. We will have a cooperative agreement on the mobile offshore drilling unit regulations, where the actual drilling operation will in fact be regulated by the Survey while the Coast Guard will be regulating the operation of a vessel as such.

Mr. FORSYTHE. Do you feel that the standards will take a great deal of time to promulgate? You have listed quite a list of areas that you have to be involved in.

Captain SCHUBERT. That is a rather nebulous question at the present time. We do not think we will have great difficulty in promulgating these regulations. The number then will be included in a revision of the subchapter N of title 33 of the Code of Federal Regulations, which has to do with the offshore platforms and artificial islands. We expect that that effort should be ready in about 8 months to a year. This will basically include most of the responsibilities we have under section 22.

Mr. FORSYTHE. As you know, section 4(e), the penalty section of the 1953 act, was amended.

Apparently there is no specific remedy for the Coast Guard to apply to those not complying with any of the requirements under 95-372. What is your plan in this area, and what authority do you have to apply penalties, and what will those penalties be?

Captain SCHUBERT. Section 24 of the amendments gives the Department of Interior the responsibility for imposing the actual penalty. At present our plan is, since we have a number of authorities on the Outer Continental Shelf, that violation of regulations that are issued under this specific authority will in fact be referred to the Department of Interior for action.

We have yet to develop the mechanism in order to do this. Of course that will have to be developed in the near future. We want to make sure that it is efficient and not a cumbersome procedure, and that the data of a violation can in fact be transmitted to the Department promptly, so that action can be taken.

Mr. FORSYTHE. Would it be better if you had authority yourself?

Captain SCHUBERT. I really do not see any real difficulty in this area. We already have other enforcement responsibilities under other statutes, where we work very closely with other agencies in the enforcement process. I point out the Ocean Dumping Act, where we are responsible for enforcement, but the penalty action is taken by the Environmental Protection Agency, and we have a very good working arrangement there, and I foresee the same

thing with the Department of Interior. We will continue to enforce regulations applicable to the Outer Continental Shelf that were developed under other Coast Guard statutory authorities.

Mr. FORSYTHE. Thank you, Captain.

Mr. Walsh, perhaps you could clarify a question that came up earlier today on this Continental Shelf slide which your release of Monday of this week describes. Is it in the area where the drilling is going on?

What is the significance of this so far as the OCS activity in the Baltimore Canyon?

Mr. WALSH. Mr. Forsythe, the information was made available publicly by a contractor of NOAA, in presenting the scientific findings to the American Geophysical Union, I believe. I have not seen a copy of that information, although I am on my way to Miami to meet with our scientists next week to discuss this matter. I will be glad to provide you, as soon as possible with a copy of that report. I have not seen it, and I cannot say whether or not the newspaper accounts are accurate. I believe that the information is related to the Baltimore Canyon area.

Mr. FORSYTHE. I understand that, but I also have heard that maybe it is not in the area of activity, so I would appreciate the copy.

Mr. WALSH. We will get the report and see if it is that area and get back to you.

[The report is on file with the committee. The press release on the report follows herewith.]

RELEASE: Monday  
December 4, 1978

Massive Continental Shelf Slides Found  
Near Atlantic Oil Exploration Area

Massive underwater avalanches of sediment are still occurring on the continental slope and rise off the Atlantic's Baltimore Trough, and could complicate petroleum development there, according to scientists with the National Oceanic and Atmospheric Administration (NOAA) and Texas A & M University.

Dr. Richard Bennett of NOAA's Atlantic Oceanographic and Meteorological Laboratories in Miami, Fla., and Dr. Bonnie A. McGregor of Texas A & M's Oceanography Department are reporting this finding at the fall annual meeting of the American Geophysical Union in San Francisco this week.

They note that until now, geologists have not been sure precisely when large submarine slides in the area had occurred, and if they were continuing to take place -- an important factor in evaluating offshore drilling sites for petroleum exploration.

"Analyses of actual seafloor cores indicate that some sediment upheaval took place during the Ice Age, but additional observations show that mass movement of the uppermost sediment layer on the continental slope has occurred in relatively recent times up to the present," says Bennett.

Bennett and McGregor base their conclusions on extensive analyses of seafloor core samples and seismic reflection profiles collected in a 36-mile (60-kilometer) by 72-mile (120 kilometer) underwater corridor located approximately 60 miles (96 kilometers) east of Atlantic City, N.J., seaward of the Baltimore Canyon petroleum exploration region.

Twenty-two hundred nautical miles of geophysical data and several seafloor core samples were gathered by the researchers from an area covering more than half the corridor as part of an expedition aboard the NOAA ship Researcher during September 1977.

The oceanographers returned to the region this summer to sample, in detail, different types of sediment deposits which have moved, to determine their geotechnical properties, and to establish how recently the movements may have taken place.

Results of the two Commerce Department expeditions indicate that extensive sediment movement has occurred on the continental slope and rise seaward of the Baltimore Canyon Trough. Horizontally moving blocks of sediment; circular, arc-type rotating blocks; and thin-debris flow slide masses which are known to characterize sediment instability, are all found in the region.

"From the geophysical data we can see that sediment failure has been very important in shaping seafloor morphology and in controlling sediment thickness on the continental slope and rise. Sediment instability initially identified on the upper slope has been found to be widespread on the lower slope and rise in the area," report the oceanographers.

A detailed, full color bathymetric and slope map of a major submarine slide in a selected area of the geotechnical corridor is available from the Marine Geology and Geophysics Laboratory, NOML/NOAA, 15 Rickenbacker Causeway, Virginia Key, Miami, Florida 33149.

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Mr. FORSYTHE. In the course of the administration of the title IV, has the Fishermen's Compensation Fund been included in NOAA's budget request?

Mr. WALSH. Mr. Forsythe, we have requested funds to carry out all programs under this act. I am of course not at liberty to disclose final budget figures for fiscal year 1980, because the President, as is his usual practice, places an embargo on that information until such time as he submits the budget to Congress, which will be next January.

Mr. FORSYTHE. But your statement is that you have requested funds to implement your responsibility?

Mr. WALSH. We are seeking to fund all the programs.

Mr. FORSYTHE. The next question then, Are you prepared to tell the committee that the administration is going to request the full \$5 million authorized for section 3?

Mr. WALSH. The answer to that question will have to come when the President submits his budget. I will be happy to answer that question as soon as he does, and I am sure you will have us up to seek the answer.

Mr. FORSYTHE. Mr. Whiting, does this committee have a copy of the general memo of understanding between the Coast Guard and OSHA on implementing the act on the Outer Continental Shelf?

Mr. WHITING. It may not.

Mr. FORSYTHE. I would appreciate it if one was provided.

[The document follows:]

PROGRAM TO RESOLVE INTERAGENCY CONFLICTS BETWEEN THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA), DEPARTMENT OF LABOR, AND THE UNITED STATES COAST GUARD (USCG), DEPARTMENT OF TRANSPORTATION

The Occupational Safety and Health Administration is charged with assuring safe and healthful places of employment for all American workers; and

The United States Coast Guard is charged with comprehensive responsibility for maritime safety.

The two Federal Agencies must cooperate in all areas of mutual interest and concern in order to enhance safety and health, eliminate wasteful duplication, and to avoid undue burden on the maritime community.

Specifically, to maximize the level of occupational safety and health protection, and to increase the effectiveness of allocated federal resources, the two agencies will:

1. Review the safety and health standards (regulations) of each agency, and determine which are most appropriate for maritime activities.
2. Explore ways to strengthen existing safety and health protection, and eliminate duplication of effort.
3. Assist each other in future promulgation of occupational safety and health standards (regulations).
4. Develop procedures for cooperative enforcement programs.
5. Institute a program of cross-training in such areas as workplace hazards identification and industrial hygiene, and safety of life at sea.
6. Establish a mechanism to resolve jurisdictional problems, and otherwise promote the harmonious interrelation of the activities of the two agencies regarding matters of mutual concern.

Signed at Washington, D.C. this 31 day of January,

  
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 Commandant  
 United States Coast Guard  
 Department of Transportation

  
 Assistant Secretary for  
 Occupational Safety and Health  
 Department of Labor

Mr. FORSYTHE. Again on the operation of your work with particularly the Coast Guard, the standards that you are considering that go outside of the diving standards. I understand that you assume that you have authority, for instance, for activities on the structure under present regulations. Is that correct?

Mr. WHITING. As we understand both the laws, sir—

Mr. FORSYTHE. The structure itself?

Mr. WHITING. We have authority over all work done in constructing the structure and all the work that might take place on the structure, except where the Coast Guard has promulgated appropriate regulations which preempt us. We will be applying the existing body of OSHA standards, which we have slimmed down, as you may recall.

Mr. FORSYTHE. Are they specific to marine structures, or what kind of a structure does qualify for this?

Mr. WHITING. Our standards apply to work and to hazards associated with work, not to locations where the hazards are found. Work on OCS structures would entail worker exposure to the normal kinds of hazards associated with construction work or operating machine type facilities. We would therefore enforce the usual standards requiring appropriate walking and work surfaces, railings, machinery precautions, et cetera. If a worker falls 50 feet he or she will get hurt whether on land or sea, so a railing requirement would apply.

We are reviewing these standards with the Coast Guard to help the Coast Guard promulgate appropriate regulations for the OCS.

Mr. FORSYTHE. It would seem that certainly there is some significant difference between operation of workmen in a marine structure at sea as compared to construction on land.

Mr. WHITING. There are obvious differences, of course, but my point is that there are also similarities in machinery and the like.

Mr. FORSYTHE. You are working with the Coast Guard in this area?

Mr. WHITING. We are working with the Coast Guard, and we have completed a review of OSHA standards for the purpose of determining which of OSHA's standards are most relevant to employee safety and health on inspected vessels. This review is designed to assist the Coast Guard in promulgating its standards. We will then be precluded from applying our standards to the OCS.

Mr. FORSYTHE. Thank you.

Mr. Jorling, one of yesterday's witnesses, namely Tenneco, indicated it had a lease for 2 years and had not been able to get a permit, and I believe one of the areas is the question of discharge, effluent discharge. Do you know what the status of that kind of a situation is.

Mr. JORLING. The permit situation is mixed. It has a historical component which is primarily responsible for the mixed performance. For new facilities the record is very good, for new platforms and associated apparatus, in the East-West and Alaska.

The area where we are having most difficulty is where the practices have been going on for the longest period of time and where the greatest number of operations occur. In the Gulf of Mexico, we have not issued permits to rigs, primarily because of challenge by industry to the effluent guidelines that the agency

had published and promulgated in 1975. That litigation has been in a settlement agreement status from week to week. That week to week has now reached 18 months.

In our judgment, it was not appropriate to issue permits to that number of plants or platforms until that litigation was resolved. We are talking about some 2,400 platforms, so that there is difficulty in the Gulf, but we think with this new impetus of the amendments, working with the Department of Interior, we can bring that situation more in line.

Mr. FORSYTHE. From what I gather, you are telling me that for instance in the Baltimore Canyon you are not running into resistance to standards so far as those rigs that are going into the Baltimore Canyon because they are more modern rigs, meeting standards.

Mr. JORLING. That is correct. We have issued 13 of the 14 permits applied for in the East. That is not to say there are not some adjudicatory challenges to some of those permits, but we have issued the permits.

Mr. FORSYTHE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Belsky.

Mr. BELSKY. This morning and yesterday the committee received testimony from environmentalists and State representatives, particularly as to the Massachusetts Georges Bank area, that one of the things that is holding up the dropping of that lawsuit is the actual implementation of the oil spill fund and the fishermen's contingency fund.

Could Coast Guard and NOAA tell us when they expect the funds to be fully implemented, funded and operational, point one, and for NOAA specifically, whether they can expect to have an area fund for each of the major areas for OCS activities, or do they foresee any areas at the present time that will not be included in area funds for fishermen?

Captain. SCHUBERT. As I indicated in my statement, we have a notice of proposed rulemaking that was issued on Monday that outlines what we feel to be the structure of the regulations to implement the fund. We are on schedule with this at the present time. We have hearings that are scheduled in January in New Orleans and here in Washington, and we are fairly confident at this time that we are going to meet the March 17 deadline for having regulations on the street that are meaningful.

We also have drafted a supplemental appropriation request in accordance with the authority of the title.

Mr. BELSKY. Do you expect to start checking the 3-cents-per-barrel fee in March as well?

Captain. SCHUBERT. Yes, sir.

There are some practical problems with implementation at the present time, relative to the physical certification of the various platforms for certificates of financial responsibility. It is a responsibility assigned to the President through the legislation. The executive delegation has not been made. The Coast Guard is proceeding with the development of that particular implementation task, and we will turn over our work to them, to whatever agency is assigned the responsibility.

However, the number of facilities that have to be looked at fore a significant workload and possible time delays. For instance, our estimates are that there is about 1,255 facilities that will need certificates of financial responsibility, and that is just the workload that is involved in this, and the time delays. There is a possibility that we will not be able to have all those certificates of financial responsibility issued by—

Mr. BELSKY. You can't give us a final date when the actual fund will be operational?

Captain SCHUBERT. Not at the present time. The only thing I can give you at this time is that we are still shooting for that March 17 date.

Mr. BELSKY. That is just for regulations, not operational status of the fund?

Captain SCHUBERT. That is right.

Mr. BELSKY. Mr. Walsh?

Mr. WALSH. Your first question was when would you expect that fishermen's fund would be fully in effect and functioning. We anticipate, as I indicated in my testimony, getting draft regulations out January 1, with the expectation that they would become final in April or May. That date could very well slip because we have to, for example, discuss directly with the fishermen their preferences. It may well be that they would like public hearings for analysis of the regulations and much of that, of course, is out of our hands. If they desire a longer period, we will take it. We are hoping to deal directly with the fishermen and find out what is needed.

One of the questions asked of Evelyn Murphy today was whether we contacted her. We would prefer to deal directly with the fishermen and not the State bureaucracy to find out what is needed.

I might point out we are also obligated by legislation that was signed into law on September 18, 1978, to establish a fishermen's compensation fund for gear damage involving foreign vessels. In the New England area we do not have problems with Outer Continental Shelf drilling at at this time, but we do have gear conflict problems involving foreign fishermen. I hope the committee will give us some guidance concerning which of these is most important in priority, so that we might proceed accordingly.

Right now, the biggest potential Outer Continental Shelf conflicts that we see are those in the gulf. That is where most of the leasing has taken place, that is where we have a very sizable shrimp industry, with a lot of very small vessels operating within the 100-foot mark. We are probably going to concentrate in that area on obstructions work and probably concentrate in that area on our fund work.

In other areas, for example in the New England area, clearly the biggest problem we have now is foreign fishing gear conflicts. We have some serious problems, and since we have both of these acts on the book, simultaneously, we are confronted with a priority question, and again I hope the committee members would give some indication of what would be their view of the priority.

Thank you.

Mr. BELSKY. The difficulty with that is it was made pretty clear to this committee this morning that the thing holding up activity

in the Georges Bank, is the actual implementation for the Georges Bank and the whole liability regime in general.

Mr. WALSH. I understand that that position has been taken in court. Of course, we are being defended by the Department of Justice, and we are moving as fast as we can to implement the fund. Again, we want to go to the fishermen to find out exactly what they want done first so that we can get the programs under this act and under section 10 of the Fishermen's Protective Act into place as rapidly as possible, so the real problems can be dealt with.

Mr. BELSKY. I would like to turn now to the Coast Guard. One of the provisions of the bill, particularly section 30, provides within 6 months, appropriate regulations dealing with the manning of vessels and facilities, particularly in encouraging domestic manning of such vessels and facilities, are to be operational. What is your timetable for those regulations, and do you see any suggestions being made to the President to apply them reciprocally to some foreign countries that preclude American workers on their vessels and facilities?

Captain SCHUBERT. Mr. Chairman, I have with me today Capt. William Markle, of the Office of Merchant Marine Safety, and I would like, with your permission, to ask him to respond to that question.

Captain Markle. Section 30 has quite a few complications in it, but I think so far as the foreign vessels on the Outer Continental Shelf and at least initial requirements, we will take care of those in our initial revision of subcharter N or by extension of certain other domestic requirements.

So far as the manning goes, there are quite a few problems involved there, and we will try to meet that 6-month deadline, but there are problems with coordination between the State Department and other places and acquiring information from foreign governments.

Mr. BELSKY. Are you having problems with the State Department in determining which foreign countries exclude American workers?

Captain MARKLE. I am not sure any of us know right now. Sometimes we have trouble acquiring the information from the foreign government. It may be that we will have to say, until we receive the information, this is the way it is going to be.

Mr. BELSKY. If I can turn to the EPA for a second, one of the witnesses from the American Petroleum Institute stated that there has been interpretation by EPA that there are two requirements for discharge permits.

Under section 311 they are able to get discharge permits, but under other laws they can't get the same permit and do the same activity, despite the fact they have an NPDES discharge permit.

Could you tell us what that is about?

Mr. JORLING. To give a detailed response would take a long period of time, so I will give a summary answer, and if there is further question from the committee, I would be happy to prepare a more detailed answer.

There are two provisions in the Clean Water Act that deal with the release of material into the environment: The first of those is section 311, which was put together first for oil but then extended

to include hazardous substances, which was designed to address the question of classic spills, as opposed to continuous discharges.

The other provision of the Clean Water Act dealing with the release problem is the provision that comes under section 402, which is the NPDES system. That requires establishment of limitations on the chronic discharge of materials. The two come together, and they come together when you establish the levels that either of the two systems allow. Sometimes there is overlap.

In the promulgation of regulations under section 311, API, along with other industries, challenged our promulgation, among other reasons, for the one you just suggested. Their challenge led to the total injunction of the section 311 program, an injunction which Congress, in effect, dealt with at the end of the 95th Congress by amending section 311.

In part, it addressed the question that you have just touched on. We are now writing a new set of rules on that question. We think that we now have agreement both within our agency and within industry as to how those two sections will be applied so as not to create a theoretical double jeopardy or uncertain situation.

So we think we have the thing well in hand. Whether or not we do will still await further implementation activity; but it has changed since the information API must have based those comments on.

Mr. CHAIRMAN. Mr. Kitsos?

Mr. KITSOS. Mr. Walsh, I understand the point about the embargo and information on the budget, but—

Mr. WALSH. Oh, I don't think you do.

Mr. KITSOS. I used to work for NOAA, as you know, and I banged my head against OMB a few times.

Has NOAA requested a supplemental for fiscal year 1979 for the Outer Continental Shelf formula grants? Can you tell us that?

Mr. WALSH. We have requested funding for all the provisions. The supplemental and the fiscal year 1980 budget will be coming up together.

Mr. KITSOS. Has that gone beyond the Commerce Department?

Mr. WALSH. The budget, I believe, is in its last—

Mr. KITSOS. Has your request gone beyond Commerce? Does it include the request for this new legislation?

Mr. WALSH. I am not at liberty to divulge that.

Mr. KITSOS. With respect to the 308(b) grants, has there been a determination of allocations based on fiscal year 1978 data for fiscal year 1979? In other words, have you figured out the adjacency questions on oil and gas landed and has the Secretary made the determination about what States—although not in the formula—are eligible for 2 percent of the amount appropriated?

Mr. WALSH. Robert Knecht, who administers the Coastal Zone Management program, is here today, and I believe he can respond to that question.

Mr. KNECHT. That process is underway at the moment, Mr. Kitsos. We would anticipate those allocations would be available within the next 60 days.

Mr. KITSOS. The States will be notified, I assume. We are getting a number of requests for that kind of information.

One final question; it is a very generalized one: Mr. Walsh, there has been a lot of criticism in these hearings about the Federal consistency provision and its potential for delay in Outer Continental Shelf development. Coastal States have raised questions this morning about whether the timeflow will work properly.

Yesterday, industry raised questions about whether there would be serious delay. In 1976, as you well know, when you worked on Capitol Hill, we passed amendments that attempted to consolidate all the Outer Continental Shelf licenses and permits within one package, called an exploration plan or development plan. The States with approved programs could, in one action, certify consistency that would consolidate much activity and would help expedite development. That is point No. 1.

Second, is that the 6-month period which has been discussed quite freely here, and about which some concern has been raised, is, of course, a maximum time limit. Can you respond to these general concerns? Can you give us any indication at this stage what the States have done with respect to consistency? What has California done, particularly? What do you anticipate coming out of Massachusetts and New Jersey if there is some Atlantic production?

Mr. WALSH. I have read the API statement and I see the concerns that the witness expressed, for example, that we have a review process through the Secretary of the Interior under the Outer Continental Shelf Lands Act amendments and that we have another process dictated by the Coastal Zone Management Act.

It is clear Congress wished both of those procedures to occur, to assure most particularly the Coastal Zone Management Act's close involvement and review of Outer Continental Shelf activity by the coastal States. We did try in 1976, and again in this recent amendment, to simplify the process, such that when consistency was evaluated, it would be evaluated in generic terms and expeditiously. However, it is clear since generic review would occur on leasing, and that exploration and development and production plans could change over time, there are going to be a series of decision points that are going to raise some concerns. I think what we need to do is evaluate our experience over time and to see if those deadlines are adequate.

I can give you a precise example, however, with regard to our experience in California. The California coastal zone management plan was approved this year, and on October 20, 1978, Chevron Oil Co. submitted a consistency certification and supporting information for an exploration plan to the California Coastal Commission, which is the responsible agent.

On November 3, 1978, the Commission staff recommended State concurrence subject to one condition: Requesting provision of oil-spill containment and cleanup equipment on the drilling rigs. Chevron agreed to the condition on November 14, 1978; a hearing was set on the matter; and the Commission concurred with Chevron certification shortly thereafter. This process took less than 30 days.

I can't say every one of these is going to go this way, but I can tell you this is the one real experience that we have had under a

plan that has been approved and that will be subject to the Outer Continental Shelf Leasing Act. Thank you.

Mr. KITSOS. Thank you, Mr. Walsh. That is all.

The CHAIRMAN. Thank you very much, gentlemen.

We have some questions that we are going to pose to you in writing, so that we can complete our record.

Thank you very much.

The CHAIRMAN. Our next panel is Mr. George McIsaac, Assistant Secretary for Resource Applications, Department of Energy; Mr. Donald Flexner, Deputy Assistant Attorney General, Department of Justice; and Al Dougherty, Director, Bureau of Competition, FTC.

Mr. Robert J. Kalter with DOE will present Mr. McIsaac's testimony.

**STATEMENTS OF ROBERT J. KALTER, DIRECTOR, LEASING PROGRAMS, DEPARTMENT OF ENERGY, ON BEHALF OF GEORGE McISAAC, ASSISTANT SECRETARY, RESOURCE, DEPARTMENT OF ENERGY; DONALD FLEXNER, DEPUTY ASSISTANT ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE; AND RONALD ROWE, ON BEHALF OF AL DOUGHERTY, DIRECTOR, BUREAU OF COMPETITION, FEDERAL TRADE COMMISSION**

Mr. KALTER. Mr. Chairman, I am replacing Secretary McIsaac this afternoon. He has asked me to express his regrets. He was here this morning but was called away for an emergency meeting this afternoon on the 1980 budget. I will present his testimony.

The CHAIRMAN. We will put the testimony in the record, and you may summarize it.

[The information follows:]

STATEMENT OF GEORGE S. MCISAAC, ASSISTANT SECRETARY FOR RESOURCE  
APPLICATIONS, U.S. DEPARTMENT OF ENERGY

Mr. Chairman:

I appreciate the opportunity to appear before this Select Committee to discuss the responsibilities and activities of the Department of Energy (DOE) in developing the energy resources of the Outer Continental Shelf (OCS) under the new OCS Lands Act Amendments. As you are aware, DOE strongly supported modification of the 1953 OCS Lands Act. It is our belief that the new Amendments will result in a more effective OCS program.

Because DOE is a relatively new Department, I would first like to discuss our responsibilities as they relate to the OCS leasing program and the new legislation. Then, I will briefly review our progress to date and the initiatives currently under way.

OCS Role and Responsibilities of DOE

DOE Organization Act.

With passage of the DOE Organization Act, certain responsibilities which directly relate to leasing and development of the OCS were transferred from the Department of the Interior (DOI) to DOE. These responsibilities include the function to promulgate regulations under the OCS Lands Act which relate to:

- (1) fostering of competition for Federal leases;
- (2) implementation of alternative bidding systems authorized for the award of Federal leases;
- (3) establishment of diligence requirements for operations conducted on Federal leases;
- (4) setting rates of production for Federal leases;  
and
- (5) specifying procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

Also transferred to DOE was the function to establish production rates for all OCS leases.

The administrative authority remains with DOI for issuance and supervision of Federal leases and enforcement of all regulations applicable to the leasing of mineral resources. However, DOE is afforded not less than 30 days to disapprove the final lease terms and conditions of all OCS leases relating to the five functions described above. Such terms and conditions may not be included in an OCS lease if disapproved by DOE. None of the DOE responsibilities was changed with enactment of the OCS Lands Act Amendments of 1978.

The Leasing Policy Development Office was established within Resource Applications to carry out the responsibilities

transferred under the DOE Organization Act at the staff level. Since this Office became operational on November 1, 1977, a productive working relationship on energy leasing issues, particularly OCS matters, has been established with DOI. The DOE, like DOI, is committed to the orderly and timely development of energy resources on Federal lands, consistent with environmental and other considerations. Thus, during the early stages of DOE involvement in leasing matters, we have accommodated DOI's request for expeditious handling of DOE Organization Act responsibilities for approval of certain lease terms and conditions so that OCS lease sales would not be delayed. In each of these instances, we have waived the 30-day statutory review period prescribed.

#### Leasing Liaison Committee

To facilitate coordination between DOE and DOI on leasing matters, the DOE Organization Act provided for a Leasing Liaison Committee. The Committee has been established and the charter approved by both Secretaries. The scope of the Committee covers all leasing matters pertaining to energy resources on Federal lands. A copy of the Leasing Liaison Committee charter is attached as Appendix A.

The Committee membership consists of four representatives from each Department. The Co-Chairmen are Deputy Secretary

John O'Leary from DOE and Under Secretary James Joseph of DOI. The other members are from DOE, Assistant Secretaries, Alvin Alm, Samuel Hughes and myself and from DOI, Assistant Secretaries, Guy Martin, Larry Meierotto and Joan Davenport.

We anticipate that the Committee will provide a favorable vehicle for resolving leasing oriented problems between the two Departments. Moreover, this Committee can serve as a focal point for interagency leasing issues involved in implementing the OCS Lands Act Amendments.

#### Outer Continental Shelf Lands Act Amendments

The OCS Lands Act Amendments provide that DOE promulgate OCS regulations and set production rates in accordance with the authority under the DOE Organization Act.

These responsibilities are to be carried out in cooperation with the Department of the Interior and in certain circumstances other Federal agencies including the Department of Justice.

The Amendments require DOE, after consultation with DOI, to report to Congress, within six months after the end of each fiscal year, on the schedule of all lease sales held and to be held, and the bidding systems utilized and to be

utilized during the past and following year. The report must include a discussion of the benefits and costs associated with conducting lease sales using various bidding systems.

#### Memorandum of Understanding

A further responsibility of DOE involves identification of national energy requirements. These requirements are to be set forth in the biennial National Energy Plan, with the contribution each energy resource is forecast to make in satisfying those energy needs.

On the basis of the DOE Organization Act's legislative history and recognizing the relationship between energy planning and Federal leasing activity, DOE and DOI on September 18, 1978, entered into a Memorandum of Understanding (MOU) involving energy production goals. The MOU specifies that DOE will set production goals, on a resource by resource basis, which will "guide" the Secretary of the Interior "in establishing or revising leasing programs and lease planning schedules." These goals are to be revised every two years for projection horizons of five, ten and fifteen years in the future. A copy of the MOU is attached as Appendix B.

Accomplishments and Current Initiatives

## Production Goals

The DOE is currently preparing production goals for the OCS to guide DOI in developing the five-year leasing program specified in the OCS Lands Act Amendments. The forecasts will project the level of production that may be expected in the years 1985, 1990 and 1995 from different leasing schedules and sale sizes for the period from mid-1980 through mid-1985.

The forecasts will reflect an in-depth analysis that considers the needs of the national and regional energy markets. Also to be considered are the potential constraints on the OCS leasing program, the potential of the undiscovered resource base, the costs of OCS development and the overall economics of OCS oil and gas production on a geologic province by province basis. The draft report is scheduled to be given to DOI by mid-December 1978. We also propose to make the draft report available to affected coastal states for their review and comment. The final report is scheduled to be completed in February 1979.

### OCS Bidding Systems

Following the DOE Organization Act transfer of functions relating to bidding systems and competition to DOE, an early task of the Leasing Policy Development Office was to establish alternative bidding systems within the limits of the 1953 Act.

A sliding scale royalty system was designed. The system retains the cash bonus as the bid variable, but calls for the fixed royalty to be determined by a formula that bases the royalty rate on the quarterly value of production (adjusted for inflation). This system alleviates the inherent problems attributable to royalty bidding which are encouraging speculation, foregoing marginal resource development and early production abandonment. We believe this sliding scale royalty approach is an attractive system for encouraging competition, reducing the level of cash bonus bids and transferring risk to the Government.

The sliding scale royalty has been tested on three OCS lease sales and is scheduled for the next two sales. To date, we are pleased with the results of the tests. Of the 57 tracts receiving bids in the South Atlantic Sale #43, 40 tracts were bid under the sliding scale system. The average number

of bidders on the sliding scale tracts was 1.93 compared to 1.29 for the straight cash bonus tracts. The bidding pattern clearly indicated that industry would participate in leasing under the sliding scale royalty system.

The second opportunity for testing the sliding scale royalty system was in the Gulf of Mexico Sale #45. Again it was evident, as in Sale #43, that industry would participate aggressively under the sliding scale system. Of 16 tracts offered under the sliding scale system, ten (63 percent) received bids. Once more, the participation was higher with an average of 3.8 bids per tract under the sliding scale system compared to 2.7 bids per tract under the cash bonus.

In the first two sales where the sliding scale royalty system was tested, the royalty rate rose linearly with the production value. Further analysis of the system suggested changes in the method for determining the royalty rate. Rather than using a linear relationship between the value of production and royalty rates, a non-linear (semi-log) function appeared to have additional advantages for encouraging production and providing appropriate economic incentives to install adequate production capacity. Thus, the non-linear sliding scale royalty system was applied to tracts offered in the Eastern Gulf of Mexico Sale #65. Little definitive data were received because of limited industry interest and

the high percentage of unattractive prospects. Only 45 percent of the sliding scale tracts offered received bids compared to 37 percent for cash bonus. The number of bids per tract was 1.40 compared to 1.92 for the regular cash bonus tracts.

A comparison of the three OCS lease sales where the sliding scale royalty system was used is shown in Appendix C. An overall assessment of the system's merits is difficult at this time. It would appear that competition, in terms of the average number of bidders per tract may be enhanced (although new bidders have not entered the competition). Winning bidders, under the system, have included the range of firm sizes with no clear participation pattern developing. The sparceness of available information, inexperience of potential bidders with the new system and, perhaps more importantly, the general inability to analyze these lease sales in light of the limited geological and geophysical data, lends substantial uncertainty to any findings. Moreover, sufficient time has obviously not elapsed to determine impacts on production.

The non-linear sliding scale royalty system will be used in the next two OCS lease sales that have been announced (Sales 51 and 49). Both of these sales are considered to be far

more attractive than the previous three sales; therefore, it is anticipated that further data on the sliding scale system will be obtained. The percentage of tracts to be offered under the sliding scale system will be increased in both lease sales. For the Gulf of Mexico Sale #51 (to be held on December 19) 59 tracts of the total 147 (40 percent) will be offered under sliding scale royalty. For the Mid-Atlantic Sale #49 (scheduled for February 1979), 58 of the total 109 tracts (53 percent) have been specified for the sliding scale system.

#### DOE Regulations Affecting Exploration and Development on the OCS

As previously noted, Section 302(b) of the DOE Organization Act gave DOE the authority to issue regulations necessary to carry out those responsibilities transferred from DOI. We are proceeding with writing regulations in these areas for the OCS program. All OCS activities have high priority within DOE and regulations relating to alternative bidding systems, competition and royalty oil are well under way.

OCS Oil and Gas Bidding Systems: DOE gave high priority to preparing regulations for bidding systems to be applied to oil and gas leasing on the OCS. Drafting of these regulations began prior to completion of new OCS legislation, and we have consulted with DOI throughout.

The regulations represent the first step in addressing the variety of concerns expressed about the management of the Federal OCS leasing program. They will establish three alternative bidding systems and the process for determining the best system to be applied to each tract offered at a lease sale.

The bidding system regulations are expected to be forwarded to DOI and DOJ for formal review by mid-January 1979. DOI and DOJ will have a 30-day review and comment period before any proposed regulations are published in the Federal Register. We are also proceeding with writing regulations for other bidding systems specifically authorized in the OCS Act Amendments.

**Net Profit Share Bidding System:** In anticipation of passage of the OCS Lands Act Amendments, we initiated in April 1978, an analysis of what types of profit share systems are best suited to the OCS program. The analysis encompasses the theory that a net profit sharing bidding system increases competition by lowering the cash bonus bid; and it allows greater participation -- especially by small operators. Under such a system, the risks associated with oil and gas exploration are more equitably shared by the Government and industry. Accordingly, this could lead to more efficient

utilization of capital for the exploration and development of OCS oil and gas resources. This analytical report is to be completed in mid-December 1978.

Work on the profit share regulations began in July 1978, with the initial steps being to define the basic profit share system and the accounting procedures necessary to support the calculation of profits, as required by the system. Recognizing the complexity of these regulations, particularly the accounting portion, a contract was let with an accounting firm to advise us as to (1) the structure of the accounting regulations -- the major objective being to design an accounting structure that would accommodate, as best possible, existing industry accounting practices for OCS oil and gas exploration and development; (2) the accuracy of terminology and definitions; and (3) the administrative responsibilities created by these accounting procedures, both for industry and the Government. This contract is underway and a final report is due in mid-January 1979. The proposed regulations are expected to be published in the Federal Register by April 1979.

Royalty Oil Taken in Kind: We have been working with DOI and the Small Business Administration in structuring the framework

regulations governing the taking and disposal of royalty oil taken in kind. DOI has administered a royalty oil program for disposal of U.S. royalty oil taken in kind for over 30 years for onshore oil and for the past five years for OCS oil production.

The DOE Organization Act gives DOE the authority to promulgate regulations "specifying the procedures, terms and conditions for the acquisition and disposition of Federal royalty oil taken in kind."

The regulations being prepared will basically continue the operation and intent of the DOI practice regarding the offering of royalty oil to small refiners. They also will make provision for the sale of OCS royalty oil to the public, in accordance with the OCS Lands Act Amendments.

**Sequential Bidding:** These proposed regulations would establish a new bid opening process designed to foster competition for OCS leases. They would be employed as an alternative to the existing administrative procedures, and would be applied to certain lease sales on an experimental basis. The regulations would break a single sale of leases on the OCS into several bidding periods. Instead of the current practice, in which bids for all the tracts included in a sale are submitted

simultaneously and opened in one session, the tracts would be equally divided among the bidding periods -- there would be not less than 24 hours between bidding periods. All non-successful bidders in each round would be notified and their bid deposits would be returned prior to the next bidding period.

By spreading the offering of OCS tracts for lease among a number of bidding periods, bidders will be able to concentrate their resources on a smaller number of tracts and adjust bidding strategies between each bidding period. It is anticipated that this will foster competition by enabling companies with budget constraints to bid on more tracts per lease sale. Although it has not been tested, this system may result in a greater financial return to the United States.

These proposed regulations are currently undergoing final coordination within DOE. When the DOE internal review is completed, they will be transmitted to DOI and Department of Justice for formal review and comment. It is anticipated that these regulations will be ready for publishing in the Federal Register by late January 1979.

## Conclusion

In addition to our other regulatory responsibilities covering all energy mineral resources, we have placed high priority on OCS diligence and production rate regulations. Present plans are to commence analytical work on the diligence question in January 1979 and production rates no later than June 1979.

I should point out that the discussion here is limited to my area of authority related to the OCS leasing program. We have not covered the other regulatory authorities of the Federal Energy Regulatory Commission which are covered in the OCS Lands Act Amendments that will affect OCS oil and gas production.

I will be pleased to answer any questions.

Mr. KALTER. We appreciate the opportunity to appear before this select committee to discuss the responsibilities and activity of DOE in developing the energy resources of the OCS under the new amendments.

As you are aware, DOE strongly supported modification of the 1953 Outer Continental Shelf Lands Act. It is our belief that the new amendments will result in a more effective Outer Continental Shelf program.

Mr. Chairman, as an aside, you may recall I appeared before this committee in 1975 in support of the amendments in my position at that time, as a professor at Cornell University, and I have now taken a position as Director of the DOE Leasing Policy Development Office to implement those amendments from DOE's point of view.

Because DOE is a relatively new department, I would first like to discuss our responsibilities as they relate to the Outer Continental Shelf leasing program and the new legislation; then I will briefly review our progress to date and the initiatives currently underway.

With passage of the DOE Organization Act, certain responsibilities which directly relate to leasing and development of the Outer Continental Shelf were transferred from the Department of the Interior—DOI—to DOE. These responsibilities include the function to promulgate regulations under the Outer Continental Shelf Lands Act which relate to: First, fostering of competition for Federal leases; second, implementation of alternative bidding systems authorized for the award of Federal leases; third, establishment of

diligence requirements for operations conducted on Federal leases; fourth, setting rates of production for Federal leases; and fifth, specifying procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

Also transferred to DOE was the function to establish production rates for all Outer Continental Shelf leases.

The Leasing Policy Development Office was established within Resource Applications in 1977 to carry out these responsibilities.

In addition, since this office became operational a productive working relationship on energy leasing issues, particularly Outer Continental Shelf matters, has been established with DOI. The DOE, like DOI, is committed to the orderly and timely development of energy resources on Federal lands, consistent with environmental and other considerations.

Thus, during the early stages of DOE involvement in leasing matters, we have accommodated DOI's request for expeditious handling of DOE Organization Act responsibilities for approval of certain lease terms and conditions so that OCS lease sales would not be delayed. In each of these instances we have waived the 30-day statutory review period prescribed.

To facilitate coordination between DOE and DOI on leasing matters, the DOE Organization Act provided for a leasing liaison committee. The committee has been established and the charter approved by both Secretaries. The scope of the committee covers all leasing matters pertaining to energy resources on Federal lands.

Mr. Chairman, I have included a copy of the charter for that committee as an attachment to the testimony and a more detailed discussion of the committee is included in the testimony.

The Outer Continental Shelf Lands Act amendments provide that DOE promulgate Outer Continental Shelf regulations and set production rates in accordance with the authority under the DOE Organization Act. These responsibilities are to be carried out in cooperation with the Department of the Interior and in certain circumstances other Federal agencies, including the Department of Justice.

The amendments require DOE, after consultation with DOI, to report to Congress within 6 months after the end of each fiscal year on the schedule of all lease sales held and to be held, and the bidding systems utilized and to be utilized during the past and following year. The report must include a discussion of the benefits and costs associated with conducting lease sales using various bidding systems.

A further responsibility of DOE involves identification of national energy requirements. These requirements are to be set forth in the biennial National Energy Plan, with the contribution each energy resource is forecast to make in satisfying those energy needs.

To develop the necessary forecasts, DOE and DOI entered into a memorandum of understanding—MOU—involving energy production goals. The MOU specifies that DOE will set production goals on a resource-by-resource basis which will guide the Secretary of the Interior "in establishing or revising leasing programs and lease planning schedules." These goals are to be revised every 2 years for

projection horizons of 5, 10, and 15 years in the future. A copy of the memorandum of understanding is attached as appendix B.

With that background, I would like to discuss some of our accomplishments during the past year, and what we are currently doing to implement the requirements of the new amendments.

First, DOE is currently preparing production goals under the MOU for the OCS to guide DOI in developing their 5-year leasing program, as specified by the amendments. The forecasts will project the level of production that may be expected in the years 1985, 1990, and 1995 from different leasing schedules and sale sizes for the period from mid-1980 through mid-1985.

The forecasts will reflect an indepth analysis that considers the needs of the national and regional energy markets, the potential constraints on OCS leasing, the potential of the undiscovered resource base, the costs of OCS development and the overall economics of production of oil and gas from the various geological provinces. The draft report is scheduled to be given to DOI by mid-December 1978. In fact, our delivery date on that is next week.

We also propose to make the draft report available to affected coastal States for their review and comment. The final report is scheduled to be completed in February 1979.

Turning to the Outer Continental Shelf bidding systems, following the DOE Organization Act, which transferred functions relating to the bidding systems and competition to DOE, an early task of the Leasing Policy Development Office was to establish alternative bidding systems within the limits of the 1953 act, which was then the governing authority.

A sliding scale royalty system was designed. Barbara Heller, this morning, testified to some extent on that particular system. We feel the system alleviates the inherent problems attributable to royalty bidding which are encouraging speculation, foregoing marginal resource development and early production abandonment. We believe this sliding scale royalty approach is an attractive system for encouraging competition, reducing the level of cash bonus bids and transferring risk to the Government.

The sliding scale royalty has been tested on three Outer Continental Shelf lease sales and is scheduled for the next two sales. You have heard from DOI this morning with respect to those applications. Our written testimony offers further discussion of the system and an appendix to that testimony includes an evaluation of the tests that have taken place up to this point in time.

Turning to the regulations which we are currently working on, we are proceeding to write regulations in all the areas required by the Outer Continental Shelf amendment. Outer Continental Shelf regulations have high priority in our office, and we are beginning with alternative bidding systems, questions of competition and royalty. I would like to touch on each of those in turn.

With respect to bidding systems, we have begun the drafting of these regulations prior to the completion of the Outer Continental Shelf legislation, and we have been consulting with the Department of Interior throughout the drafting process. The regulations represent the first step in addressing the variety of concerns expressed about the management of the Federal OCS leasing program. They will establish three alternative bidding systems and

the process for determining the best system to be applied to each tract offered at a lease sale.

The bidding system regulations are expected to be forwarded to Interior and Justice for formal review by mid-January 1979. Interior and Justice will have a 30-day review and comment period before any proposed regulations are published in the Federal Register. We are also proceeding with writing regulations for other bidding systems specifically authorized in the Outer Continental Shelf Act amendments.

As Barbara Heller mentioned this morning, both of our agencies think that the profit-sharing system is the next major alternative system that should be implemented and in anticipation of the passage of the amendment we initiated in April a major analysis of the types of profit-sharing bidding system best suited to the Outer Continental Shelf program in the United States. The analysis encompasses the theory that a net profit-sharing bidding system increases competition by reducing the cash bonus bid and allows greater participation. Under such a system, the risks associated with oil and gas exploration are more equitably shared by the Government and industry. Accordingly, this could lead to more efficient utilization of capital for the exploration and development of Outer Continental Shelf oil and gas resources. We have now completed that particular economic analysis.

Work on the profit-share regulations began concurrently with that analysis in July 1978, with the initial steps being to define the basic profit-share system and the accounting procedures necessary to support the calculation of profits, as required by the system. Recognizing the complexity of these regulations, particularly the accounting portion, a contract was let with an accounting firm in August of this year to advise us as to: (1) The structure of the accounting regulations—the major objective being to design an accounting structure that would accommodate, as best possible, existing industry accounting practices for Outer Continental Shelf oil and gas exploration and development; (2) the accuracy of terminology and definitions; and (3) the administrative responsibilities created by these accounting procedures, both for industry and the Government. This contract is underway and a final report is due in mid-January 1979. The proposed regulations are expected to be published in the Federal Register by April 1979.

Turning to royalty oil taken in kind: We have been working with Interior and the Small Business Administration in structuring the framework regulations governing the taking and disposal of royalty oil taken in kind. Interior has administered a royalty oil program for disposal of U.S. royalty oil taken in kind for over 30 years for onshore oil and for the past 5 years for Outer Continental Shelf oil production.

The DOE Organization Act transferred to us the authority to promulgate new regulations in these areas. These regulations will basically continue the operation and intent of the current DOI program regarding offering of royalty oil to small refiners. They also will make provision for the sale of Outer Continental Shelf royalty oil to the public in accordance with the Outer Continental Shelf Lands Act amendments.

Sequential bidding: We are proposing regulations which would establish a new bid opening process designed to foster competition for Outer Continental Shelf leases. They would be employed as an alternative to the existing administrative procedures, and would be applied to certain lease sales on an experimental basis. The regulations would break a single sale of leases on the Outer Continental Shelf into several bidding periods. Instead of the current practice, in which bids for all the tracts included in a sale are submitted simultaneously and opened in one session, the tracts would be equally divided among the bidding periods—there would be not less than 24 hours between bidding periods. All unsuccessful bidders in each round would be notified and their bid deposits would be returned prior to the next bidding period.

By spreading the offering of Outer Continental Shelf tracts for lease among a number of bidding periods, bidders will be able to concentrate their resources on a smaller number of tracts and adjust bidding strategies between each bidding period. It is anticipated that this will foster competition by enabling companies with budget constraints to bid on more tracts per lease sale. Although it has not been tested, this system may result in a greater financial return to the U.S. Government.

These proposed regulations are currently undergoing final coordination within DOE. When the DOE internal review is completed, they will be transmitted to DOI and Department of Justice for formal review and comment. It is anticipated that these regulations will be ready for publishing in the Federal Register by late January 1979.

In addition to our other regulatory responsibilities covering all energy mineral resources, we have placed high priority on Outer Continental Shelf diligence and production rate regulations. Present plans are to commence analytical work on the diligence question in January 1979 and production rates no later than June 1979.

I would be pleased to answer any comments or questions the committee may have.

[Appendixes A and B to Mr. Kalter's statement follow.]

## APPENDIX A

LEASING LIAISON COMMITTEE CHARTER  
AND ORGANIZATION

Pursuant to Section 210 of the Department of Energy Organization Act (Pub. L. 95-91) a Leasing Liaison Committee (Committee) is established.

I. Purpose

The purpose of the Committee is: (1) to serve as an executive level coordinating mechanism and focal point for inter-Departmental cooperation on Federal energy leasing, and (2) to assure timely and efficient coordination between the Department of Energy (DOE) and the Department of the Interior (DOI) on such matters.

The function of the Committee is to supplement other channels of inter-Departmental contact and coordination, rather than to replace them.

II. Scope and Responsibilities

The scope of the Committee's activity shall cover leasing matters pertaining to energy resources on Federal lands. This responsibility applies

to Outer Continental Shelf oil and gas, onshore oil and gas, coal, uranium (acquired lands), geothermal, oil shale and tar sands and any other identified leaseable energy mineral.

Specifically, it is the responsibility of the Committee to: (1) identify and solve problems arising between the Departments relating to Federal energy leasing responsibilities; (2) provide timely information exchanges; (3) expedite consideration and resolution of Inter-Departmental energy leasing matters generally; (4) insure cooperation and assistance in preparing annual reports and reports to Congress; and (5) facilitate consultation on technical matters of concern to both Departments.

The Committee is not a policy-making body; however, it may address policy issues and make recommendations to the respective Secretaries.

### III. Organization and Membership

The Committee is composed of four (4) representatives from each Department. Members shall be appointed by

the respective Secretaries, shall be at the Presidential appointment level from within each Department, and shall serve, at the pleasure of the Secretary. Each Secretary shall designate one member as senior representative to act as spokesman and to serve as Co-Chairman.

Each member, including each Co-Chairman, shall designate an alternate to attend meetings in the absence of the member and with the authority to otherwise act on the member's behalf.

The Co-Chairmen, with the concurrence of the full membership, may appoint ad hoc technical and advisory working groups as necessary, to perform special studies or to concentrate on specific problems and issues.

An executive secretary shall be appointed by the senior representative from each Department to maintain records of all Committee activities and to perform administrative assignments as directed.

#### IV. Chairmanship

The Committee will operate under Co-Chairmen with the appointed senior representative for each Department

serving as the Co-Chairman. The Co-Chairman for the host Department shall preside over the meeting.

The host Co-Chairman is responsible for administrative support, to include such matters as providing meeting accommodations, agenda preparation and coordination, distribution of material and timely notification of members.

V. Meetings

A. Scheduled Meetings

The scheduled meetings will alternate between Departments. The Committee shall meet quarterly -- on or about the 15th day of March, June, September and December. The Co-Chairman for the host Department shall notify all members, in writing, of a scheduled meeting not less than fifteen (15) working days prior to the meeting. The notice shall specify the time, date and place of meeting, and shall transmit the draft agenda and any materials and support documents.

If a member has information and documents to distribute prior to a meeting, the items may be sent directly to .

all members or supplied to the host Co-Chairman in sufficient quantities to be distributed with the meeting notice.

B. Agenda

A draft agenda shall be prepared and circulated to all members before each scheduled meeting. Topics to be included on the draft agenda may be submitted to the host Co-Chairman, in writing. The host Co-Chairman shall include on the draft agenda all suggested topics timely received, plus those topics he may, at his discretion, wish to include.

The draft agenda and any review of preliminary material shall be furnished to each member fifteen (15) working days prior to scheduled meetings. Changes, or additions to the draft agenda may be submitted to the host Co-Chairman through his executive secretary, either orally or in writing, in sufficient time to meet the ten-day notice requirement.

The final agenda shall be prepared by the host Co-Chairman and shall be furnished to the members not less than ten (10) working days prior to the scheduled meeting.

### C. Special Meetings

A special meeting of the Committee may be requested by either Department, through its senior representative. The Co-Chairman for the requesting Department shall then call and host such a meeting.

The requesting Co-Chairman shall give notice of a special meeting in writing, including the time and place, to each member not less than ten (10) working days prior to the meeting date. The notice shall include an agenda of the special meeting. The agenda for a special meeting may, at the discretion of either Co-Chairman, include matters other than those for which the special meeting is called. A draft agenda will not be prepared for special meetings.

### D. Emergency Meetings

In the event of a situation requiring urgent attention, an emergency meeting may be requested by either Secretary. The requesting Department Co-Chairman shall notify all members (orally) stating the purpose, time and place of the emergency meeting. No formal agenda will be prepared.

**E. Attendance**

Full membership (either members or alternates) shall be present at scheduled, special, or emergency Committee meetings.

**F. Minutes of Meetings**

Minutes of each meeting shall be taken by the host Co-Chairman's executive secretary. The minutes shall be sent to each member of the Committee within five (5) working days after each meeting and approved by the membership at the next scheduled meeting.

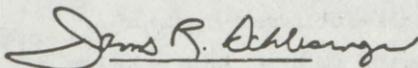
**G. Voting**

Most matters brought before the Committee may be resolved without voting. When appropriate, votes may be taken in order to determine the sense of the Committee. In no case is either Department bound by the results of such a procedure.

VI. Charter Revision

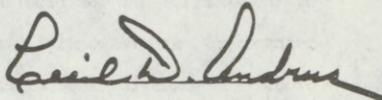
This charter of the Leasing Liaison Committee may be revised at the request of both Secretaries or recommended by a majority vote of the membership.

Approved (Date)

Secretary  
Department of Energy

MAY 8 1978

Approved (Date)

Secretary  
Department of the  
Interior

MAY 18 1978

## APPENDIX B

MEMORANDUM OF UNDERSTANDING BETWEEN THE  
DEPARTMENT OF THE INTERIOR AND THE  
DEPARTMENT OF ENERGY CONCERNING THE  
ESTABLISHMENT AND USE OF PRODUCTION GOALS FOR ENERGY  
RESOURCES ON FEDERAL LANDS

1. Purpose

The purpose of this Memorandum of Understanding between the Department of the Interior and the Department of Energy is to set forth concepts, assumptions, and responsibilities for the establishment and use of production goals for Federal energy leasing and to set forth mechanisms for implementing those responsibilities.

2. Concepts and Assumptions

- a. The development of an integrated national energy policy by the Department of Energy requires the coordinated treatment of Federal resources as a constituent part of national energy planning consistent with overall national economic, environmental, and social goals and applicable law. These energy and resource development activities must be based on adequate data, rigorous analysis, and appropriate program decisions.
- b. Each Department has responsibilities, authorities, information, and data which, when properly combined and executed, can produce efficient energy resource development in an environmentally acceptable manner.
- c. The planning process must reflect the statutory responsibilities of each Department and the inherent uncertainty of forecasts as well as include public consultation, environmental considerations, and appropriate energy resource development.

- d. Program goals should be reviewed on a regular basis.
  - e. Energy resources for purposes of this Memorandum include offshore oil, offshore natural gas, onshore oil, onshore natural gas, coal, oil shale, tar sands, geothermal resources, and uranium. Leases include leases of Federal lands (including Outer Continental Shelf (OCS) lands) or interests in such lands.
  - f. Projection periods for onshore and offshore oil and natural gas, coal, oil shale, and geothermal resources are 5, 10 and 15 years each; projection periods for tar sands and uranium will be specified in the individual information exchanges between the Departments on an ad hoc basis.
  - g. Production goals are the objectives for the national production of energy resources from Federal lands or interests in lands including the OCS which are necessary to carry out national energy policy and to enable each Department to fulfill its responsibilities under section 801 (b)(1) of the Department of Energy Organization Act.
3. Data Responsibilities of the Secretary of the Interior
- a. The Secretary of the Interior will supply data and information (including supporting analyses and methodology) to the Secretary of Energy related to the extent of energy resources and current and anticipated production from the Federal lands, including OCS lands, or interests in such lands for the relevant projection period for each resource, consisting of:
    - (1) Estimated energy resources and estimates of anticipated annual production for the 5th, 10th and 15th projection years expected from leases currently under production and

from leases expected to be developed, taking account of changes due to exhaustion of resources and abandonment of leases, under existing and proven technology and under existing laws and regulations. Where necessary, explanations of uncertainties as to estimates and data will be included; and

- (2) Estimated energy resources underlying areas not currently under lease but which are included in a leasing schedule or plan.

b. The Secretary of the Interior will also provide to the Secretary of Energy the following data and information, to the extent available:

- (1) An evaluation of the energy resource potential of Federal lands neither currently under lease nor included in an established lease or schedule;

- (2) Any other related data that may be requested by the Secretary of Energy in carrying out his pertinent statutory and regulatory duties.

4. Goal Setting Responsibilities of the Secretary of Energy

Subject to the process and timetable provided in Section 6:

- a. The Secretary of Energy will develop proposed national energy production goals for Federal lands and, following review of those goals by the Secretary of the Interior, will establish final production goals.
- b. The Secretary of Energy will propose and establish production goals for energy resources, on a resource by resource basis, on lands or interests in lands under Federal jurisdiction, for the relevant

projection period, based upon the following:

- (1) The production estimates provided by the Secretary of the Interior;
- (2) Production estimates, developed by the Secretary of Energy, from Federal lands scheduled by the Secretary of the Interior to be leased;
- (3) Increases or decreases in these estimates resulting from modification to pertinent regulations or statutes, anticipated advances in technology, or use of enhanced recovery methods; and
- (4) Any additional increases or decreases in production which the Secretary of Energy may propose.

c. In setting these goals, the Secretary of Energy will take into account developmental lead times and will consider:

- (1) The overall energy strategy set forth in the current or most recent Annual Report and National Energy Policy Plan prepared in accordance with sections 657 and title VIII of the Department of Energy Organization Act;
- (2) The estimates, evaluations and other information provided by the Secretary of the Interior pursuant to section 3;
- (3) Estimates, information, data and evaluations furnished by the Administrator of the Department of Energy's Energy Information Administration concerning, but not limited to, reserves and undiscovered resources;
- (4) Such other considerations as the Secretary of Energy may deem pertinent; and

(5) With respect to coal, and as available and applicable for the other energy resources:

- (a) The availability of the energy resource from private, State, Indian, and other non-Federal reserves already leased but not yet committed to production;
- (b) the impact on potential production from non-Federal resources or on those Federal resources already leased but not yet committed to production, of leasing for production of additional Federal energy resources.

d. The Secretary of Energy will provide the Secretary of the Interior the assumptions and data used in developing the production goals.

e. The Secretary of Energy will include appropriate proposals on matters within his jurisdiction to adjust production, including, if applicable:

- (1) Changes in regulations identified by section 302(b) of the Department of Energy Organization Act.
- (2) Changes in procedures for setting production rates, or changes in the rates themselves; and
- (3) In the Annual Report and National Energy Policy Plan required by section 657 and title VIII of the Department of Energy Organization Act, proposals for changes in legislation or other actions affecting the broad aspects of energy policy for which the Department of Energy has responsibility.

5. In reviewing and commenting on the Secretary of Energy's proposed production

goals, the Secretary of the Interior will inform the Secretary of Energy of potential policy conflicts or problems concerning, but not limited to:

- a. The Department of Interior's responsibilities for the management, regulation, and conservation of natural resources;
- b. The capabilities of the Federal lands and Federal energy resources to meet these goals;
- c. The national need for these energy resources balanced against the environmental consequences of developing them.

6. Process and Timetable

- a. As soon as practicable after the effective date of this Memorandum the Secretary of Interior will provide the Secretary of Energy the information, data, and assessments pursuant to section 3.
- b. Within 30 days after receipt of the Secretary of the Interior's information, data, and assessments regarding a particular energy resource, the Secretary of Energy shall advise the Secretary of the Interior of the time schedule for his preparation of proposed production goals. Such production goals shall be transmitted to the Secretary of the Interior as soon as practicable after receipt by the Secretary of Energy of the above mentioned information.
- c. The Secretary of the Interior will have 60 days to review and comment on the proposed production goals.
- d. The Secretary of Energy will issue final production goals not more than 30 days after the Secretary of the Interior's comments have been received.
- e. This process will be repeated biennially from the effective date of this Memorandum or at such other interval as the Secretaries may agree.

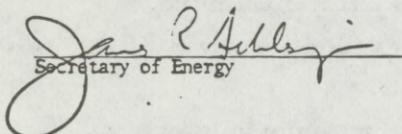
- f. The final production goals will be published in the current or next Annual Report or National Energy Policy Plan of the Secretary of Energy under section 657 and title VIII of the Department of Energy Organization Act.
- g. In establishing or revising leasing programs and lease planning schedules, the Secretary of the Interior shall be guided by the final production goals established pursuant to this Memorandum consistent with the Secretary's other statutory responsibilities.

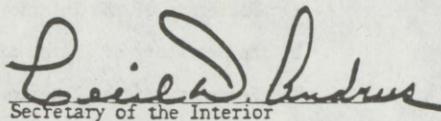
7. Coordination

Coordination of these procedures may be accomplished through the Leasing Liaison Committee established in accordance with section 210 of the Department of Energy Organization Act.

8. Effective Date

This Memorandum shall be effective upon execution.

  
Secretary of Energy

  
Secretary of the Interior

9-9-78  
(Date)

8-31-78  
(Date)

## APPENDIX C

A Comparison of Bidding Systems For Three OCS Lease Sales:  
(Cash Bonus vs. Sliding Scale Royalty)

	OCS Sale #43	OCS Sale #45	OCS Sale #46
1. Tracts			
A. Offered	224	145	89
B. Receiving bids	57 (25%)	101 (69%)	35(39%)
2. Bids			
A. Total received	89	283	62
B. Cash bonus	22 (25%)	203 (72%)	11 (18%)
C. Sliding scale royalty	77 (86%)	30 (11%)	11 (18%)
3. No. of Actual Bidders			
A. For all tracts	11	86	19
B. For cash bonus tracts	8	86	17
C. For sliding scale royalty tracts	11	49	10
4. Cash Bonus Bid System			
A. Tracts offered (% of 1.A.)	144 (64%)	130 (89%)	67 (75%)
B. Number on which bids received (% of 1.B.)	17 (20%)	91 (90%)	25 (71%)
C. Average number of bidders per tract (% of 4.A.)	(12%)	(70%)	(57%)
C. Average number of bidders per tract	1.29	2.69	1.92
5. Sliding Scale Royalty Bid System			
A. Tracts offered (% of 1.A.)	80 (36%)	16 (11%)	22 (25%)
B. Number on which bids received (% of 1.B.)	40 (70%)	10 (10%)	10 (29%)
C. Average number of bidders per tract (% of 5.A.)	(50%)	(63%)	(45%)
C. Average number of bidders per tract	1.95	3.80	1.40
6. Cash Bonus vs. Sliding Scale - Index of Participation			
$\frac{23}{51} \div \frac{41}{51}$	4.17	.89	1.22
7. Cash Bonuses Paid (\$ Millions)			
A. Cash bonus: average per tract (7.A. $\div$ 4.B.)	\$ 1,908	\$ 7,462	\$ 1,836
B. Sliding scale: average per tract (7.B. $\div$ 5.B.)	\$ 1,931	\$ 7,985	\$ 1,529
C. 7.A. $\div$ 7.B.	.99	.93	1.20
D. Total	\$ 109,632	\$ 798,09	\$ 61,180
E. Total for cash bonus system (% of 7.B.)	\$ 32,434 (30%)	\$ 679,04 (85%)	\$ 45,863 (75%)
F. Total for sliding scale royalty (% of 7.B.)	\$ 77,198 (70%)	\$ 79,05 (11%)	\$ 15,287 (25%)
8. Average High Bid Per Tract (\$ Millions)			
A. Cash bonus	\$ 1,003 (n=12)	\$ 4,097 (n=3)	\$ 1,517 (n=13)
B. Sliding scale	634 (n=13)	908 (n=3)	1,732 (n=7)
C. Multiple bid tracts			
cash bonus	\$ 4,133 (n=5)	\$ 9,394 (n=98)	\$ 2,241 (n=12)
sliding scale	\$ 2,981 (n=21)	\$ 11,016 (n=7)	\$ 1,055 (n=5)

The index of participation equates to a ratio of the percentage of the total number of tracts which received bids under sliding scale royalty to a similarly defined percentage for cash bonus system tracts. An index of 2.0 would mean that percentage of the tracts bid on under a sliding scale system was twice as large as that percentage for the cash bonus system.

The CHAIRMAN. Mr. Flexner?

STATEMENT OF DONALD L. FLEXNER

Mr. FLEXNER. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before you to present the views of the Department of Justice on the implementation of those provisions of the Outer Continental Shelf Land Act Amendments of 1978 that affect competition in the oil and gas industry. I previously submitted my prepared statement for the subcommittee for the record, and I would like to summarize my statement, if that meets with the subcommittee's approval.

This act provides for the Attorney General's review in consultation with the Federal Trade Commission of several types of administrative actions by the Secretaries of the Interior and Energy. Although this statute gives the Attorney General specific responsibilities in the Government's leasing program, the Department's first participation in the country's offshore program, our review of the October 1977 Cook Inlet lease sale predates the 1978 amendment. That analysis was directed toward three important policy concerns: One, insuring that the leasing process does not produce any competitive effects; two, encouraging efficient production of oil and gas; and, three, insuring that a competitive market for Outer Continental Shelf leasing is maintained.

Because we recognize that an anticompetitive market structure could induce companies with market power to restrict crude oil supply and push up prices, our Cook Inlet analysis examined the possible market power which could result from the acquisition of a large quantity of resources by a single firm or group of firms in a relevant market.

In addition, the Cook Inlet analysis recognized the importance of examining the leasing process, itself, in order to eliminate opportunity for collusion and to insure that the Government received a fair return for its land.

These same policy considerations are reflected in the new Outer Continental Shelf amendments.

Our responsibilities fall into two categories. First, the Department has the responsibility of performing a competitive review of individual lease sales. In addition, the Department has an advisory role with regard to the promulgation of regulations and procedures governing the leasing program.

Taking the statutory roles separately I will try to set forth in greater detail the Department's objectives and explain what we are currently doing to attain them. Pursuant to section 8(c) of the new Outer Continental Shelf amendments, the Department has the responsibility to advise the Secretary of Interior whether the issuance of a lease "may create or maintain a situation inconsistent with the antitrust laws." Our advice, which is to be submitted to the Secretary within 30 days of a sale, will be based on an analysis of relevant market information, either supplied by the Department of the Interior, developed through our own resources or otherwise readily available elsewhere.

The importance of our lease review program cannot be overemphasized. Leasing which results in concentrated reserve holdings in a given geographic and product market may encourage leasehold-

ers to withhold oil from the market in two ways. First, a firm which holds a substantial percentage of the reserves in a market may be able to increase the crude oil market price by withholding production, thereby forcing refiners to purchase oil which is more costly to produce or transport. Second, high concentration may facilitate interdependent output and price decisions or collusion among producers. Thus, it is important that our Outer Continental Shelf leasing program not create a market structure which fosters inefficient production decisions.

As explained in our Cook Inlet analysis, we have found the principles which are used to determine whether a merger or acquisition violates section 7 of the Clayton Act useful in determining whether the acquisition of offshore leases may allow firms to acquire market power. This section 7 approach requires the delineation of the product and geographic markets. We can then observe changes in market concentration caused by the lease sale and will evaluate the competitive significance of these changes.

Another area that warrants further study is the interrelationship between and among companies in the context of joint ventures. The interdependence of decisionmaking which these ventures may create and foster is a cause for concern both within the context of market concentration and as an independent factor; that is, in possibly fostering a situation of outright collusion.

In addition to our competitive impact analyses of Outer Continental Shelf lease sales the Department will perform a similar analysis of transfer of leases between companies.

I would like now to turn to those provisions in the new legislation dealing with the Attorney General's role as adviser to the Departments of Energy and Interior in the areas of procedures and regulations. There are four statutory provisions with which we must be concerned. Section 5(a) of the act provides that both in the formulation and promulgation of regulations which may affect competition, the Secretary of the Interior and the Secretary of Energy shall consider the views of the Attorney General. On several occasions since the passage of the Outer Continental Shelf amendments, representatives of the Departments of Justice and Energy have met informally to discuss the possibility of promulgating regulations to deal with perceived competitive problems. Additionally, DOI has indicated that they will refer to us those regulations which they feel may have a competitive impact. We look forward to working closely with these Departments in examining possible regulations.

Section 15 of Outer Continental Shelf Lands Act was amended to require annual reports to the Congress by the Secretary of Energy, which, among other things, evaluated the bidding system used in awarding leases. In making this report, which may include proposed administrative or legislative changes, the Secretary is required to consult with the Attorney General and incorporate his recommendations.

There are several potentially conflicting objectives to be achieved through the analysis of alternative bidding systems. For example, on the one hand, we are trying to encourage a greater number of firms to compete for offshore leases. This added competition lessens

the potential for undue concentration and generally results in greater revenue for the Government.

At the same time, however, we do not want to push up the price of lease tracts to inordinately high levels which would eventually discourage firms from bidding activity and cause those prices to be passed on to consumers. Ideally, therefore, in giving advice to the Secretary, we will be attempting to balance the desire to maximize revenue with the desire to foster increased participation in offshore development.

The Department consequently is currently examining several alternatives to the present bidding procedures in order to evaluate their feasibility.

A further aspect of our advisory role in analyzing bidding procedures concerns the joint bidding restriction and its effectiveness in promoting competition. The Secretary of the Interior at this time is considering a request by Chevron U.S.A. to be allowed the opportunity to bid jointly with other major companies in the upcoming offshore lease sale in the Beaufort Sea. The Department is consulting with the Department of the Interior in order to evaluate the competitive implications of the ban in this case as well as the consequences of its removal.

The third statutory provision which calls for the Department's advisory involvement is the development of an Outer Continental Shelf leasing program. Section 18 of the act requires the Secretary of the Interior to prepare, revise and maintain an oil and gas leasing program which will govern the size, timing and location of leasing activity for a 5-year period. The very timing and size of future sales could impact on competition in this area. The Department could, for example, render assistance to the Secretary in drafting the program by suggesting that the scheduling of lease sales be spaced more evenly to allow firms sufficient time to arrange for and obtain financing.

Outer Continental Shelf pipelines present the fourth area of regulatory concern to the Department of Justice. It is essential that pipelines which connect areas of production to onshore facilities are operated in an open and nondiscriminatory manner and are adequately sized to serve the area of production. To this end section 5(f) of the Outer Continental Shelf Lands Act mandates that every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline across the Outer Continental Shelf require: First, that the pipelines provide open and nondiscriminatory access to owner and nonowner shippers and second, that upon request of any shipper who is able to guarantee an adequate level of throughput and willing to bear its proportionate share of costs and risks, the Federal Energy Regulatory Commission (FERC) may order subsequent expansion of throughput capacity for the pipeline.

Finally, the statute requires the Department of Energy and FERC to consult with the Attorney General in order to assure that Outer Continental Shelf pipelines operate in a competitive manner. Current provisions in permits, licenses, easements, rights-of-way, or other grants of authority for Outer Continental Shelf pipeline transportation merely require that the pipelines be operated in accordance with the new statutory provisions and that pipeline

owners will comply with future regulations promulgated by the Department of Energy and FERC. We are currently reviewing the competitive rules, first developed in our Deepwater Report to the Department of Transportation, to determine if such rules would be useful in assuring the competitive operation of Outer Continental Shelf pipelines. To the extent that these rules address competitive issues relevant to Outer Continental Shelf pipelines, we will recommend their incorporation into the grants of authority.

In summary, the maintenance of competitive markets is critical to the efficient development of these resources. In this regard we look forward to the close cooperation of the Department of Energy and the Interior in collecting information necessary to developing an imaginative and efficient Outer Continental Shelf leasing program.

I would be happy to answer any questions the committee may have.

[Mr. Flexner's prepared statement follows:]



# Department of Justice

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TESTIMONY

of

DONALD L. FLEXNER  
Deputy Assistant Attorney General  
Antitrust Division

Before the

House Ad Hoc Select Committee  
on the  
Outer Continental Shelf

Concerning

Outer Continental Shelf  
Lands Act Amendments of 1978

December 7, 1978

Mr. Chairman and Members of the Ad Hoc Select Committee:

I appreciate the opportunity to appear before you today to present the views of the Department of Justice concerning the implementation of those provisions of the Outer Continental Shelf Lands Act Amendments of 1978 1/ that affect competition in the oil and gas industries. That legislation, signed into law on September 18, 1978, provides for the Attorney General's review of several enumerated categories of administrative action taken by either the Secretary of Energy or Secretary of the Interior in implementing their respective duties under the Act. In rendering our advice to the appropriate Secretary, the Department is obliged to consult with the Federal Trade Commission in order to obtain its views on the perceived competitive issues.

Although recent additions to the OCS Lands Act give the Attorney General a specific statutory role in the government's leasing program, the Department's participation in this country's offshore program actually predates the 1978 amendments. Our first formal competitive review was made at the request of Secretary of the Interior Andrus and dealt with the October 1977 Cook Inlet lease sale. 2/ That analysis, our first attempt to address the

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1/ Pub. L. No. 95-372, 92 Stat. 629.

2/ Letter from John H. Shenefield to Cecil D. Andrus (January 19, 1978). In addition, we have reviewed sales from Naval Petroleum Reserves on several occasions.

complex issues relating to the sale of the publicly-owned energy resources, was directed toward an examination of three important policy concerns:

- (1) Ensuring that the leasing process does not produce anticompetitive effects;
- (2) Encouraging efficient production of oil and gas; and
- (3) Ensuring that a competitive market for outer continental shelf leasing is maintained.

The first policy objective, avoiding anticompetitive effects, involved an examination of the possible market power which could result from the acquisition of a large quantity of resources by a single firm or group of firms in a relevant market. A related concern, encouraging efficient production, recognized that an anticompetitive market structure could lead to behavior which might restrict supply and push up prices. This could be accomplished directly, through outright collusion, or indirectly, through interdependent decisionmaking.

The third policy objective addressed in our Cook Inlet analysis related to the leasing process itself. In order to protect the country's interest in receiving a fair price for its valuable resources, it was important to examine the process by which leases were acquired. By eliminating potential opportunities for collusion and ensuring that the process did not operate in a manner which obstructed competitive bidding, a fair return for federal hydrocarbon-bearing property could be expected.

These very same policy considerations are reflected in the Department's responsibilities under the newly enacted OCS amendments. As a general matter, those responsibilities can be broken down into two broad categories. First, the Department has the responsibility to review individual lease sales in order to provide a competitive evaluation to the Secretary of the Interior before he awards tracts to the companies. In addition, the Department has an advisory role with regard to the promulgation of regulations and procedures governing the leasing program. Taking these statutory roles separately, I will try to set forth in greater detail the Department's objectives and explain what we are currently doing to attain them.

Pursuant to Section 8(c) of the new OCS amendments, the Department has the responsibility to advise the Secretary of the Interior whether the issuance of a lease "may create or maintain a situation inconsistent with the antitrust laws." <sup>3/</sup> Our advice, which is to be submitted to the Secretary within 30 days of a sale, will be based on an analysis of relevant market information either supplied by the Department of the Interior, developed through our own resources, or otherwise readily available elsewhere.

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<sup>3/</sup> Section 8(c)(3). This standard first appeared in the Surplus Property Act of 1944 as amended, 40 U.S.C. § 488, and has been incorporated in numerous other statutes since. See e.g., Deepwater Port Act of 1974, 33 U.S.C. §§ 1501 et seq.

I cannot overemphasize the importance of the Department's lease review program. It is the heart of our effort to ensure the efficient development of OCS reserves. Leasing which results in concentrated reserve holdings in a given geographic and product market may encourage leaseholders to withhold oil from the market in two ways. First, if as a result of the lease sale one firm holds a substantial percentage of the reserves in the market, that firm may be able to increase the market price for crude oil by withholding production, thereby forcing refiners to purchase oil which is more costly to produce or transport. This incentive may be enhanced if that producer also controls significant reserve holdings of the more costly oil, thus enabling it to benefit not only from the increased price in the primary geographic market, but also in recaptured sales of the more costly oil. Second, a high level of concentration in a geographic and product market will often encourage producers to become aware of the likely reaction by their competitors, thereby encouraging interdependent pricing and output decisions or collusion among the producers. Thus, it is important that the market structure which results from OCS leasing not be one which fosters economically inefficient production decisions and the concomitant possibility of monopoly profits.

As we stated in our lease analysis for the October 1977 Cook Inlet sale, the most appropriate framework for

determining whether the acquisition of offshore leases would result in a situation inconsistent with the anti-trust laws is Section 7 of the Clayton Act. <sup>4/</sup> We found a Section 7 analysis to be particularly useful here because it allows for an economic evaluation of resource acquisition. <sup>5/</sup> More specifically, by examining increases in resource accumulation and analyzing the resultant potential for market power acquired by an individual firm or group of firms, we can gain some insight into the possible abuse of that market power.

The approach taken in the Cook Inlet lease analysis and in substantial part the method which will be utilized in future lease reviews, requires the delineation of an area of effective competition for a defined product. Once those fundamental determinations have been made, we can observe changes in market concentration that would result from a lease acquisition. In our Cook Inlet letter, we used the merger guidelines of the Department of Justice to evaluate the significance of the observed changes in concentration. The Cook Inlet analysis, however, was only a preliminary step and the development of our review procedures may

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<sup>4/</sup> 15 U.S.C. § 18.

<sup>5/</sup> For a good summary description of the application of Section 7 principles to offshore leases, see letter from John H. Shenefield to Cecil D. Andrus at 6-10 (January 19, 1978).

require alternative measures. This is so because structural market indicators can only be evaluated in light of available market data. Accordingly, additional information may lead to a variation in our approach. For example, if the structure of the crude market is such that, in order to exercise significant control over price, a firm must control the vast majority of resources in that market, we would not be concerned with a lease sale that results in moderate increases in concentration. If, however, a firm need control only a relatively small portion of the market's resources in order to exercise control over price or enhance that firm's incentive to act anticompetitively in another market, we would challenge a lease sale which resulted in even small increases in market concentration among the leading firms. Currently, we are working on standards to be used in evaluating the concentration data which we will develop for each lease sale.

Many of our present efforts are directed toward defining and acquiring the information necessary to ensure a comprehensive competitive evaluation. Several examples will serve to illustrate the point. Concentration ratios must be related as closely as possible to the actual control a firm has over a product. Control, however, is not necessarily synonymous with ownership. Thus, in order to analyze the extent to

which a company can control output in an offshore field, we will need to examine, for example, unit operating agreements since, to a significant degree, they dictate production in that field. In order to facilitate these analyses we will be drawing upon the knowledge gained and the expertise developed as a result of our investigations of the international oil market and the pipeline industry.

Another area that warrants further study is the interrelationship between and among companies in the context of joint ventures. The interdependence of decision making which these ventures may create and foster is a cause for concern both within the context of market concentration and as an independent factor; i.e., in possibly fostering a situation of outright collusion.

One final aspect of our lease review approach, or rather a necessary adjunct to the review process, is the provision in the OCS amendments concerning the transfer of leases by firms. Subsection (e) of Section 8 requires the Secretary of the Interior's approval before a lease may be transferred. Prior to any such approval, the Department will be contacted for its views on the competitive implications of the transfer. In this way we can better monitor lease acquisitions which occur outside the context of a formal Department of the Interior sale.

I would now like to turn to those provisions in the new legislation dealing with the Attorney General's role as

an advisor to the Departments of Energy and the Interior in the areas of procedures and regulations. There are four statutory provisions with which we must be concerned. Section 5(a) of the Act provides that both in the formulation and promulgation of regulations which may affect competition, the Secretary of the Interior and the Secretary of Energy 6/ shall consider the views of the Attorney General. In one sense the new OCS legislation appears to have altered the need for competitive review regulations. Prior to the enactment of this Act we had expressed to the Department of the Interior the view that it would be necessary for the Department of Energy to promulgate regulations defining the standards the Secretary of the Interior would apply in considering the competitive impact of a lease sale. Our view, then, was that such regulations would have to be issued before the Secretary could refuse to lease a given tract to the highest bidder because of an adverse impact on competition. However, since the new amendments expressly permit the Secretary of the Interior to refuse leases on competitive grounds, we feel that it is no longer mandatory for the Department of Energy to promulgate regulations which provide for a competitive lease review.

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6/ The Department of Energy Organization Act, Pub. L. No. 95-91, transferred certain regulation promulgation functions to DOE from other agencies. Among the areas covered by this authority are regulations relating to the "fostering of competition." Section 302(b)(1).

Of course, this does not imply that the Department of Energy is precluded from promulgating such regulations or that they may not be appropriate and desirable in some circumstances. In fact, on several occasions since the passage of the OCS amendments, staff from the Energy Section of the Antitrust Division have met informally with representatives from the Department of Energy to discuss the possibility of promulgating regulations to deal with perceived competitive problems. However, at this point the Antitrust Division feels that there is a need for more experience with the leasing review program before the need to prescribe broad regulatory remedies can be properly evaluated.

We are currently at a point where we are beginning to predict market responses to a variety of circumstances. A good deal of effort at this stage is being directed toward studying past OCS lease sales. It is hoped that through this study of the market we shall be able to formulate sound competitive advice on future OCS regulatory proposals. Of course, we will be working closely with the Department of Energy in examining various possible regulations.

Section 15 of the OCS Lands Act was amended to require annual reports to Congress by the Secretary of Energy which, inter alia, evaluate the bidding systems used (or not used) in awarding leases. In making this report, which may include proposed administrative and suggested legislative

changes, the Secretary shall consult with the Attorney General and incorporate the Department's recommendations.

There are several objectives to be achieved with respect to analysis of alternative bidding systems -- objectives that may be in conflict with one another. In order to evaluate and weigh these objectives it is important for the Department to articulate the considerations it emphasized in commenting on or even favoring a particular bidding system. For example, on the one hand, we are trying to encourage a greater number of firms to compete for offshore leases. This added competition lessens the potential for undue concentration and generally results in greater revenue for the government. At the same time, however, we do not want to push up the price of lease tracts to inordinately high levels which would eventually discourage firms from bidding activity and cause those prices to be passed on to consumers. Ideally, therefore, in giving advice to the Secretary, we will be attempting to balance the desire to maximize revenue with the desire to foster increased participation in offshore development.

The Department is currently examining several alternatives to the present bidding procedures in order to evaluate their feasibility. One specific problem area which is being addressed is the bidding regulations' provision for sealed bids. It is argued that because a company

must submit all its bids at one time, it cannot anticipate or predict the results. Accordingly, in order to finance its bids adequately, a firm must assume that it will win every tract for which it submits a bid. Since a firm rarely, if ever, captures each tract it bids upon, there will be many instances where capital remains unused. Furthermore, because a company must allocate its limited financial resources in advance of an entire sale, it is not possible to reallocate funds to alternative tracts when initial bids are unsuccessful. This inability to "reuse" capital may make it especially difficult for smaller firms to compete.

Several suggestions have been proposed which attempt to deal with the shortcomings of the sealed bidding system. Conducting the lease sale as an auction, where bidders are aware of each others' bids as they are made, is one possibility. Another solution, first proposed by the Department of Energy, involves extending the sale period so as to allow for several rounds of bidding. After the results of the first day's bidding were released and each of the bidders learned which tracts they had won or lost, bids for the next day's tracts could be calculated.

Of course, each of these alternatives to the current bidding procedures has problems of its own. In particular, since there are about 400 assignments of leases per year, the effect of these transfers on capital exposure shortcomings must be considered.

Consequently, additional study will be necessary before the Department will advocate a change to a new, untested system.

A further aspect of our advisory role in analyzing bidding procedures concerns the joint bidding restriction and its effectiveness in promoting competition. <sup>7/</sup> The Secretary of the Interior at this time is considering a request by Chevron U.S.A. to be allowed the opportunity to bid jointly with other major companies in the upcoming offshore lease sale in the Beaufort Sea. The Department is consulting with the Department of the Interior in order to evaluate the competitive implications of the ban in this case as well as the consequences of its removal.

The third statutory provision which calls for the Department's advisory involvement is the development of an OCS Leasing Program. Section 18 of the Act requires the Secretary of the Interior to prepare, revise and maintain an oil and gas leasing program which will govern the size, timing and location of leasing activity for a five-year period. The very timing and size of future sales could impact on competition in this area. The Department could, for example, render assistance to the Secretary in drafting the program by suggesting that the scheduling of lease sales be spaced more evenly to allow firms sufficient time to arrange for and obtain financing.

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<sup>7/</sup> Joint bidding by "major" oil companies, *i.e.*, those whose production exceeds 1.6 million barrels per day, is precluded by Section 105 of the Energy Policy and Conservation Act, 42 U.S.C. § 6213.

OCS pipelines present the fourth area of regulatory concern to the Department of Justice. It is essential that pipelines which connect areas of production to onshore facilities are operated in an open and nondiscriminatory manner and are adequately sized to serve the area of production. To this end section 5(f) of the Outer Continental Shelf Lands Act mandates that every permit, license, easement, right of way, or other grant of authority for the transportation by pipeline across the Outer Continental Shelf require: (A) that the pipelines provide open and nondiscriminatory access to owner and non-owner shippers and (B) that upon request of any shipper who is able to guarantee an adequate level of throughput and willing to bear its proportionate share of costs and risks, the Federal Energy Regulatory Commission ("FERC") may order subsequent expansion of throughput capacity for the pipeline. In addition, the section requires the Department of Energy and FERC to consult with the Attorney General in order to assure that OCS pipelines operate in a competitive manner. Current provisions in permits, licenses, easements, rights of way, or other grants of authority for OCS pipeline transportation merely require that the pipelines be operated in accordance with the new statutory provisions and that pipeline owners will comply with future regulations promul-

gated by the Department of Energy and FERC. We are currently reviewing the competitive rules, first developed in our Deepwater Report to the Department of Transportation, 8/ to determine if such rules would be useful in assuring the competitive operation of OCS pipelines. To the extent that these rules address competitive issues relevant to OCS pipelines, we will recommend their incorporation into the grants of authority.

In addition, future regulation may clarify the scope of the exemption for pipelines going to a "facility where oil and gas are first collected." 9/ Such clarifications may be helpful in assuring that the intent of the drafters, i.e., to preserve open and nondiscriminatory access to an important means of transportation, is not thwarted.

In summary, the outer Continental Shelf is one of the last great domestic petroleum frontiers, the importance of which cannot be overemphasized. The maintenance of competitive markets is critical to the efficient development of these resources. In this regard we look forward to the close cooperation of the Departments of Energy and the Interior in collecting information necessary to developing an imaginative and efficient OCS leasing program.

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8/ U.S. Department of Justice, Report of the Attorney General Pursuant to Section 7 of the Deepwater Port Act of 1974 On the Applications of LOOP, Inc. and Seadock, Inc., for Deepwater Port Licenses 106 (1976).

9/ Section 5(f)(2).

This concludes my prepared statement on the role of the new amendments to the Outer Continental Shelf Lands Act in maintaining a competitive environment for offshore oil and gas leasing. I would be happy to answer any questions the Committee may have, or to elaborate further on any specific point I have discussed today.

The CHAIRMAN. Thank you.

Mr. Ronald Rowe is replacing Mr. Dougherty.

#### STATEMENT OF MR. ROWE

Mr. ROWE. I am Ronald B. Rowe, the Assistant Director of the FTC's Bureau of Competition responsible for petroleum matters. Mr. Dougherty had to be present to testify at the President's Commission To Revise the Antitrust Laws this afternoon and regrets his absence.

First, I would like to thank both the chairman and the committee for the opportunity to present the views of the Bureau of Competition on the implementation of the Outer Continental Shelf Lands Act Amendments of 1978. I must note at the outset that the views presented are entirely those of the Bureau. They are not the views of the Commission and have not been approved by the Commission or any of the commissioners. The amendments provide that the Attorney General, in consultation with the FTC, may comment on the competitive effects of Outer Continental Shelf lease sales and regulations affecting offshore activities. They do not abridge the FTC's independent authority to submit comments directly to the Departments of Energy and the Interior.

As for our consulting role on competitive issues, under section 205(b) of the Outer Continental Shelf Land Act Amendments of 1978, we are presently exploring procedures with the Department of Justice for obtaining access to necessary information and exchanging views and evaluating the competitive effects of particular lease sales.

Under section 205(b), following notice of a proposed lease sale, but before acceptance of bids and issuance of leases, the Attorney General, in consultation with the FTC, is to be permitted 30 days to review the results of the lease sales unless the Attorney General, after consultation with the FTC, agrees to a shorter review period. To facilitate this antitrust review the Secretary of the Interior "shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require."

That is in section 205(b)(2).

Should the Attorney General, after consultation with the FTC, decide to recommend rejecting a bid "to prevent any situation inconsistent with the antitrust laws", the Secretary may either refuse or accept such bid. If such bid is accepted, the Secretary must notify the lessee and the Attorney General of the reason for acceptance. That is in section 205(b)(3).

In addition to making comments on particular lease sales, the Bureau, in consultation with the Department of Justice, will comment upon the 5-year leasing program now being developed by DOI, as mandated by section 208 of the Outer Continental Shelf Lands Act Amendments of 1978.

From our perspective, the Outer Continental Shelf Land Act Amendments of 1978 represent a helpful refinement of the Outer Continental Shelf Lands Act and demonstrate the committee's commitment to coordinate the Nation's energy and environmental needs in a manner that will maintain competition in the leasing of offshore oil and gas tracts. Our comments here this morning will concentrate first on what we perceive to be the critical need for implementation of this important law: Access to relevant information by Government bodies which are going to be responsible for assessing the competitive impact of leasing policy.

We will next discuss two specific issues which will require the gathering of additional data. These are, one, whether the present joint venture ban should be modified, and, two, whether the vertical integration of larger Outer Continental Shelf producers deters bidding and exploration by smaller firms.

Our ability to comment effectively on Outer Continental Shelf lease sales and leasing programs depends on our ability to obtain essential data, either directly, or through DOE and DOI. Although we will use Commission process to gather such information, where necessary, our limited resources will make it essential to obtain data collected both by DOE and DOI if we are to meet our responsibilities under the Outer Continental Shelf Lands Act.

The Bureau has identified a number of leasing issues which merit further antitrust review and require access to additional information. One such issue is whether existing bans of joint ventures can be adjusted in a manner which will increase competition for Outer Continental Shelf leases. A number of factors suggest that the present ban against the nine major crude oil producers perhaps should be extended to include additional firms, at least in certain sales. The factors include the prevalence of joint bidding ventures by major integrated firms at recent Outer Continental Shelf sales; the very large amount of assets controlled by firms not subject to the ban; the scarcity of bids on significant numbers of tracts; and the relatively small amounts paid for leases on some tracts.

On the other hand, because offshore joint bidding ventures can potentially promote competition by allowing firms with limited capital or limited experience in offshore exploration to participate in offshore leasing, the Bureau feels that a considerable amount of information on the dynamics of Outer Continental Shelf joint ventures must be obtained before any particular modification of existing bans can be recommended.

The Department of Energy's Office of Leasing Policy has been for some time considering the use of proposed sequential bidding regulations designed to give smaller Outer Continental Shelf bidders an opportunity to bid on tracts by spreading out the offer of tracts over a period of time and reducing certain other entry barriers. While it is not clear whether such rules will actually enhance the opportunity for smaller producers, the idea of sequential bidding

merits full consideration, and we are urging DOE's Office of Leasing Policy to aggressively seek comments on whether and how best to effectuate such a plan.

Another important issue relating to joint ventures is whether joint venture operators may effectively control more than is indicated merely by their ownership shares. If this is true, then concentration ratios based on ownership shares in offshore joint ventures should be modified to reflect this fact.

The Departments of Interior and Energy can play an important role in gathering information on these competition issues. For example, by requiring firms that bid jointly to submit copies of their joint bidding agreements and documents concerning those agreements, DOE and DOI could facilitate antitrust analysis of Outer Continental Shelf joint ventures.

A second area of particular concern to the Bureau is how to assess bids by large offshore producers which now own both refineries and pipelines, and therefore possess significant advantages over other firms in both lease sales and in subsequent production activities.

Our comments to the Department of the Interior on Outer Continental Shelf sale 43, the Southeast Georgia Embayment sale, stress the importance of this issue.

Information about such advantages and competitive harm flowing therefrom would be useful in analyzing the results of individual lease sales and in crafting regulations designed to improve competition in Outer Continental Shelf activities.

These two areas, joint ventures and vertical integration of offshore producers, merit serious antitrust scrutiny. Access to data is especially important to the Bureau in examining these issues because section 205(b) of the Outer Continental Shelf Lands Act amendments makes clear that the amendments do not provide any antitrust immunity.

In conclusion, it is our view that the 1978 Outer Continental Shelf Lands Act amendments provide both the Department of Energy and the Department of the Interior with the authority to foster and increase competition for Outer Continental Shelf leases.

This authority reflects Congress' belief that there is a need for increased competition in this area if the Nation's energy needs are to be met over the next decades.

In order to carry out this mandate, Government entities charged with responsibilities under the Outer Continental Shelf Lands Act must be able to acquire sufficient information about the effects of joint ventures and vertical integration on competition for Outer Continental Shelf leases.

This information is essential to the antitrust review to be performed by the Attorney General, in consultation with the FTC, in commenting both on proposed lease sales and on Outer Continental Shelf leasing programs.

This information also is essential for effective antitrust enforcement by the FTC and the Department of Justice in this important area.

Mr. Chairman, you have our written statement. I thank you for the opportunity to present oral views on behalf of Mr. Dougherty, and would be glad to answer any questions.

The CHAIRMAN. Mr. Belsky?

Mr. BELSKY. The questions relate primarily, first of all, to the consultation process between the Department of Justice and FTC.

I would like to ask Mr. Flexner, if I can, have you started to establish any formal procedures for the coordination process with FTC at the various stages required by the Outer Continental Shelf Act?

Mr. FLEXNER. We have. Mr. Kaplan, who is the chief of the Antitrust Division's energy section, and Mr. Rowe have already met and begun to discuss the process by which the antitrust review procedures will be implemented.

This will be a continuing process and will cover not only our respective information needs, but also the criteria by which we will implement our antitrust review responsibility.

Mr. BELSKY. Let me follow that up, if I can. As you might recall in April of 1978, after the Southeast Georgia Embayment sale, the FTC Bureau of Competition filed a report describing what they felt were some of the competitive problems dealing with that sale.

Obviously this report went to you and it also went to DOE and DOI.

First, let me ask the FTC, Mr. Rowe, what was their response to your report, and do you think it affected in any way, shape or form their decisionmaking?

Mr. ROWE. The last part of your question, first, Mr. Belsky.

I don't think that it significantly affected the outcome. As for fomenting consideration within the Departments of Interior and Energy, as well as between our two agencies responsible for enforcing the antitrust laws, the FTC and Justice, I think it has been extremely valuable in getting those people together whose consultation is necessary for implementation of competition in this important area.

Mr. BELSKY. Why didn't the Department of Justice file a competition report for that lease sale?

Mr. FLEXNER. The important reason was that we did not have sufficient information to make a judgment about the nature of the relevant market, which is a primary reason that we were not then in a position to evaluate the FTC's judgment.

In general, the information that we will need to make a determination about the relevant market is quite complex.

We will need information about the kind and quality of crude oil, the costs of refining, the costs of transportation, the nature of joint ventures that may be prevalent in the area.

We were not at that time in a position to either have at our disposal that kind of information or to be in a position to analyze it.

Mr. BELSKY. If I can ask Mr. Kalter, there was a recent report that the Department of Energy is still considering regulations that would require the Department of Interior to conduct its own pre-sale and postsale competitive review, despite the fact that the Outer Continental Shelf bill provides for such review by the Attorney General in consultation with the FTC.

I think that proposal was mentioned as originally coming from the Department of Justice, as a recommendation to DOE. What is

the status of that recommendation now in light of the passage of the amendments?

Mr. KALTER. That is correct. The original reason DOE started to consider the regulations was because of Mr. Schenefield's letter of last January 28 to Barbara Heller saying in effect that DOE would have to have regulations in place for the Secretary of Interior to deny leases under an anticompetitive review.

We began discussions with both Justice and the Federal Trade Commission on the subject and have had extensive discussions now over a number of months on that issue.

After the passage of the amendments, the staff at the Justice Department informed us that such regulations may no longer be necessary because of the passage of the amendments, and the Justice Department is now reconsidering their January 1979 letter, as I understand it.

We are waiting for word on that reconsideration before we decide whether to go ahead with the regulations in this area or not.

Mr. FLEXNER. Let me follow up on that because I think I can provide some more current information.

We have written a letter over John Schenefield's signature advising the Department of Interior that the promulgation of regulations in light of the 1978 amendments is no longer necessary to carry out the competitive leasing review.

That is because the statute is sufficiently specific that notice to firms that would engage in the leasing process will be adequate.

Mr. BELSKY. If I can just ask a final question dealing with these competitive reviews. The witnesses yesterday, the environmental witnesses, and the witnesses from Energy Action, and the State witnesses today, raised particular competition concerns—and Mr. Hughes raised them as well—about the second Baltimore Canyon lease sale because there is a present Baltimore leasing going on, and we don't know what is there, et cetera.

Do you think there is going to be any problems either from the Department of Justice point of view or the FTC point of view about having an effective antitrust review of the bids in February of 1979, the next Baltimore Canyon lease sale?

Mr. FLEXNER. From our perspective we will do an antitrust review of that lease sale.

Whether it will be necessary to render advice pro or con to the Department of Interior is yet to be seen. We will do a lease review in connection with that sale.

Mr. BELSKY. FTC?

Mr. ROWE. Pardon me?

Mr. BELSKY. Will you also prepare a review, or work together with Justice on such a review?

Mr. ROWE. Within our framework, hopefully of cooperation, we will be consulting with the Department of Justice on this lease sale. One issue, in reviewing the comments of groups like Energy Action, that perhaps deserves some scrutiny, is whether there are differing types of structures offshore. For example, in the Baltimore Canyon there is the view presented by some that you don't get much information by drilling in wide areas because of the fact that the structures are not as homogenous as perhaps they are in the gulf region.

This and other issues may make competition review somewhat murky in that period of time. But we will attempt to get the most information we can, hopefully to have something to offer in the way of competition review.

Now, again, running through our comments this morning and overlying this entire scheme of competition review is whether or not sufficient information about the facts and circumstances of these lease sales will be available for such review.

Mr. BELSKY. Mr. Kalter, a technical question arose this morning and yesterday. I don't know if you will be able to answer it.

API and some of the others were concerned about the 3 cent per barrel fee—

Mr. KALTER. On what, royalty oil?

Mr. BELSKY. No, for the oil spill pollution fund—and whether or not DOE would include this as a recoverable cost for the companies, so therefore it will be passed off to the consumer, the eventual consumer—adding on to the wellhead price—or whether or not it will have to be taken out of profits.

Do you have any idea what DOE in particular, I guess FERC, and I forget the name of the particular unit in DOE, are doing about this, or could you find out?

Mr. KALTER. Mr. Belsky, I could find out, but I don't know at the moment. Are you referring specifically to how this would be treated in a profit-sharing plan or in general?

Mr. BELSKY. The tax itself, the 3 cent per barrel fee. The question is whether it would be recoverable as an addition to the posted wellhead price.

Mr. KALTER. That is not my area, but I can find out for you and let you know.

The CHAIRMAN. Miss Kish?

Ms. KISH. Mr. Flexner, you referred in your remarks to the Chevron request to allow an opportunity for joint bids. I wonder if you will be participating in hearings DOI is holding, or at least if your views will be submitted for the record.

Mr. FLEXNER. We are participating in the sense that we are offering the lines of questions that ought to be pursued in order to determine whether or not it is essential for Chevron to participate in a joint venture, in order to participate in the subject lease sales.

Ms. KISH. But you will not present a statement for the record, then?

Mr. FLEXNER. We have no intention of presenting a statement as such.

Ms. KISH. Thank you.

The CHAIRMAN. Mr. Bedell?

Mr. BEDELL. Thank you, Mr. Chairman.

Mr. Kalter, in your testimony you mentioned with regard to the net profit share bidding system that you have undertaken or have contracted for a couple of studies. I think we would like to have those submitted to the committee when they become available.

We would like to solicit your cooperation in trying to keep the committee and the Congress informed as we go along the road, as you do other studies. We will be in contact with you and we appreciate your help in the past in these areas.

Mr. KALTER. The first study I mentioned in my testimony is not a contract. It is an in-house, our office study. As soon as it is typed we can get it up to the committee.

The second study is a contract with an accounting firm, and that report is due in January. We will get that to the committee as soon as it is available.

Mr. BEDELL. Mr. Chairman, we do have other questions which we would like to submit for the record. I guess I just have one little question I would like to ask. It has been playing on my mind for quite a while.

What is competition in the oil industry, in the view of the administration? What are you shooting for, in other words? Everybody says we have got to increase competition without defining it.

We had a lot of testimony over about 3½ years ago from independent producers, saying that they were happy with the bonus bid system and were effectively competing under it.

Apparently that is not a very good system according to all the analyses you folks have been through, and you are going to improve the situation.

I just wonder if you have in mind some sort of a goal. Are you going to make Pogo Producing have an equal chance of success in bidding on a tract as Exxon?

Mr. FLEXNER. I think the answer is easiest to provide in terms of what we would like to see not happen, rather than in terms of what we would like to see happen.

First, we want to insure that markets for production of crude oil remain competitively structured, and thus that there are no incentives to the extent that we can prevent them from occurring to withhold production and raise prices artificially.

Second, and in furtherance of that goal, we want to insure that the leasing system provides the maximum opportunity for competition among bidders. The flip side of that is to insure that there is not an opportunity for bidders to collude.

Third, we want, to the extent that we can, to be sure that the downstream markets that are implicated by vertically integrated companies are not negatively affected, for example, by the manipulation of pipeline throughput.

In that regard, we think that the addition to the Outer Continental Shelf Lands Act amendments, provisions governing fair and nondiscriminatory access, and for the opportunity for the Federal Energy Regulatory Commission under certain circumstances to expand pipeline capacity is a salutary provision.

So, in general, those are our objectives insofar as Outer Continental Shelf leasing is concerned.

Mr. BEDELL. Thank you.

The CHAIRMAN. Mr. Rowe, you indicated that an integrated oil company, one that would have a source for oil or gas, pipeline and a refinery, that you would probably suspect them more than a nonintegrated company.

Yet Mr. Flexner just says that they want to be sure that there is fair and nondiscriminatory access.

How do you justify your statement about the integrated company vis-a-vis its competition?

Mr. ROWE. With reference to the integrated company, which has—

The CHAIRMAN. Would you use the microphone, please?

Mr. ROWE [continuing]. Which has a large share in an important gathering system, deepwater ports, product—

The Chairman. There is only one deepwater port.

Mr. ROWE. —and with respect to the combination of that power over the the transportation of crude oil gathered in Outer Continental Shelf fields with refinery capacity, there exists the power to depress prices for crude oil firms which are potential producers, which do not have integration, which do not have access to pipelines, or rather, which do not have full access to pipelines, or which do not own refineries, so that they bear the full effects of such integration.

For example, if you are crude rich and you are forced to be satisfied with the current throughput through a system because you really have no economic justification for increasing your throughput because of the depressed prices for the crude, it doesn't really matter what type of increased or nondiscriminatory access you might have. There is no economic justification for you to increase that throughput.

Therefore, vertical integration can provide the companies which are the dominant companies the power to either depress crude oil prices or to enjoy subsidization benefits downstream.

We are very concerned that this potential be fully explored to make sure that it does not adversely affect and deter the motivations of smaller bidders who might provide useful competition in this area.

The CHAIRMAN. Who is trying to depress crude oil prices?

Mr. ROWE. Without speaking in terms of conduct, we are talking about the motivations of people who have various structural implications in their organizations.

For example, if you are rich in crude oil over and above every other functional level in the industry, your motive is to keep the price of crude oil high because you are a seller of crude oil.

If you are a refiner, and you are short, and you don't have access to crude, you are a buyer, and therefore your motivation is to keep the price as low as possible.

Where you combine these activities, where a company has this type of potential power to control the price of crude that they buy, refine, and sell, then it just gives them an inherent advantage over other firms which are not as well situated.

The CHAIRMAN. The only depression of crude oil prices that I have seen is to try to keep the OPEC price stable, let alone allow an increase. We have seen an artificial block on old crude here in this country which in effect has created and placed the American companies, particularly the integrated oil companies, at a total competitive disadvantage with their natural competition, national oil companies and as others call it, foreign flag oil companies.

It just seems to me if we are going to have Government agencies intruding in what are basic business judgments by a company because it is big, it certainly is not going to be in the best interests of the American consumer.

Mr. ROWE. With all due respect, Mr. Chairman, we are not interested in intruding on business judgments. We are interested in maintaining competition to the extent possible, and to the extent that we have responsibilities for maintaining competition, we have concerns about the ability of firms to have entry into these markets for offshore production of crude oil.

We are very concerned that in analyzing information which will become available, we can determine what motivates these companies not to bid, or to bid, for lease tracts, when they come up.

Why, in a recent lease sale, for example—lease sale 65, I believe the lease sale was—one of the major oil companies was able to pick up a small tract for \$188,000.

We don't have sufficient information at this time to make judgments as to the ultimate competitive impact of this complex area. But there are serious questions that must be resolved if we are going to assure that our economy in this area remains competitive.

The CHAIRMAN. Gentlemen, thank you. We will be seeing you next year.

Mr. ROWE. Thank you, Mr. Chairman.

Mr. FLEXNER. Thank you.

The CHAIRMAN. The next panel is the State Representative Panel: Commissioner Robert Armstrong, General Lands Office, State of Texas; Ms. Deni Greene, acting director, Governors Office of Planning and Research, State of California; Bob Weiss, Federal program specialist, Division of State Planning, State of Florida, with Murice Rinkel, assistant director, Florida Institute of Oceanography, State of Florida; Mr. Thomas Cook, director, Division of Minerals and Energy Management, State of Alaska, with Bruce Baker, policy and program specialist, Governors Office, State of Alaska.

**STATEMENTS OF ROBERT ARMSTRONG, COMMISSIONER, GENERAL LANDS OFFICE, STATE OF TEXAS; DENI GREENE, ACTING DIRECTOR, GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, STATE OF CALIFORNIA; BOB WEISS, FEDERAL PROGRAM SPECIALIST, DIVISION OF STATE PLANNING, ACCOMPANIED BY MURICE RINKEL, ASSISTANT DIRECTOR, FLORIDA INSTITUTE OF OCEANOGRAPHY, STATE OF FLORIDA; THOMAS COOK, DIRECTOR, DIVISION OF MINERALS AND ENERGY MANAGEMENT, ACCOMPANIED BY BRUCE BAKER, POLICY AND PROGRAM SPECIALIST, GOVERNOR'S OFFICE, STATE OF ALASKA**

The CHAIRMAN. Commissioner Armstrong, if you would proceed.

#### STATEMENT OF ROBERT ARMSTRONG

Mr. ARMSTRONG. Thank you very much, Mr. Chairman.

I am Bob Armstrong. I am commissioner of the General Land Office of the State of Texas. I am in the oil and gas leasing business in behalf of the people of the State of Texas. I have held this position for some 8 years.

Much of the testimony which you heard from the next preceding panel is very familiar to me and to the people that do the kinds of things that we do.

I very much appreciate the opportunity to be before the committee. It is not my first time, but I would like to limit my remarks, if I may, today to a problem which has come up fairly recently; that is, the implementation of the rules and procedures that will govern the tracts that are the so-called drainage or pool tracts with a common boundary between Outer Continental Shelf and the States.

Quite frankly, the letters which we have received from Interior under that amendment have had some rather, I would say—well, I am searching for a softer word—but we have had some problems, let me say.

The first thing that comes up—let me say this—is that we will have some 68 tracts at our next lease sale which will border Outer Continental Shelf. This is an extremely high number of Outer Continental Shelf boundary tracts compared to past history.

But the question that really comes up is what happens when we have already leased and have production in force at the time that a lease comes on stream or is anticipated by Interior. This is causing us some real difficulties.

The first suggestion that I would make is that we need to do something about how the apportionment is made as between the owners of that reservoir or pool, as the act calls it.

The act provides that this shall be done in dollars. I would suggest to you—and I came prepared to say—that I was very worried about the situation where the State had the higher royalty.

Therefore, you would be leasing at a sixth, which has been your practice. Ours is a fifth or a fourth, or in the instance of one tract which will be considered pretty soon 45 percent royalty to the State.

Is it really then fair to say that we are going to allocate on the basis of dollars as between the owners of that reservoir, or shouldn't we talk about allocations as between the gas or oil itself, which is the accepted industry procedure.

The effect of the bill would be to reduce the royalty of any party to the lowest common denominator in the pool if you are talking about sharing dollars. I think this is something that somebody ought to take a good hard look at because it may in fact result in a taking.

There is no mention of it in kind capability. Suppose that somebody wants to just take the gas itself, and how is that handled. I think that is something that needs to be dealt with in terms of subsequent legislation.

Then finally, the whole question of who is going to scientifically determine the limits of that pool. We have procedures in State government as between competing interests in a reservoir where the railroad commission or the deciding body takes literally months of testimony in order to finally ascertain ownership rights.

It is going to be very difficult, I think, to start allocating as between State and the United States, or as between two States, if there happens to be a common boundary, absent some sort of arbitration capability other than just an original proceeding in the Supreme Court of the United States, which I think would not be preferable.

But at least at this stage there are serious questions as to how you can scientifically determine that boundary, and whether this is done by putting certain sums into escrow, as is suggested, or certainly I hope we don't get to the point of talking about impoundment of funds because I think that really creates some serious problems.

But I would like to point out that I think we have a long way to go in this particular area. We would be very happy to work with you as far as trying to bring some of our experience to bear on the problem.

I think that we are faced now with I believe it is the fifth first lease sale which is upon us in the Texas-Louisiana OCS area, which will probably be rather heavily protested at least to the extent of these common boundary tracts.

One major problem is that the act, as you recall, provides for 90 days' notice for the State and the Federal Government to get together, and the notice for that sale which is pending on, I believe, the 19th of this month only reached the State of Texas on November 2 and I think was transmitted somewhere in that area. So, we have those problems.

I didn't come to be totally negative. I commend you for the way that you are looking at the ways that you might lease because I think the Federal Government generally has been slow to recognize that there may be more and fairer revenues that can be returned for the leasing of public oil and gas.

I think it is time that we start that.

Thank you.

The CHAIRMAN. Congressman Breaux spent about 1 hour with Interior this morning going over this very issue.

Mr. ARMSTRONG. I apologize. I was not aware of that. I hope I didn't trespass.

The CHAIRMAN. No; you didn't. I think you probably supplemented it.

Miss Deni Greene?

#### STATEMENT OF MS. DENI GREENE

Ms. GREENE. I am Deni Greene.

We saw the intent of these amendments to be a mandate to the Department of the Interior to make fundamental changes in its approach to the management and development of Outer Continental Shelf resources. Only by such fundamental changes can the inefficiencies, legal controversies, and delays of past leasing programs be avoided. Yet to date the fundamental changes have not occurred nor any indication that such changes are even contemplated. California has worked hard to assure that orderly and balanced Outer Continental Shelf leasing and development of offshore oil and gas resources occurs. My office has been working in close cooperation with the Bureau of Land Management on lease sale 48 offshore of southern California and is also directly involved in facilitating permanent approvals of three Outer Continental Shelf platform proposals.

Historically California has suffered from an unreasonable, unresponsive and mismanaged Federal leasing program. It is with pro-

found relief that we welcome the new era of Federal and State cooperation in the management of offshore oil and gas resources proclaimed in these amendments. The amendments, however, have created several areas of confusion, and have not corrected some of the basic faults of the Outer Continental Shelf leasing program.

The amendments provide several opportunities for comments by State and local governments on the proposed leasing program for the Outer Continental Shelf, on areas selected for environmental analysis in a lease sale environmental impact statement, and on the lease sale itself. If comments made by an affected State or local government are not seriously considered by the Federal agencies under the Department of the Interior, then why encourage these comments? Unfortunately California has experienced a totally unresponsive attitude by Federal agencies during lease sales 35 and 48, off southern California, and the recent call for nominations for lease sale No. 53 off central and northern California.

California State agencies, local government, and environmental groups spent a considerable amount of time and energy developing negative nominations for lease sale No. 53. Specific negative nominations of tracts and general concerns were forwarded to the BLM Pacific Outer Continental Shelf office in Los Angeles and to Secretary of the Interior Andrus. Our major problem is that neither the negative nominations nor positive nominations, for that matter, seem to affect the BLM/USGS recommendation. Having a negative nomination process raises expectations that these nominations will influence the tract selection process, but that has not been the case.

Outer Continental Shelf leasing is for oil and gas development, so the tracts recommended for the environmental impact statement are those of the highest oil and gas potential as estimated by USGS. Since USGS petroleum resource estimates are of course not influenced by environmental or human impact concerns, the negative nomination process is without reason and basically a sham.

State and local governments can ill afford to engage in futile exercises of this nature. The negative nominations process creates expectations that are not met or not intended to be met in the first place.

We recommend that something be done to improve the negative nominations process. In my full testimony I have offered several alternatives.

One of the exclusively stated purposes of the amendments of 1978 is to assure that States and local governments that are directly affected by Outer Continental Shelf activities are provided an opportunity to participate in policy and planning decisions related to management of the resources of the Outer Continental Shelf. We do not believe that either the letter or the spirit of this mandate is fulfilled by soliciting State and local concerns and then basing decisions strictly on information about oil and gas potential.

One of California's chief concerns when the Outer Continental Shelf Lands Act amendments were before Congress was that the new amendments specify who has jurisdiction for enforcing air quality regulations on the Outer Continental Shelf. The Secretary of Interior was given that authority. The amendments, however, fail to state whether the Secretary will develop his own regulations

for the attaining of State and Federal ambient air quality standards by Outer Continental Shelf projects or incorporate the regulatory framework of the Clean Air Act.

The Department of the Interior has repeatedly stated to us that an Outer Continental Shelf air quality control program would soon be implemented so that Outer Continental Shelf development will not interfere with State air planning efforts. This has not yet taken place.

As you are probably aware, all States are now in the final process of preparing their State implementation plans, as required under the Clean Air Act, but by July of 1979 EPA must certify that this plan demonstrates attainment of State and Federal standards or else the State faces mandatory sanctions.

Because the plan must be submitted within a few months to EPA, and because several Outer Continental Shelf projects are now in the State permit process, we strongly advise this committee to instruct the Secretary of the Interior to act on the following concerns: We wish to see an announcement by the Secretary which Federal agency will administer Outer Continental Shelf air quality programs. Following that announcement we would like to see speedy issuance of regulations or guidelines specifying the standards and procedures to insure compliance by Outer Continental Shelf operators with State and Federal air quality regulations to insure attainment and maintenance of all relevant standards.

We would like to see immediate consultation by the agency designated with the State and local air quality control agencies to insure concurrence with the proposed standards and procedures.

Finally we would like to see a development of schedule for implementation of the Outer Continental Shelf air quality program so that State and local government air agencies can move forward with their planning and permit processing efforts without delay or litigation. These actions are necessary so that air pollution emissions from Outer Continental Shelf developments are regulated in a manner consistent with the State's limitation plan.

Another area of confusion is in the proper role of local governments in a lease sale process. Section 102 of the amendments provides an indirect role for local governments in policy and planning decisions. Local governments are instructed to act through the affected State. However, section 208 of the act provides for direct comment of local governments to the Secretary of the Interior, with regard to the leasing program, location of a proposed lease sale, and the environmental studies program. Because of the ambiguity, local governments have expressed the concern that Federal agency officials may not respond to legitimate comments raised by local officials unless passed through the State. This can be remedied if the Secretary of State clearly announces by regulations that where Outer Continental Shelf activities directly impact on a local area that area's officials are entitled to direct communication with the appropriate Federal agency representative. On matters of statewide concern local governments should continue to express their viewpoints through State government.

Another area where Federal, State, and local cooperation should be encouraged is the preparation of joint environmental documentation for development projects. In an era of greater efficiency by

Government, a joint environmental study greatly reduces regulatory costs and misunderstandings.

For example, in California the Sohio project had two environmental studies, one Federal and one State. Such waste and duplication of effort prompted our office to bring together Federal, State, and local agencies to work with Outer Continental Shelf development operators in a cooperative manner so that only one study would be conducted for each Outer Continental Shelf project.

Such a joint effort encourages early communication between all parties, and often allows for mediation of disputes while the project is still in a flexible stage.

In addition to cost savings in mediation of disputes, such joint studies save time in the permit process, which is important.

We have accomplished two joint agreements between the Federal, State, and local agencies, and are attempting to work on a third at the moment. These would be made easier if there was a strong policy statement at the Federal level encouraging Federal agencies to cooperate with State and local government in preparation of joint environmental documents for Outer Continental Shelf development projects.

I will omit much of my testimony because it is in the record, and to save time.

Finally, to conclude, State and local governments in California have been given an overwhelming mandate to realine their priorities, to cut back expenditures, and to improve the efficiency of the regulatory process. The Federal Government and other States are now beginning to also experience these fiscal constraints. These events are taking place at a time when Outer Continental Shelf exploration and development is intensifying.

We applaud the passage of the new Outer Continental Shelf Lands Act amendments and the policy intent of the Congress that the Federal Government work in close partnership with the States and local governments in the management of this resource. Our interpretation of the new amendments is that Outer Continental Shelf development should be expedited with a full guarantee of environmental protection.

In addition, the regulatory process should be conducted in the most efficient manner possible. We will be governed by the efforts, and such actions as are evident of new techniques to improve communication between all parties and cut costs. Why are we considering the passage of the amendments an important legislative contribution to the solution of energy policy problems? We see them only as the first step in changing the way Outer Continental Shelf resources have been managed. An essential next step is for the Department of the Interior to develop procedures that carry forth the spirit of these amendments. We would like to see the development of a leasing program that does not start with a schedule of lease sales. We would like to see the Federal, State, and local governments working together at a stage in the planning process when decisions are still flexible and when a variety of options are still open.

We are not comfortable in the role of nay-sayer or critic. We would like to be and we believe the Outer Continental Shelf amendments intended us to be constructive partners with the Fed-

eral Government, working together to plan for management of Outer Continental Shelf resources.

Thank you.

[The prepared statement follows:]

TESTIMONY OF  
DENI GREENE, DEPUTY DIRECTOR  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE OF CALIFORNIA  
SUBMITTED TO THE  
HOUSE-SENATE CONFERENCE COMMITTEE ON OCS LANDS ACT AMENDMENTS

I AM DENI GREENE, DEPUTY DIRECTOR OF THE CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH. I APPRECIATE THIS OPPORTUNITY TO EXPRESS TO THE DISTINGUISHED MEMBERS OF THIS COMMITTEE SOME OF CALIFORNIA'S CONCERNS ABOUT THE RECENTLY ENACTED OUTER CONTINENTAL LANDS ACT AMENDMENTS OF 1978, AND ABOUT WEAKNESSES IN THE PRESENT OCS LEASING SYSTEM.

MY TESTIMONY REPRESENTS THE VIEWS NOT ONLY OF THE STATE OF CALIFORNIA BUT ALSO SUPERVISORS IN THE COUNTIES OF HUMBOLDT, MENDOCINO, SAN LUIS OBISPO, SAN MATEO, MONTEREY, SANTA BARBARA, SONOMA, SAN DIEGO, SANTA CRUZ, MARIN, SAN FRANCISCO, AND VENTURA.

CALIFORNIA HEARTILY ENDORSED THE PASSAGE OF THE NEW OCS LANDS ACT AMENDMENTS. GOVERNOR BROWN AND MEMBERS OF HIS ADMINISTRATION APPEARED BEFORE THE HOUSE AD HOC SELECT COMMITTEE ON THE OCS ON NUMEROUS OCCASIONS VIGOROUSLY SUPPORTING THESE AMENDMENTS. WE SAW THE INTENT OF THESE AMENDMENTS TO BE A MANDATE TO THE DEPARTMENT OF THE INTERIOR TO MAKE FUNDAMENTAL CHANGES IN ITS APPROACH TO THE MANAGEMENT AND DEVELOPMENT OF OCS RESOURCES. ONLY BY SUCH FUNDAMENTAL CHANGES CAN THE INEFFICIENCIES, LEGAL CONTROVERSIES AND DELAYS OF PAST LEASING PROGRAMS BE AVOIDED. YET, TO DATE, WE HAVE SEEN NEITHER FUNDAMENTAL CHANGES NOR ANY INDICATION THAT SUCH CHANGES ARE CONTEMPLATED. CALIFORNIA HAS WORKED HARD TO

ASSURE THAT ORDERLY AND BALANCED OCS LEASING AND DEVELOPMENT OF OFFSHORE OIL AND GAS RESOURCES OCCURS. MY OFFICE HAS BEEN WORKING IN CLOSE COOPERATION WITH THE BUREAU OF LAND MANAGEMENT ON LEASE SALE #48 OFFSHORE OF SOUTHERN CALIFORNIA AND IS ALSO DIRECTLY INVOLVED IN FACILITATING PERMIT APPROVALS OF THREE OCS PLATFORM PROPOSALS.

HISTORICALLY CALIFORNIA HAS SUFFERED FROM AN UNREASONABLE, UNRESPONSIVE, AND MISMANAGED FEDERAL LEASING PROGRAM. IT IS WITH PROFOUND RELIEF THAT WE WELCOME THE NEW ERA OF FEDERAL AND STATE COOPERATION IN THE MANAGEMENT OF OFFSHORE OIL AND GAS RESOURCES PROCLAIMED IN THE AMENDMENTS.

THE AMENDMENTS, HOWEVER, HAVE CREATED SEVERAL AREAS OF CONFUSION, AND HAVE NOT CORRECTED SOME OF THE BASIC FAULTS OF THE OCS LEASING PROGRAM.

#### OCS LEASING PROGRAM

THE AMENDMENTS PROVIDE SEVERAL OPPORTUNITIES FOR COMMENTS BY STATE AND LOCAL GOVERNMENTS ON THE PROPOSED LEASING PROGRAM FOR THE OCS, ON AREAS SELECTED FOR ENVIRONMENTAL ANALYSIS IN A LEASE SALE EIS, AND ON THE LEASE SALE ITSELF. IF COMMENTS MADE BY AN AFFECTED STATE OR LOCAL GOVERNMENT ARE NOT SERIOUSLY CONSIDERED BY THE FEDERAL AGENCIES UNDER THE DEPARTMENT OF INTERIOR THEN WHY ENCOURAGE THESE COMMENTS? UNFORTUNATELY, CALIFORNIA HAS EXPERIENCED AN UNRESPONSIVE ATTITUDE BY FEDERAL AGENCIES DURING LEASE SALES #35 AND #48, OFFSHORE SOUTHERN CALIFORNIA, AND IN THE RECENT CALL FOR NOMINATIONS FOR LEASE SALE #53 OFF CENTRAL AND NORTHERN CALIFORNIA.

CALIFORNIA STATE AGENCIES, LOCAL GOVERNMENT AND ENVIRONMENTAL GROUPS SPENT A CONSIDERABLE AMOUNT OF TIME AND ENERGY DEVELOPING NEGATIVE NOMINATIONS FOR LEASE SALE #53. SPECIFIC NEGATIVE NOMINATIONS OF TRACTS AND GENERAL CONCERNS WERE FORWARDED TO THE BLM PACIFIC OCS OFFICE IN LOS ANGELES AND TO SECRETARY OF INTERIOR ANDRUS. OUR MAJOR PROBLEM IS THAT NEITHER THE NEGATIVE NOMINATIONS, NOR POSITIVE NOMINATIONS, FOR THAT MATTER, SEEM TO AFFECT THE BLM/USGS RECOMMENDATION ON TRACTS TO BE RETAINED FOR EVALUATION IN THE EIS. HAVING A NEGATIVE NOMINATION PROCESS RAISES EXPECTATIONS THAT THESE NOMINATIONS WILL INFLUENCE THE TRACT SELECTION DECISION. THIS HAS NOT BEEN THE CASE.

OCS LEASING IS FOR OIL AND GAS DEVELOPMENT. SO THAT TRACTS RECOMMENDED FOR THE ENVIRONMENTAL IMPACT STATEMENT ARE THOSE WITH THE HIGHEST OIL AND GAS POTENTIAL, AS ESTIMATED BY USGS. SINCE USGS PETROLEUM RESOURCE ESTIMATES ARE, OF COURSE, NOT INFLUENCED BY ENVIRONMENTAL IMPACT CONCERNS, THE NEGATIVE NOMINATION PROCESS IS WITHOUT REASON.

STATE AND LOCAL GOVERNMENTS CAN ILL AFFORD TO ENGAGE IN FUTILE EXERCISES OF THIS NATURE. THE NEGATIVE NOMINATIONS PROCESS CREATES EXPECTATIONS THAT ARE NOT MET AND WERE NOT INTENDED TO BE MET IN THE FIRST PLACE.

WE RECOMMEND THAT SOMETHING BE DONE TO IMPROVE THE NEGATIVE NOMINATIONS PROCESS:

1. MAKE THE NOMINATION PROCESS MORE SENSITIVE TO ENVIRONMENTAL CONCERNS. THE SECRETARY SHOULD RESPOND TO NEGATIVE NOMINATIONS BY EITHER DELETING TRACTS BASED ON ENVIRONMENTAL CONCERNS OR

JUSTIFY THE REASONS FOR SELECTION OF TRACTS FOR INCLUSION IN THE EIS DESPITE SIGNIFICANT OBJECTIONS.

2. RESTRUCTURE THE PROCESS. FIRST HAVE THE INDUSTRY POSITIVELY NOMINATE TRACTS. MAKE A PRELIMINARY SELECTION OF TRACTS BASED ON RESOURCE POTENTIAL AND INDUSTRY INTEREST AND THEN SOLICIT NEGATIVE NOMINATIONS. THIS SEPARATION OF THE PROCESS WOULD ALLOW STATE AND LOCAL GOVERNMENTS TO CONCENTRATE ONLY ON THE AREAS PROPOSED FOR DRILLING, AND NOT THE ENTIRE CALL AREA. THE SECRETARY COULD THEN MAKE A FINAL TRACT SELECTION. IF HE OVERRULES THE NEGATIVE NOMINATIONS SUBMITTED ON CERTAIN TRACTS, THOSE TRACTS COULD THEN BE GIVEN SPECIAL ATTENTION IN THE EIS.
3. IF THE SECRETARY IS NOT GOING TO CONSIDER ENVIRONMENTAL CONCERNS BEFORE SELECTING TRACTS FOR INCLUSION IN THE EIS, THEN NEGATIVE NOMINATIONS SHOULD BE SOLICITED ONLY AS INPUT INTO THE EIS AND NOT PRIOR TO THE TRACT SELECTION PROCESS.

ONE OF THE EXPLICITLY STATED PURPOSES OF THE AMENDMENTS OF 1978 IS TO ASSURE THAT STATES AND LOCAL GOVERNMENTS DIRECTLY AFFECTED BY OCS ACTIVITIES ARE PROVIDED AN OPPORTUNITY TO PARTICIPATE IN POLICY AND PLANNING DECISIONS RELATED TO MANAGEMENT OF THE RESOURCES OF THE OCS. WE DO NOT BELIEVE THAT EITHER THE LETTER OR SPIRIT OF THIS MANDATE IS FULFILLED BY SOLICITING STATE AND LOCAL CONCERNS AND THEN BASING DECISIONS STRICTLY ON INFORMATION ABOUT OIL AND GAS POTENTIAL.

#### ENVIRONMENTAL STUDIES

ANOTHER WEAKNESS IN THE OCS LEASING PROGRAM WHICH THE AMENDMENTS FAILED TO IMPROVE IS THE TIMING OF ENVIRONMENTAL STUDIES. THE

VALUE OF AN ACCURATE AND COMPLETE ENVIRONMENTAL RESOURCE DATA BASE IS LOST WHEN THIS INFORMATION BECOMES AVAILABLE AFTER THE COMMITMENT TO LEASE AN AREA IS MADE. THE SECRETARY OF INTERIOR, AS WELL AS STATE AND LOCAL GOVERNMENTS, CANNOT BALANCE ENVIRONMENTAL CONCERNS AGAINST THE BENEFITS OF OIL AND GAS PRODUCTION WHEN THE INFORMATION NECESSARY TO MAKE THIS JUDGEMENT IS INCOMPLETE.

UNDER SECTION 208 SUBSECTION 20 OF THE NEW AMENDMENTS THE SECRETARY OF INTERIOR IS DIRECTED TO ESTABLISH REGULATIONS FOR CONDUCTING ENVIRONMENTAL STUDIES. WE RECOMMEND THAT THESE REGULATIONS PROVIDE FOR THE COMPLETION OF REGIONAL ENVIRONMENTAL STUDIES BEFORE THE DECISION TO HOLD THE LEASE SALE IS MADE.

THIS IS CRITICAL BECAUSE ENVIRONMENTAL STUDIES FOR SOUTHERN CALIFORNIA ARE STILL BEING CONDUCTED SEVERAL YEARS AFTER TWO LEASE SALES WERE HELD AND THE EIS WAS WRITTEN. WHATEVER DAMAGE THAT HAS OCCURRED AS A RESULT OF OCS ACTIVITY OFF SOUTHERN CALIFORNIA CAN ONLY BE MONITORED AT THIS STAGE, NOT PREVENTED. THE TIMING OF THESE STUDIES THEN IS ESPECIALLY CRUCIAL FOR FRONTIER AREAS, SUCH AS IN LEASE SALE #53, WHERE NO OCS DEVELOPMENT HAS OCCURRED. COMPLETION OF THESE STUDIES BEFORE A LEASE SALE DECISION DOES NOT NECESSARILY MEAN A DELAY IN THE LEASING PROCESS. CALIFORNIA STRONGLY CONTENDS THAT ALL ENVIRONMENTAL DOCUMENTATION CAN BE COMPLETED AND MADE AVAILABLE TO THE SECRETARY SO THAT HE HAS A COMPLETE PICTURE OF THE ENVIRONMENTAL CONDITIONS, RISKS AND HAZARDS AT THE TIME WHEN THE DECISION TO LEASE A TRACT IS MADE. TO GO FORWARD WITHOUT COMPLETE ENVIRONMENTAL DOCUMENTATION INVITES LITIGATION CHALLENGING THE DECISION TO LEASE AND THEREBY PREVENTS EXPEDITIOUS DEVELOPMENT.

## AIR QUALITY

ONE OF CALIFORNIA'S CHIEF CONCERNS WHEN THE OCS LANDS ACT AMENDMENTS WERE BEFORE CONGRESS WAS THAT THE NEW AMENDMENTS SPECIFY WHO HAS JURISDICTION FOR ENFORCING AIR QUALITY REGULATIONS ON THE OCS. THE SECRETARY OF INTERIOR WAS GIVEN THAT AUTHORITY. THE AMENDMENTS, HOWEVER, FAILED TO STATE WHETHER THE SECRETARY WILL DEVELOP HIS OWN REGULATIONS FOR THE ATTAINING OF STATE AND FEDERAL AMBIENT AIR QUALITY STANDARDS BY OCS PROJECTS OR INCORPORATE THE REGULATORY FRAMEWORK OF THE CLEAN AIR ACT.

THE DEPARTMENT OF INTERIOR HAS REPEATEDLY STATED TO US THAT AN OCS AIR QUALITY CONTROL PROGRAM WOULD BE SOON IMPLEMENTED SO OCS DEVELOPMENT WILL NOT INTERFERE WITH STATE AIR PLANNING EFFORTS. THIS HAS NOT TAKEN PLACE. AS YOU ARE PROBABLY AWARE, ALL STATES ARE NOW IN THE FINAL PROCESS OF PREPARING THEIR STATE IMPLEMENTATION PLAN (SIP) AS REQUIRED UNDER THE CLEAN AIR ACT. BY JULY 1979, EPA MUST CERTIFY THAT THIS PLAN DEMONSTRATES ATTAINMENT OF STATE AND FEDERAL STANDARDS OR ELSE THE STATE FACES MANDATORY SANCTIONS. BECAUSE THE PLAN MUST BE SUBMITTED WITHIN A FEW MONTHS TO EPA AND BECAUSE SEVERAL OCS PROJECTS ARE NOW IN THE STATE PERMIT PROCESS WE STRONGLY ADVISE THIS COMMITTEE TO INSTRUCT THE SECRETARY OF INTERIOR TO ACT ON THE FOLLOWING CONCERNS:

1. ANNOUNCEMENT BY THE SECRETARY WHICH FEDERAL AGENCY WILL ADMINISTER THE OCS AIR QUALITY CONTROL PROGRAM;
2. FOLLOWING THAT ANNOUNCEMENT, THE SPEEDY ISSUANCE OF REGULATIONS OR GUIDELINES SPECIFYING STANDARDS AND PROCEDURES TO ENSURE COMPLIANCE BY OCS OPERATORS WITH STATE AND FEDERAL AIR QUALITY REGULATIONS TO INSURE ATTAINMENT AND MAINTENANCE OF ALL RELEVANT STANDARDS.

3. IMMEDIATE CONSULTATION BY THAT DESIGNATED FEDERAL AGENCY WITH THE STATE AND LOCAL AIR QUALITY CONTROL AGENCIES TO ENSURE CONCURRENCE WITH THE PROPOSED STANDARDS AND PROCEDURES;
4. DEVELOPMENT OF A SCHEDULE FOR IMPLEMENTATION OF THE OCS AIR QUALITY CONTROL PROGRAM SO THAT STATE AND LOCAL GOVERNMENT AIR AGENCIES CAN MOVE FORWARD WITH THEIR PLANNING AND PERMIT PROCESSING EFFORTS WITHOUT DELAY OR LITIGATION.

THESE ACTIONS ARE NECESSARY SO THAT AIR POLLUTANT EMISSIONS FROM OCS DEVELOPMENTS ARE REGULATED IN A MANNER CONSISTENT WITH THE STATE'S IMPLEMENTATION PLAN.

#### LOCAL GOVERNMENT ROLE

ANOTHER AREA OF CONFUSION IS IN THE PROPER ROLE OF LOCAL GOVERNMENTS IN THE LEASE SALE PROCESS. SECTION 102 OF THE AMENDMENTS PROVIDES AN INDIRECT ROLE FOR LOCAL GOVERNMENTS IN POLICY AND PLANNING DECISIONS RELATING TO MANAGEMENT OF OCS RESOURCES. LOCAL GOVERNMENTS ARE INSTRUCTED TO ACT "THROUGH THE AFFECTED STATE". HOWEVER, SECTION 208 OF THE ACT PROVIDES FOR DIRECT COMMENT BY LOCAL GOVERNMENTS TO THE SECRETARY OF THE INTERIOR WITH REGARDS TO THE LEASING PROGRAM, LOCATION OF A PROPOSED LEASE SALE AND THE ENVIRONMENTAL STUDIES PROGRAM. BECAUSE OF THE AMBIGUITY, LOCAL GOVERNMENTS HAVE EXPRESSED THE CONCERN THAT FEDERAL AGENCY OFFICIALS MAY NOT RESPOND TO LEGITIMATE COMMENTS RAISED BY LOCAL OFFICIALS. THIS ISSUE IS REMEDIED IF THE SECRETARY CLEARLY ANNOUNCES BY REGULATION THAT WHERE OCS ACTIVITIES DIRECTLY IMPACT ON A LOCAL AREA, THAT AREA'S

OFFICIALS ARE ENTITLED TO DIRECT COMMUNICATION WITH THE APPROPRIATE FEDERAL AGENCY REPRESENTATIVES. ON MATTERS OF STATEWIDE CONCERN, LOCAL GOVERNMENTS SHOULD CONTINUE TO EXPRESS THEIR VIEWPOINT THROUGH STATE GOVERNMENT.

#### JOINT ENVIRONMENTAL STUDIES

ANOTHER AREA WHERE FEDERAL/STATE/LOCAL COOPERATION SHOULD BE ENCOURAGED IS THE PREPARATION OF JOINT ENVIRONMENTAL DOCUMENTATION FOR DEVELOPMENT PROJECTS. IN A POST PROPOSITION 13 ERA OF GREATER EFFICIENCY BY GOVERNMENT A JOINT ENVIRONMENTAL STUDY GREATLY REDUCES REGULATORY COSTS AND MISUNDERSTANDINGS. FOR EXAMPLE, THE LONG BEACH SOHIO PROJECT HAD TWO ENVIRONMENTAL STUDIES, ONE FEDERAL AND ONE STATE. SUCH WASTE AND DUPLICATION OF EFFORT PROMPTED OUR OFFICE, THE CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, TO BRING TOGETHER FEDERAL, STATE AND LOCAL AGENCIES TO WORK WITH OCS DEVELOPMENT OPERATORS IN A COOPERATIVE MANNER SO THAT ONLY ONE STUDY FOR EACH OCS PROJECT IS PREPARED. SUCH A JOINT EFFORT ENCOURAGES EARLY COMMUNICATION BETWEEN ALL PARTIES AND OFTEN ALLOWS FOR MEDIATION OF DISPUTES WHILE THE PROJECT IS STILL IN A FLEXIBLE STAGE. IN ADDITION TO COST SAVINGS AND MEDIATION OF DISPUTES, SUCH JOINT STUDIES SAVE TIME IN THE PERMIT PROCESS, WHICH IS ESPECIALLY NECESSARY IN CALIFORNIA WHERE STATE LAW IMPOSES STRICTLY MONITORED TIME PERIODS FOR PERMIT PROCESSING. ALTHOUGH THE AGREEMENTS TO PREPARE JOINT DOCUMENTS HAVE NOW BEEN SIGNED BY ALL CONCERNED PARTIES, COPIES OF WHICH ARE ATTACHED FOR YOUR CONSIDERATION, OUR TASK IN OBTAINING FEDERAL AGENCY APPROVAL OF THE IDEA WOULD HAVE BEEN EASIER

AND ACCOMPLISHED QUICKER IF A STRONG POLICY STATEMENT EXISTED AT THE FEDERAL LEVEL ENCOURAGING FEDERAL AGENCIES TO COOPERATE WITH STATE AND LOCAL GOVERNMENT IN PREPARATION OF JOINT ENVIRONMENTAL DOCUMENTS FOR OCS DEVELOPMENT PROJECTS.

#### CONSISTENCY REVIEW

SECTION 206 OF THE NEW AMENDMENTS HAS CREATED CONFUSION BY MAKING A DISTINCTION BETWEEN THE SECRETARY OF INTERIOR APPROVING A PLAN OF DEVELOPMENT OR EXPLORATION AND GRANTING A PERMIT TO CONDUCT AN ACTIVITY SPECIFIED IN THAT PLAN. THE SECRETARY IS GIVEN THIRTY DAYS TO APPROVE OR DISAPPROVE AN EXPLORATION OR DEVELOPMENT PLAN. THE SECRETARY, HOWEVER, CANNOT GRANT ANY LICENSE OR PERMIT ASSOCIATED WITH THAT PLAN UNTIL HE HAS OBTAINED A CONSISTENCY CERTIFICATION WITH A STATE'S APPROVED COASTAL ZONE MANAGEMENT PROGRAM.

THE CONSISTENCY CERTIFICATION REVIEW BY A STATE, UNDER RULES ESTABLISHED BY THE DEPARTMENT OF COMMERCE, CAN TAKE UP TO THREE MONTHS. A SITUATION COULD OCCUR WHERE THE SECRETARY APPROVES A PLAN, THE STATE DENIES CONSISTENCY CERTIFICATION, AND THE SECRETARY MUST THEN DENY A PERMIT FOR A PLAN HE HAS ALREADY APPROVED.

IN ORDER TO AVOID THIS SITUATION, THE SECRETARY, DURING THE 30 DAYS PROVIDED FOR GRANTING PLAN APPROVAL, SHOULD SEEK CONSULTATION WITH THE AFFECTED STATE ON THE GENERAL POLICY GUIDELINES FOR OCS DEVELOPMENT. A PLAN APPROVAL SHOULD ONLY BE GRANTED FOLLOWING CONSULTATION WITH THE STATE AND MITIGATION OF ANY ASPECTS OF THE PLAN THAT ARE INCONSISTENT WITH THESE POLICIES. THIS WOULD INSURE

COMMUNICATION BETWEEN ALL PARTIES AT THE EARLIEST STAGE IN THE PLANNING PROCESS.

ANOTHER PROBLEM IN THE AREA OF CONSISTENCY REVIEW IS THE DEFINITION OF ACTIVITIES FOR WHICH CONSISTENCY REVIEW MAY BE REQUIRED. THE COASTAL ZONE MANAGEMENT ACT PROVIDES FOR STATE REVIEW OF FEDERAL PERMIT ACTIVITIES THAT AFFECT THE COASTAL ZONE. IT IS NOT CLEAR, HOWEVER, FROM THE REGULATIONS PROMULGATED UNDER THAT ACT BY THE DEPARTMENT OF COMMERCE WHETHER THE DECISION TO HOLD A LEASE SALE COMES WITHIN THE AMBIT OF CONSISTENCY REVIEW. CURRENTLY CONSISTENCY REVIEW OCCURS ONLY AT THE POST-LEASE SALE STAGE. THIS PRECLUDES THE OPPORTUNITY FOR THE STATE TO IDENTIFY AREAS WHERE OCS DEVELOPMENT WOULD CLEARLY CONFLICT WITH THE STATE'S COASTAL MANAGEMENT PROGRAM. THE STATE'S CONSISTENCY REVIEW PROCESS THEN IS ONE OF AGREEING TO OR MODIFYING OCS PLANS IN AREAS ALREADY LEASED AND PAID FOR BY THE OIL INDUSTRY. WE URGE THIS COMMITTEE TO HELP RESOLVE THIS ISSUE BY DIRECTING THE DEPARTMENT OF COMMERCE TO PROVIDE THE STATES WITH SOME GUIDANCE IN INTERPRETING THEIR REGULATIONS IN HOPES OF RESOLVING THIS DEBATE IN A MANNER CONSISTENT WITH THE OBJECTIVES OF THE COASTAL ZONE MANAGEMENT ACT.

#### PRE-LEASE EXPLORATORY DRILLING

A FINAL CONCERN OF CALIFORNIA'S IS THE RECENT ANNOUNCEMENT BY THE DEPARTMENT OF INTERIOR TO ALLOW ON-STRUCTURE STRATIGRAPHIC TESTS IN THE UNLEASED AREAS OF THE OCS. THIS DECISION HAS CREATED A GREAT DEAL OF UNCERTAINTY AS TO WHETHER OR NOT SUCH ACTIVITIES AUTOMATICALLY FALL UNDER THE CONSISTENCY REVIEW PROVISIONS OF THE COASTAL ZONE MANAGEMENT ACT, OR WHETHER THEY CONSTITUTE A MAJOR

FEDERAL ACTION SUBJECT TO NEPA AND REQUIRING THE PREPARATION OF AN EIS, I AM AMAZED THAT THE DEPARTMENT OF INTERIOR WOULD ANNOUNCE THEIR INTENTIONS TO ALLOW THIS TYPE OF ACTIVITY WITHOUT FIRST HAVING DEVELOPED GUIDELINES OR REGULATIONS FOR THEIR CONDUCT AND WITHOUT MAKING A DETERMINATION OF WHETHER OR NOT SUCH ACTIVITY IS SUBJECT TO NEPA.

WE DO NOT BELIEVE THAT PRE-LEASE ON-STRUCTURE STRATIGRAPHIC TESTS CAN BE TREATED IN THE SAME WAY AS OFF-STRUCTURE DRILLING WHICH REQUIRES ONLY A CONSISTENCY CERTIFICATION. THE OBJECTIVE OF ON-STRUCTURE DRILLING IS THE ACTUAL DISCOVERY OF HYDROCARBONS. THE OBJECTIVE OF OFF-STRUCTURE DRILLING IS NOT TO DISCOVER HYDROCARBONS, BUT TO COLLECT EVIDENCE OF THE PRESENCE OF HYDROCARBONS. ON-STRUCTURE DRILLING INCREASE THE POTENTIAL RISK OF ENCOUNTERING A HIGH-PRESSURE ZONE THAT RESULTS IN A BLOW OUT SIMILAR TO THE ONE THAT OCCURED IN 1969 IN THE SANTA BARBARA CHANNEL. IT IS MY OPINION THAT ALLOWING ON-STRUCTURE DRILLING CLEARLY CONSTITUTES A FEDERAL ACTION RESULTING IN A POTENTIALLY SIGNIFICANT IMPACT ON THE ENVIRONMENT AND THEREFORE IS SUBJECT TO THE EIS REQUIREMENTS UNDER NEPA.

#### DUAL LEASING

A WAY THAT ON-STRUCTURE TESTS CAN PROCEED UNDER NEPA WITH THE FULL GUARANTEE OF ENVIRONMENTAL PROTECTION, AND STILL ACCOMPLISH THE OBJECTIVE OF OBTAINING MORE ACCURATE RESOURCE INFORMATION TO REALISTICALLY APPRAISE THE VALUE OF AN OCS TRACT, IS WITHIN THE FRAMEWORK PROVIDED BY A DUAL LEASING SYSTEM.

SEPARATING THE EXPLORATION PHASE FROM THE DEVELOPMENT PHASE AND PROVIDING FULL ENVIRONMENTAL PROTECTION AT EACH PHASE IS

DESIRABLE IN THAT IT ELIMINATES TRACTS THAT HAVE NO POTENTIAL FOR PRODUCIBLE QUANTITIES OF HYDROCARBONS FROM FURTHER ENVIRONMENTAL ANALYSIS. THIS IN TURN ALLOWS STATE AND LOCAL GOVERNMENTS TO FOCUS ON THE POSSIBLE IMPACTS OF DEVELOPING OF TRACTS THAT ACTUALLY HAVE THE POTENTIAL FOR PRODUCING HYDROCARBONS. WITH MORE ACCURATE RESOURCE ESTIMATES BETTER PRODUCTION FORECASTS WOULD BE AVAILABLE FOR PLANNING THE LOCATION OF ONSHORE FACILITIES AND MORE REALISTIC ESTIMATES OF ENVIRONMENTAL DAMAGE COULD BE MADE.

CALIFORNIA ENDORSES THE CONCEPT OF DUAL LEASING IF A FULL ENVIRONMENTAL ANALYSIS IS DONE BEFORE DEVELOPMENT LEASING. WHILE THE OCS LANDS ACT AMENDMENTS DID NOT CONTAIN PROVISIONS TO GIVE THE SECRETARY OF INTERIOR THE AUTHORITY TO CONDUCT DUAL LEASE SALES, THE CONFERENCE REPORT ON THE AMENDMENTS (PAGE 91) REQUESTS THE PREPARATION OF A REPORT EVALUATING THE DUAL LEASING OPTION, ITS ADVISABILITY, PRACTICALITY, COSTS, BENEFITS, AND RISKS. WE UNDERSTAND THAT DOI FOR ITS ANNUAL REPORT TO CONGRESS IS MAKING THIS EVALUATION. WE ARE CONVINCED THAT THIS ANALYSIS WILL SHOW THAT THE DUAL LEASING SYSTEM COULD PROVIDE GREATER EFFICIENCY IN THE WAY THIS NATION'S NATURAL RESOURCES ARE MANAGED.

#### CONCLUSION

STATE AND LOCAL GOVERNMENTS IN CALIFORNIA HAVE BEEN GIVEN AN OVERWHELMING MANDATE TO REALIGN THEIR PRIORITIES, CUT BACK ON EXPENDITURES AND TO IMPROVE THE EFFICIENCY OF THE REGULATORY PROCESS. THE FEDERAL GOVERNMENT AND OTHER STATES ARE NOW BEGINNING TO ALSO EXPERIENCE THESE FISCAL CONSTRAINTS. THESE EVENTS ARE

TAKING PLACE AT A TIME WHEN OCS EXPLORATION AND DEVELOPMENT IS INTENSIFYING. WE APPLAUD THE PASSAGE OF THE NEW OCS LANDS ACT AMENDMENTS AND THE POLICY INTENT OF THE CONGRESS THAT THE FEDERAL GOVERNMENT WORK IN CLOSE PARTNERSHIP WITH THE STATES AND LOCAL GOVERNMENTS IN THE MANAGEMENT OF THIS RESOURCE. OUR INTERPRETATION OF THE NEW AMENDMENTS IS THAT OCS DEVELOPMENT SHOULD BE EXPEDITED WITH A FULL GUARANTEE OF ENVIRONMENTAL PROTECTION. IN ADDITION, THE REGULATORY PROCESS SHOULD BE CONDUCTED IN THE MOST EFFICIENT MANNER POSSIBLE. WE HAVE BEGUN THIS EFFORT AND SUCH ACTIONS AS JOINT ENVIRONMENTAL STUDIES ARE EVIDENCE OF NEW TECHNIQUES TO IMPROVE COMMUNICATION BETWEEN ALL PARTIES AND CUT COSTS.

FINALLY, WE WANT TO SAY THAT WHILE WE CONSIDER THE PASSAGE OF THE OCS AMENDMENTS AS AN IMPORTANT LEGISLATIVE CONTRIBUTION TO THE SOLUTION OF ENERGY POLICY PROBLEMS, WE SEE THEM AS ONLY THE FIRST STEP IN CHANGING THE WAY OCS RESOURCES HAVE BEEN MANAGED. AN ESSENTIAL NEXT STEP IS FOR THE DEPARTMENT OF INTERIOR TO DEVELOP PROCEDURES THAT CARRY FORTH THE SPIRIT OF THESE AMENDMENTS. WE WOULD LIKE TO SEE THE DEVELOPMENT OF A LEASING PROGRAM THAT DOES NOT START WITH A SCHEDULE OF LEASE SALES. WE WOULD LIKE TO SEE THE FEDERAL, STATE AND LOCAL GOVERNMENTS WORKING TOGETHER AT A STAGE IN THE PLANNING PROCESS WHEN DECISIONS ARE STILL FLEXIBLE AND WHEN A VARIETY OF OPTIONS ARE STILL OPEN.

WE ARE NOT COMFORTABLE IN THE ROLE OF NAY SAYER OR CRITIC. WE WOULD LIKE TO BE, AND WE BELIEVE THE OCS AMENDMENTS INTENDED US TO BE, CONSTRUCTIVE PARTNERS WITH THE FEDERAL GOVERNMENT, WORKING TOGETHER TO PLAN FOR MANAGEMENT OF OCS RESOURCES.

MEMORANDUM OF UNDERSTANDING ON  
PREPARATION OF JOINT ENVIRONMENTAL STUDY

AGREEMENT BETWEEN U.S. GEOLOGICAL SURVEY, THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, THE STATE LANDS COMMISSION, AND THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG BEACH RELATING TO PREPARATION OF A JOINT ENVIRONMENTAL STUDY ON THE SHELL/BETA OUTER CONTINENTAL SHELF DEVELOPMENT AND PRODUCTION ACTIVITIES.

This agreement is entered into this twelfth day of September, 1978, by and between the following parties: the United States Geological Survey, hereinafter referred to as USGS, the Governor's Office of Planning and Research, hereinafter referred to as OPR; the State Lands Commission, hereinafter referred to as SLC; and the Board of Harbor Commissioners of the City of Long Beach, hereinafter referred to as the Port.

WHEREAS, Shell Oil Company, hereinafter referred to as Shell, has proposed to construct and operate Outer Continental Shelf platforms and pipelines to transport oil and gas from the Beta Unit, San Pedro Bay, and has applied for the necessary approvals from federal, state, and local governmental agencies; and

WHEREAS, the Shell/Beta project may have "substantial adverse impact" (as defined by the California Environmental Quality Act, hereinafter referred to as CEQA), including but not limited to impacts on air and water quality, fish, and wildlife, which must be considered by state and local governmental agencies when reviewing and acting on projects pursuant to CEQA and other applicable state laws; and

WHEREAS, the environmental impact from the Shell/Beta project must also be considered by USGS when reviewing and acting on projects pursuant to the National Environmental Policy Act, hereinafter referred to as NEPA, and other applicable federal laws; and

WHEREAS, OPR is required by statute to coordinate state and local efforts with federal efforts for the exchange of environmental information and documents, and to expedite the process of preparation of such material; and

WHEREAS, participating agencies now desire to prepare an environmental document on the proposed Shell/Beta project that includes all relevant information and analysis before acting on the proposed Shell/Beta project application; and

WHEREAS, it is in the mutual beneficial interest of all participating agencies to share in the task of preparation of an environmental study on the proposed Shell/Beta project because of the reduction of duplication in staff efforts, sharing of staff expertise and information already generated, and promotion of intergovernmental coordination at the state and federal levels, thus serving the goal of producing a more efficient environmental review process and the public interest;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, it is agreed as follows:

1. USGS, SLC, and the Port agree to combine their efforts to prepare a joint environmental study, hereinafter referred to as the Study, as set forth in this agreement and in accordance with the provisions of NEPA and CEQA.

2. The Study shall address itself to the impacts on the environment of the proposed Shell/Beta project as well as alternatives thereto, including but not limited to air and water quality and land use impacts at the proposed location and alternative locations.

3. The general tasks to be performed in the preparation and State certification and USGS determination of the Study are outlined immediately below. Specific implementation measures are stated in paragraph 4, following.

a. Each agency (USGS, SLC, OPR, and the Port) shall appoint a project representative. An agency may change its designated representative upon formal notice to the other parties. A chairperson shall be chosen from the representatives on a mutually agreeable basis as appropriate; in this instance, the designated representative from CPR shall serve as chairperson, and the designated representative from the Conservation Manager's Office, Western Region, shall serve as vice chairman.

b. The project representatives from USGS, SLC, and the Port shall cause to be prepared a draft Study consistent with the Request for Proposal, project description, and suggested outline. (These documents are attached in appendices A, B, and C.)

c. This draft Study shall be prepared with information which USGS, SLC, and the Port agree necessary in order for the document to properly evaluate the project, provided that use and inclusion of such information is not in violation of applicable laws or regulations.

d. The draft Study may be organized to include, by reference or appendices, technical information, environmental data assessments, and other documents, provided such appendices are separate from the Study itself, and the source of such appendices or information is included. The draft Study shall be jointly prepared without identifying individual agency responsibility or authorship.

e. The final Study shall address, to the fullest extent practicable, the concerns and comments of public agencies and the general public. To this end, a public review of the draft Study shall take place through appropriate State procedures; and the USGS, SLC, and the Port shall address public comments before certifying/determining the Study as final and complete.

f. Each agency shall be free to fulfill its statutory responsibilities, including permit issuance, in accordance with CEQA and NEPA requirements or other applicable statutes.

4. The provisions of paragraph 3 shall be implemented as follows:

a. The names, addresses, and business phones of the agency project representatives or their designees are:

Dwight Sanders  
 State Lands Commission  
 1807 Thirteenth Street  
 Sacramento, CA 95814  
 Telephone: (916) 322-7827

Don Bright  
 Port of Long Beach  
 925 Harbor Plaza  
 P.O. Box 570  
 Long Beach, CA 90801  
 Telephone: (213) 437-0041

Ed Kreppert  
 U.S. Geological Survey  
 300 North Los Angeles Street  
 Los Angeles, CA 90012  
 Telephone: (213) 688-2846

Kathryn J. Tobias  
 Office of Planning and Research  
 1400 Tenth Street  
 Sacramento, CA 95814  
 Telephone: (916) 445-0613

Rory Raschen  
 U.S. Geological Survey  
 345 Middlefield Road  
 Menlo Park, CA 94025  
 Telephone: (415) 323-8111

Successful preparation of a joint environmental document requires complete and full communication between all parties involved. It is the duty of the representatives to ensure close consultation throughout the process of preparation of the document. The representatives shall keep each other advised of the developments affecting the preparation of the draft Study. A representative shall notify the other representatives in writing of a change in his or her address.

b. To the maximum extent practicable under law and consistent with Department of Interior policy, all parties agree to share all relevant information.

c. The USGS hereby agrees to cooperate with state and local agencies in conformance with the schedules and time limits required of the SLC and the Port by applicable California law. OPR is required by Chapter 1200, Statutes of 1977, to ensure that the agencies comply with such time limits. SLC and the Port have agreed upon the following timetable:

July 15, 1978	Outline of the contents of the proposed EIR/EA.
September 30, 1978	Preliminary drafts of the Draft EIR/EA due as completed but no later than September 30.

October 31, 1978	Completion of the Draft EIR/EA with responses to written or oral comments.
Within 60 days of completion of the Draft EIR/EA	Preliminary drafts of the Final EIR/EA.
January 31, 1979	Completion of the Final EIR/EA.

The time limits established herein are maximum time limits for state agencies to reach a decision on the project. It is understood that best efforts will be made by all parties to comply with this timetable.

d. In order to obtain comments from all public agencies and from the general public on the draft Study, a public hearing or hearings will be conducted. Such a hearing or hearings shall be conducted by the state/local project representatives or, as provided for under AB 884, by OPR and will take place during the public review of the draft. Such a public hearing shall be noticed according to usual CEQA procedures.

e. After completion of the public review of the draft, the comments received shall be analyzed by the project representatives and their staffs, and responses to significant environmental issues raised in the review process shall be made and included in the final Study.

f. Upon completion of the final Study, notification shall be made by the state co-lead agencies to the State Resources Agency pursuant to CEQA. Thereafter, each state and local government agency may consider and act on the project making the findings required by law. Unless an extension is otherwise previously agreed upon by all parties, this Agreement shall expire on date of above notification.

g. In the event of disputes as to scientific issues relating to the Study, the Study shall contain conflicting viewpoints. Disputes which relate to procedural issues shall, after the project representatives have exhausted every means of resolution, be submitted to the next higher level of the respective agencies: to the Executive Officer of SLC, the Director of OPR, the General Manager of the Port, and the Conservation Manager of Western Region.

IN WITNESS WHEREOF, the parties hereto have caused this memorandum of understanding to be duly executed on the respective dates set forth opposite their signatures.

UNITED STATES GEOLOGICAL SURVEY

Date 6/25/78 By F. J. Schamlock  
Pacific Area Oil and Gas Supervisor

Date August 22, 1978 By Ernest C. Seldon  
Conservation Manager, Western Region

## GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

Date 8/17/78By Deni Greene  
Director

## STATE LANDS COMMISSION

Date 8/17/78By Don J. Cantler  
Executive Officer

## LONG BEACH HARBOR DEPARTMENT

Date 12 Sept 78By Jane H. M. Johnson  
General Manager

Mr. MURPHY. Thank you, Ms. Greene.  
Mr. Weiss.

**STATEMENT OF BOB WEISS, ACCOMPANIED BY MAURICE  
RINKEL**

Mr. WEISS. Mr. Chairman, Mr. Maurice Rinkel and myself will both deliver comments on behalf of Florida. With your indulgence I would like to ask Mr. Rinkel to speak first.

Mr. RINKEL. Thank you, Mr. Chairman.

The CHAIRMAN. Is this one witness for the panhandle and one for the peninsula?

Mr. RINKEL. Yes; the State of Florida has always supported Outer Continental Shelf operation. We were one of the first of the frontier areas under the accelerated Outer Continental Shelf operation plan, and we have experienced three lease sales, two in the MAFLA area, one in the South Atlantic. Our primary concern is that our environment is protected during these operations. Our economy and the nature of our environment itself requires this. We have been reviewing, therefore, for a considerable length of time, our operations with the Outer Continental Shelf groups, and particularly with the Department of the Interior. In the last 2 years we have found that this operation has run rather smoothly. We have been able to get inputs into them. We have not had enough experience yet to see whether they are paying as close attention to our inputs as we would like.

We feel that we need information into the policy and planning activity in regard to the lease sale programs, the exploration and development of the Outer Continental Shelf energy resources, the means of transporting this resource from the Outer Continental Shelf areas to the onshore locations, the oil spill contingency plans, and the Bureau of Land Management environmental studies and the termination of any Outer Continental Shelf operations. Perhaps the latter two are the most important portions of the program as far as we are concerned at the present moment.

We have looked at the Outer Continental Shelf Lands Act amendment. It is very difficult to make concrete comments, except for section 18 on the lease scheduling program. We find that our experience in this has been satisfactory to date. We would like to see regulations formulated which take the present rules and regulations that the BLM is operating on with the section 18 and combine it into a regulation.

I think the environmental plan is the one that we would like our input in the most. We feel that there is a strong need for regional study groups, that these regional study groups should be in on the planning of the studies, and participating as much as possible. We stand ready to do this.

We are having difficulties with one section of your act, and it is the one on section 206. We have government-in-the-sunshine, and we have a cabinet system in the State of Florida. Under the existing regulations and guidelines, we cannot hold proprietary data. The attorney general of the State of Florida has requested that we suggest to you and the Department of the Interior that some kind of an arrangement be made, and we will be willing to work with you in it, that allows us access to this data.

At this stage I would like to turn it over to Mr. Robert J. Weiss, who will talk about our CEIP problem.

Mr. WEISS. Mr. Chairman, more elaborate remarks on the topic Mr. Rinkel discussed are in the text, and I would like to address some of the fiscal considerations.

I am the administrator of the coastal energy impact program in Florida. I also administer Outer Continental Shelf grants for this new section that has been created with the act.

A matter of considerable concern to the State of Florida deals with the cost associated with Outer Continental Shelf participation.

With increasing frequency, States are being requested to participate and make detailed contributions during all phases of Federal Outer Continental Shelf operations. The nature of this participation is costly.

Up until October of this year, the cost for the State of Florida's Outer Continental Shelf participation have been borne in full by the State. Florida is a frontier area, that does not presently receive economic benefits from Outer Continental Shelf activities adjacent to its shores. The financial responsibility for Outer Continental Shelf participation therefore rests mainly with the State.

While the State of Florida recognizes and maintains the importance of State and local government participation in Outer Continental Shelf matters, it is incumbent upon the State to consider the cost of such participation.

Outer Continental Shelf participation requirements supported by the State falls into five main areas.

First, responsibilities, of the State Outer Continental Shelf representative. This representative serves not only on the national Outer Continental Shelf advisory board but on the Outer Continental Shelf regional advisory boards. Because of the geographical location of the State, the Outer Continental Shelf representative must participate in two of the regional advisory boards, the South Atlantic and the Gulf of Mexico.

Second, responsibilities of the State Outer Continental Shelf clearinghouse. This organization created in the State participates in the assessment of environmental impact statements, environmental reports, and develops comments on most Outer Continental Shelf matters.

Third, participation by expert witnesses on behalf of the State of Florida in the assessment of environmental impact statements and regional BLM environmental studies. Like the Outer Continental Shelf representative, the participation by expert witnesses in Outer Continental Shelf matters often necessitates travel and accommodation expenses to attend meetings at the two regional advisory boards.

Fourth, State participation in the intergovernmental planning program for the transportation of Outer Continental Shelf oil and gas. The costs with this activity, however, are not known at this time.

Fifth, coordinating the participation by affected local governments in Outer Continental Shelf matters through the Governor. The costs associated with this activity are not known at this time. However, with 35 coastal counties, 161 coastal cities, and Outer Continental Shelf activities occurring adjacent to both shores of the State, we feel it is reasonable to expect such participation to be more costly in Florida than most other affected States.

The above areas of participation correspond to the States administrative responsibilities enumerated in the Outer Continental Shelf Lands Act Amendments of 1978. Title V of this law provides for the amendments of the coastal energy impact program creating among other things a new section, 308(c)(2), which provides grants to coastal States found to be likely to be affected by Outer Continental Shelf activities; \$5 million will be granted per year for 5 fiscal years, and will be available to affected States. Florida considers the availability of such money to be a positive step toward striking a balance between the national interests for energy and the protection of the State's marine and coastal and human environments.

We are hopeful that the rules and regulations governing this program will recognize the costs associated with Outer Continental Shelf participation, and that Congress will make available additional appropriations if necessary to assure this participation.

In implementing section 308(c)(2), it is strongly recommended that the rules and regulations be flexible enough to accommodate unique administrative needs of each State. It is recommended that the best way to achieve this is to give as much responsibility and discretion for administering the program to the State as is presently the case with other provisions of the CEIP.

In conclusion, on behalf of Mr. Rinkel and myself, I wish to thank the committee for inviting us here to offer these comments to you, and we hope that we will be invited back again.

[The information follows:]

Statement Submitted by Murice O. Rinkel and Robert J. Weiss, Representing the State of Florida on December 7, 1978 to the Ad Hoc Select Committee on the Outer Continental Shelf.

The State of Florida welcomes the opportunity to present its views on suggestions for regulations required by the Outer Continental Shelf Lands Act Amendments of 1978 and our state input into their implementation.

In enacting the "Outer Continental Shelf Lands Act of 1978" the Congress declared: "...the oil and gas resources of the Outer Continental Shelf...must be developed in a manner which takes into consideration the Nation's long range energy needs..." The State of Florida concurs with Congress' declaration.

It has been the policy of the State of Florida to support exploration and development of the Outer Continental Shelf (OCS). This support has been evident in OCS operations in the MAFLA area (Lease Sales #32, #41, and #65) and the South Atlantic area (Lease Sale #43).

A long-term energy solution is vital to Florida not only for its internal energy requirements, but because of the nature of its economy, particularly its tourist, recreation and retirement communities. This aspect of Florida's economy is based largely on its environment and natural attractions. Our white sandy beaches and coastal fisheries, both commercial and sport, are world renowned--and must be protected from any short or long-range disturbances resulting from OCS activities.

While Florida supports OCS activities, State OCS policy stipulates that due consideration must be given to the potential effects of OCS operations on the State's environmental and natural resources both on and off-shore. This policy requires continuous review of OCS policies, environmental studies and operational procedures to ensure intelligent OCS management decisions by the State. These State management decisions must be made during all stages of OCS operations.

The State of Florida feels these management decisions require an opportunity to participate in the policy and planning activities made by the Federal Government in relation to the OCS program. In enacting the Outer Continental Shelf Act of 1978, Congress also recognized the need for State as well as local government participation in OCS matters by declaring that "affected" States and local governments "...are entitled to an opportunity to participate...in the policy and planning decisions made by the Federal Government relating to exploration for and development of...the Outer Continental Shelf."

Since 1973, the State of Florida has provided such participation through its review of OCS policy and the procedures established by Department of Interior (DOI) through its policies, regulations and guidelines regarding the State's input into federal decisions affecting OCS matters. This continuing analysis has enabled the State to determine how and where the State of Florida should interact during the various aspects of the OCS

program. Another purpose is to ensure that the State is provided with sufficient information from DOI to make intelligent OCS management decisions. The State's efforts to change the nature and content of prior OCS programs has, in part, been based on this review. Florida's comments concerning the new law are based on such an analysis.

The State's comments are derived from two sources. The first is the OCS Clearinghouse Task Force established under the State's Environmental Impact Statement Clearinghouse (EISC). This organization is composed of representatives from interested and affected State agencies, energy industries, various conservation groups and the universities. The second source of analysis is the State OCS Representative. Under existing DOI policy, the OCS Representative is nominated by the Governor and appointed by the Secretary of Interior to act as a source of State information and input into OCS operations and to advise the Secretary on OCS policy matters.

The State's review finds that under the present administration, the Secretary of Interior has implemented many policies, regulations, and guidelines to require and ensure input from affected states. The State of Florida applauds these efforts and strongly supports them. However, it must point out that without regulations as required under the Outer Continental Shelf Lands Act of 1978, these policies, regulations and guidelines could change from administration to administration.

Because of the time period of projected OCS operations, the State of Florida, therefore, supports the need for formal rules and regulations. Such regulations should be developed as soon as possible. Regulations must ensure the State's participation in many of the Federal policy and planning activities associated with OCS operations and guarantee the availability of sufficient information to affected states for State OCS management decisions.

Florida has examined the various sections of the new Act with regard to their specific requirements for regulations to see whether they satisfy Florida's needs. With the exception of sub-section 18 which defines the various types of State-Federal interactions in the Lease Program, it is up to the Secretary to implement such regulations under Section 204 of the Act. The State of Florida would like for the regulations developed under Section 204 to ensure State participation in (1) Federal policy and planning activities connected with the Lease Program; (2) the exploration and development of the OCS energy resources; (3) the transportation of these resources from OCS areas to on-shore locations; (4) the oil spill contingency plans; (5) the Bureau of Land Management (BLM) environmental study program; and (6) the termination of OCS operations. Until these regulations have been formulated and discussed with the states, it is very difficult to offer detailed comments. However, the State of Florida would like the regulations to contain at least the following provisions for each of these respective subjects:

1. Lease Program - In addition to the requirements of Section 18, the existing DOI policies, regulations and guidelines for State input should be maintained. The State of Florida has been relatively satisfied with the Secretary's past actions to ensure State participation in the leasing program.
2. The exploration and development of OCS energy resources.- The State has participated in many discussions with DOI during the last two years regarding regulations affecting exploration and production activities. The existing regulations found in 30 CFR 250.34 and in particular those provisions regarding State review of environmental reports for the exploration and development, supply information necessary for proper State decision-making processes. Section 206 and subsection 25 of the new Act do not require these reports. Any regulations developed should require State review of these reports. The State of Florida believes the regulations should include the items in 30 CFR 250.34 as published in the Federal Register of January 27, 1978.
3. The transportation of energy resources from OCS areas to on-shore locations - This is an area where the State has spent one and one-half years discussing with DOI the need for regulations required by a transporta-

tion program. At a minimum, regulations under Section 204 must set a time frame for the implementation of the BLM transportation program. These regulations should also require regional State-Federal working groups whose activities will start with the new 5-year lease program schedule as required under this Act.

4. The OCS oil spill contingency plans - The State of Florida has an oil spill contingency plan similar to that proposed in the Act. Even without OCS operations, the State of Florida has experienced the effects of oil spills and recognizes how potentially disastrous they can be to its economy. The enactment of a State oil spill contingency plan and our expressed concern for a similar federal plan which requires regulations for state participation should be considered in DOI regulations for Section 204, subsection 25 and Title III of the Act.
5. The BLM environmental study program - The State of Florida cannot establish proper management decision-making processes for OCS operations without regulated State input into the BLM environmental program. The State feels that regardless of what portion of the OCS operations are considered in the regulations, they will be impacted upon by this program. We would like the establishment of both regional and national work

groups for the BLM environmental study program by regulations. We feel the program will become non-productive as far as states' decision making processes are concerned and the State might suffer long-term effects without regulated State participation in the program.

6. Termination of OCS operations - In the past, this subject has been a major shortcoming of the OCS Lands Act. The State feels it is extremely critical that the regulations allow regional State participation during the processes leading up to such a termination.

The OCS Lands Act Amendment of 1978 has established an OCS oil and gas information program under Section 26. Provisions for this section discuss the requirements for submission of proprietary information to the states. This provision has important ramifications for Florida. The State of Florida has "Government in the Sunshine" which may conflict with the proprietary information provisions in this section of the new law. Attached to this statement is an appendix, which contains a letter from the Attorney General of the State of Florida along with reference information describing these concerns in more detail. Briefly, unless consideration is given to Florida law during the development of rules and regulations implementing the OCS Lands Act Amendments of 1978, the State of Florida could

have problems with the requirements of the Act. We feel it is important to quote directly from the Attorney General's letter on the aspects of the OCS Amendments which interface with Florida's "Sunshine" and Public Records laws.

"Florida's 'Sunshine' and Public Records laws are probably the broadest in the nation. Attached are copies of these laws (Section 286.011, Florida Statutes, as amended by Chapter 78-365, Laws of Florida, and Sections 119.01-.07, Florida Statutes, as amended by Chapter 78-81, Laws of Florida). Many of the decisions contemplated in the OCS Amendments of 1978 as being by the Governor may have to be referred to the Governor and Cabinet, who, according to Florida law, act as the head of the Department of Natural Resources and Trustees of the Internal Improvement Trust Fund and hold open public meetings for the taking of all their official actions. The provisions of Title II, Section 208, Section 26, of the OCS Amendments of 1978 could present problems in their implementation unless regulations for implementing this section are carefully drawn. In this connection, please see paragraph 4, pages 36-38 of the Florida Open Government Laws Manual, Office of the Attorney General, June 1978, (copy attached). The office of the State Attorney General stands ready to assist the legal staff of the Secretary of Interior in drafting regulations which will carry out the federal law and avoid, where possible, unnecessary legal conflicts with Florida 'Sunshine' and Public Records laws."

May we request that the Secretary's staff communicate with him to see whether we can prevent legal difficulty with the Florida "Sunshine" and Public Records laws.

The State of Florida's review of the new law has identified areas of the OCS Lands Act Amendments of 1978 which are not related to the requirements for regulations but are nevertheless of concern to the State.

There is significant concern for the BLM environmental program as described in the Act. While we are pleased with the existing BLM policies which allow the State to participate in the formulation of regional study programs, we feel the environmental program is the key to most of the State's problems with the OCS operations. The recent reorganizations of the environmental study program was geared to the development of information needed by the State and Federal governments for decision making processes. Florida's concerns primarily deal with whether there will be sufficient personnel and resources to implement the required 1979 environmental studies programs for the Gulf of Mexico and the South Atlantic regions to ensure that sufficient information is available on time.

Another matter of considerable concern to the State of Florida deals with the costs associated with OCS participation. With increasing frequency, states are being requested to participate in and make detailed contributions during all phases of Federal OCS operations. The nature of this participation is costly. Up until October of this year, the costs for the State of Florida's OCS participation was borne in full by the State.

Florida, as a frontier area, does not presently receive economic benefits from OCS activities adjacent to its shores. The financial responsibility for OCS participation therefore, rests mainly with the State. While the State of Florida recognizes and maintains the importance of State and local government

participation in OCS matters, it is incumbent upon the State to consider the costs of such participation. OCS participation requiring support by the State falls into five (5) main areas which are listed below.

- (1) Responsibilities of the OCS Representative :- This representative serves not only on the national OCS Advisory Board (OCSAB) but on the OCS regional advisory boards. Because of the geographical location of the State, the OCS representative must participate in two (2) of the regional advisory boards--the South Atlantic and the Gulf of Mexico.
- (2) Responsibilities of the OCS Clearinghouse - This organization participates in the assessment of Environmental Impact Statements (EIS), Environmental Reports (ER) and develops comments on most OCS matters.
- (3) Participation by expert witnesses on behalf of the State of Florida in the assessment of EIS's and regional BLM environmental studies. Like the OCS representative, the participation by expert witnesses in OCS matters often necessitates travel and accommodation expenses to attend meetings at the two (2) regional advisory boards.
- (4) State participation in the Intergovernmental Planning Program for the Transportation of OCS Oil and Gas .-

The costs associated with this activity are not known at this time.

(5) Coordinating the participation by affected local governments in OCS matters through the Governor -

The costs associated with this activity are not known at this time. However, with 35 coastal counties, 161 coastal cities and OCS activities occurring adjacent to both shores of the State, it is reasonable to expect such participation to be more costly in Florida than most other affected states.

The above areas of participation correspond to the State's administrative responsibilities enumerated in Outer Continental Shelf Lands Act Amendments of 1978. Title V of this law provides for amendments to the Coastal Energy Impact Program (CEIP) creating among other things, a new section (Section 308(c)(2) which provides grants to coastal states found to be likely affected by OCS activities. According to the law, \$5,000,000 annually for five (5) fiscal years will be available to affected states to carry out their responsibilities under the new OCS law. Florida considers the availability of 308(c)(2) funds to be a positive step toward striking a balance between the national interest for energy and the protection of the State's marine, coastal and human environments. Florida is hopeful that the rules and regulations governing this program will recognize

the costs associated with OCS participation and that Congress makes available additional appropriations, if necessary, to assure this participation.

In implementing Section 308(c)(2), it is strongly recommended that the rules and regulations be flexible enough to accommodate the unique administrative needs of each state. It is recommended that the best way to achieve this is to give as much responsibility and discretion for administering the program to the State, as is presently the case with the other provisions of the Coastal Energy Impact Program.

In conclusion, the State of Florida wishes to thank the Ad Hoc Select Committee on the Outer Continental Shelf for inviting these comments. It is our hope that such participation by the states in Federal policy formulation will continue.



ROBERT L. SHEVIN  
Attorney General

STATE OF FLORIDA  
DEPARTMENT OF LEGAL AFFAIRS  
OFFICE OF THE ATTORNEY GENERAL  
THE CAPITOL  
TALLAHASSEE, FLORIDA 32304

TALLAHASSEE, FLORIDA 32304

November 16, 1978

Mr. R. G. Whittle, Jr.  
State Planning Director  
Department of Administration  
Carlton Building  
Tallahassee, Florida 32304

Dear Randy,

Pursuant to your request, we have reviewed the invitation received by the State in a letter, dated October 27, 1978, to the Governor from John M. Murphy, Chairman of the Ad Hoc Select Committee on Outer Continental Shelf, U.S. House of Representatives, to contribute to the formulation of federal regulations necessary to implement the Outer Continental Shelf Lands Act Amendments of 1978 (P.L. 95-372).

Members of my staff have participated in discussions with the many state agencies directly interested with the various impacts of activities contemplated on the Outer Continental Shelf in order to foresee, soften, and plan for the impacts which would result from decisions relating to OCS activities. Trusting that the comments of state agencies on the implementation of the OCS Amendments of 1978 will collectively address all other matters of interest and concern to me, I am limiting my comments to aspects of the OCS Amendments which interface with Florida's "Sunshine" and Public Records laws.

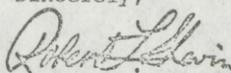
I suggest that the Governor's response to Chairman Murphy include a paragraph substantially as follows:

Florida's "Sunshine" and Public Records laws are probably the broadest in the nation. Attached are copies of these laws (Section 286.011, Florida Statutes, as amended by Chapter 78-365, Laws of Florida, and Sections 119.01-.07, Florida Statutes, as amended by Chapter 78-81, Laws of Florida). Many of the decisions

contemplated in the OCS Amendments of 1978 as being by the Governor may have to be referred to the Governor and Cabinet, who, according to Florida law, act as the head of the Department of Natural Resources and Trustees of the Internal Improvement Trust Fund and hold open public meetings for the taking of all their official actions. The provisions of Title II, Section 208, Section 26, of the OCS Amendments of 1978 could present problems in their implementation unless regulations for implementing this section are carefully drawn. In this connection, please see paragraph 4, pages 36-38 of the Florida Open Government Laws Manual, Office of the Attorney General, June 1978, (copy attached). The office of the State Attorney General stands ready to assist the legal staff of the Secretary of Interior in drafting regulations which will carry out the federal law and avoid, where possible, unnecessary legal conflicts with Florida "Sunshine" and Public Records laws.

Thank you for inviting my participation in this matter. In view of the nature of matters which will be the subject of future State recommendation and decisions regarding federal-state implementation of the OCS Amendment of 1978, please continue to notify my office of future discussions.

Sincerely,

  
ROBERT L. SHEVIN  
ATTORNEY GENERAL

The CHAIRMAN. Thank you.  
Mr. Cook?

**STATEMENT OF THOMAS COOK, ACCOMPANIED BY BRUCE BAKER**

Mr. COOK. Good afternoon, Mr. Chairman.

For the record, my name is Thomas Cook. I am director of the Division of Minerals and Energy Management, Department of Natural Resources, State of Alaska.

I appreciate the opportunity to be here today on behalf of the State of Alaska.

Mr. Bruce Baker from the office of the Governor will deliver the State's prepared testimony. Since Mr. Baker and I have different areas of responsibility, we will both respond to questions.

Thank you, sir.

The CHAIRMAN. Mr. Baker?

Mr. BAKER. Thank you, Mr. Chairman.

My name is Bruce Baker and I represent Alaska's Division of Policy Development and Planning in the office of the Governor.

We have submitted some testimony. It is not long, but we have some principal points that are in there, and I would like now to simply emphasize those.

We are also responding to a request from Secretary Andrus for State laws, goals, and policies that relate to the Federal 5-year leasing program in our State. Next week we plan to send each of you a copy of that response.

The first point I would like to emphasize is that we agree wholeheartedly with the emphasis in the amendments involving State

and local governments in the leasing decision process. There is, however, inadequate time to do so in a manner we believe appropriate.

It is our understanding that the proposed leasing program is to be unveiled this March 2 and that the State is to have its comments and those of local governments pulled together and submitted by April 17. That is an extremely brief period of time for communities to learn about the proposal and its implications, and to assemble deliberate responses which the State can then submit to the Interior Department. This is especially true in the case of Alaska's farflung coastal communities.

In this regard, we would like to see four things: One, an extension of the review period; two, a very close working relationship between the Department of Interior and the State in involving local communities; three, the appropriation of impact funding provided under new section 308(c)(2) of the Coastal Zone Management Act; and, four, an overview report by the Interior Department on social, economic, and environmental implications of the lease program.

This report would describe how synergistic or cumulative anticipated impacts might be for the leasing of as many as 11 major lease areas.

A second point is that we can't stress enough the need to drive hard for very close coordination between development and implementation of the leasing schedule and other Federal or federally inspired efforts, notably, one, the Outer Continental Shelf environmental assessment program administered by NOAA; two, the coastal management program; three, Interior Department's intergovernmental planning program for the leasing and transportation of Outer Continental Shelf oil and gas; four, the 200-mile fisheries limit; and, five, the marine sanctuaries designation process.

This fall we experienced considerable uncertainty as to whether the NOAA Outer Continental Shelf environmental assessment program would be adequately funded for fiscal year 1979. We depend tremendously on this program and look forward to both solid year-to-year research continuity and close correlation between research and lease schedules.

As for coastal management planning, we believe it imperative that the plans for local communities be far enough along that they can respond in the meaningful way to the 5-year lease schedule as well as to individual leases.

The last point concerns joint Federal-State surveillance of Federal leasing operations. We are very pleased that the amended act provides for this, and we are very enthusiastic about working the details out together.

Both Mr. Cook and I are available for questions that you may have.

Thank you.

The CHAIRMAN. Thank you, Mr. Baker.

Ms. Greene, you know the California Legislature, of course, and the Governor had finished California's coastal zone management plan and did it very effectively, which we appreciate, unlike some of our other States that are as much as 2 years behind in the formulation of that process, and I might say that Congressman

Miller very carefully included in the bill provisions as to the special interests of California, both in the air pollution areas as well as the Santa Barbara as well as the bay area, particularly Point Reyes. California, therefore, had a great deal of input into the fashioning of this legislation.

Mr. Rinkel, unfortunately the confidentiality question did come up, as we did the legislation, and if Florida could not conform to the confidential requirements, that was just Florida's problem.

Mr. Belsky?

Mr. BELSKY. If I may ask Mr. Armstrong this question, what was the situation before we passed the section of the Outer Continental Shelf bill allowing joint leasing within the 3- to 6-mile area? What was the situation before its passage?

Mr. ARMSTRONG. The problem had not come up before. But I think what we would have done would be to work out corelative rights just as you would on the land, and the rule of capture would have applied to some degree.

The first one in would get the benefit of producing, until such time as somebody across the fence came in.

Now I would suggest that the other side of that would be to try to make rules ahead of time, because there are some reasons for pooling offshore, the first of which is probably environmental. I don't think there is any reason to encourage putting four straws in the soda, to use the term, when you could extract the soda with one or two.

The other side of that problem is, how do you really define the reservoir without some drilling? And that is something that no one has been able to answer I think to anybody's satisfaction.

Are you just going to bet with seismic data, or are you just going to hope?

I really don't think that it can be scientifically determined. I don't believe that you can determine the shape and size of that reservoir without some production.

So I guess what I would suggest is that maybe you go ahead and handle it like you would, with letting the first person in get the benefit of the discovery, and then whoever is obligated to drill an offset well does, because I just think you cannot delineate that reservoir without at least some drilling in the area.

Mr. BELSKY. That was precisely the problem that came before the committee. The committee was concerned that there would be a headlong rush to go out there, and that the Federal Government would make the State governments act. Instead the committee tried to set a Federal-State cooperative agreement.

As Alaska is the only State which has worked out supposedly a joint agreement with the Department of the Interior, how is that working? How do you think it is going to work? Is it going to be successful? Is it going to be a model for whatever could arise with Texas or Louisiana?

Mr. COOK. Well, sir, I hope so. It is a very complex sort of problem in terms of the details that have to be worked out. I have for submission for the record if you would like a copy of the memorandum of understanding between the Governor and the Secretary. It sets forth the general guidelines for practices and procedures.

Mr. BELSKY. The disposition of revenues would be determined at some future point; is that correct?

Mr. COOK. One of the things we will do under the terms of this memorandum of understanding is to set down in advance, work out the details of the management plan, the interim agreement which is what you have reference to, and the other details that are involved here.

Mr. BELSKY. I am sure that Texas and Louisiana will be watching very carefully as to what happens in Alaska.

Mr. ARMSTRONG. Is the royalty the same under that agreement between the two?

Mr. COOK. In response to the commissioner, presently we have a variety of royalty provisions, as does Interior under the new law. One of the tenets of the memorandum of understanding is that we will arrive at common sales terms.

Mr. BELSKY. If I can ask California, Ms. Greene, you indicated that you would like final orders and regulations in place to apply the clean air provisions for Outer Continental Shelf activity.

Who do you think should do it, Interior or EPA, and why?

Ms. GREENE. Well, first, we would like to really urge that somebody in the Federal Government get its act together and decide. I don't know that we have a strong position on who should take charge, but we would like to see somebody take charge. We have not yet seen that.

Mr. BELSKY. You have no position?

Ms. GREENE. Not at this time. We find ourselves between the provisions of the Clean Air Act and the Department on the Outer Continental Shelf emissions, without a solution until there is some jurisdiction asserted and standards proposed.

Mr. BELSKY. If I can ask the Florida representatives one question.

Florida was designated as a nondeveloped area even on the gulf coast because of the fact that it had leasing potential on both sides and there wasn't really any development on the gulf side on the eastern coast.

Has there started a mechanism yet with the Department of the Interior in light of that designation? Have they contacted you about the proposed leasing program? Have they contacted you specifically about proposed leases in the eastern gulf? Have they contacted you about the South Atlantic sales and asked for your comments and recommendations? How is that consultation process working?

Mr. RINKEL. If you mean the eastern gulf, referring down to off Fort Myers, the answer is yes, in the South Atlantic, both. We feel that the process in the lease program has been rather satisfactory as far as we are concerned. We think we get plenty of input into them. We have a considerable amount of cross-communication with one another. That is one portion of the program that has not caused us a great deal of trouble.

Mr. BELSKY. Do you have any people full time working on the implementation of the Outer Continental Shelf Land Act in Florida—is there a regular staff and regular officers as part of the general program?

Mr. RINKEL. The only person who is permanent is myself; that has only been since October of this year under a 308(c) grant.

The CHAIRMAN. Mr. Bedell?

Mr. BEDELL. Thank you, Mr. Chairman. The minority doesn't have any questions, but I would like to thank the panel for coming up and sharing their views with this committee.

The CHAIRMAN. Thank you, ladies and gentlemen.

Our last witness is our colleague from Carmel, Calif., the Honorable Leon Panetta.

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PANETTA. Thank you, Mr. Chairman, for the opportunity of testifying with regard to the Outer Continental Shelf process, particularly as it impacted on sale area 53 in central and northern California. I know you have had a crowded witness list, so I am going to try to summarize my testimony as best as possible.

My interest in appearing here is because I do come from an area that was impacted by lease area 53, and I think the announcement of tracts for this lease area was essentially the first such announcement under the new law. It is the kind of indicator that I think tells us a little bit about how the processes will function, and there is, I think, some cause for concern as it functions with regards to lease area 53.

This area, as you know, runs from Santa Barbara north to the California-Oregon line, and it encompasses some of the most spectacular coastline in the world. As you can imagine, tourism is the major interest for most of the communities on the coast, as is fishing; and these industries, in turn, help support many related industries' businesses. Therefore, protection of the coast is a major concern to those in an area that I think is extremely important from an economic and environmental point of view to the people in those areas.

The Department issued the call for nominations in November of 1977, and local governments up and down the coast joined together to let the Interior Department know of their concerns about specific leasing proposals within 53. In fact, it was unusual, but every single board of supervisors in every county impacted by lease area 53—and there are some varying political viewpoints among those various boards of supervisors—all of them voted to oppose leasing off the coast, and many voted to spend substantial sums in trying to research the leasing proposal, and how it affected their areas, and in lobbying for deletion of certain tracts in the leasing schedule. These groups came to Washington, came to the Interior Department, met with Secretary Andrus. Almost all of the representatives from all of the boards of supervisors came back here along with State officials, and during the stay here in Washington presented detailed evidence—scientific, biological, environment; economic studies about the impact of Outer Continental Shelf drilling on their communities—and I think made concrete specific suggestions to the Department about deletions in the lease sale.

As you know, there are a number of factors that the Department is supposed to consider even in the nomination process. The Department's regulatory guidelines list eight criteria to be used in the nomination process: General information available on the impact of leasing, equitable sharing of risks involved in leasing, location of

the lease area, the area's energy demands, other competing uses of the waters and coastline, interest of the oil and gas developers, State laws and resource goals, environmental sensitivity of the area, and the availability of information predictive of probable environmental impact before the leasing.

The concern I have is that the Department proceeded to put up for nomination every single area that the oil companies indicated an interest in, one-third of which were of high environmental concern to those areas—the point being that seven of the eight criteria were virtually ignored by the Department, and I feel—and have indicated this to the Secretary—that the other standards should have been considered in deciding what areas should have been put up for nomination. Part of the reason for the nomination process is hopefully to eliminate some of these areas that we can foresee problems in.

We know that there are going to be environmental problems; all we wind up doing is simply forcing the community to spend money to fight that local battle. I think the problem is particularly important because of several other factors. The fact is that we are talking about a region which is experiencing at this point an oil glut. Estimates of the resource potential with regards to lease area 53 show minimal energy resources. We are talking about a 50- to 60-day supply of petroleum. This assumes development of all the tracts is going to take place, and that, of course, never happens. It is also ironic, because we are talking about forcing the communities to invest in expenditures to come up with the testimony and evidence in dealing with the negative nomination process, the draft environmental comment period, and, finally, environmental impact preparation, and the problem, as you may know, as a result of proposition 13 impacting on many of these communities, they are finding it very difficult to find the resources to be able to meet basic community needs, much less have to develop and respond to the environmental impact reports that are going to be forced on them. I have one community that has had to respond to, one, a tanker port, two, a nuclear powerplant, and, three, now faces the prospect of having to come up with an environmental impact report dealing with the problem of offshore drilling.

Despite these costs Federal assistance is minimal at this point. California's share of the coastal energy impact fund is slightly over \$2 million. Most of that money goes now to southern California, where there is at present offshore drilling. One of the best features I thought of the Outer Continental Shelf Land Act Amendments of 1978 was the emphasis it placed on State and local participation in the leasing process, but without Federal assistance to make that participation a reality, I am very fearful that we can count on less and less local participation, as the pressures of tight budget squeeze out less pressing expenditures such as comments on Outer Continental Shelf and environmental impact statement.

The result of that will be that it will be up to the Federal Government and the oil and gas interests to virtually decide who controls the Outer Continental Shelf programs, and that is not what the intent of the Outer Continental Shelf agreement was all about, in fact.

So I am hoping that we will be able to get appropriate funding for these amendments, and I am sure that the chairman will push for that.

I would summarize by making four points: First of all, I think it is very important that there should be some prioritizing in lease areas and that extremely low overall resource potential areas, such as lease area 53, should have low priority and be put at the bottom, behind such areas as Alaska, and the Gulf of Mexico, which have a higher potential as far as our Nation's energy crisis and the Nation's supply.

In addition, I am concerned that as far as I know, there is no specific statutory or regulatory provision that would automatically allow for delays in the leasing process, if there is a discovery of new and important scientific data that would impact on the proposed leasing. That may be the case, but at this point we have been unable to find that provision.

Third, I am concerned that the committee of jurisdiction exercise its oversight responsibilities to see that the best and safest technology is used in the drilling process. BLM has estimated something like 250 barrels of oil are spilled per rig during the life of an average rig, and we know these leaks can be reduced, and we urge the committee and the Department to force this technology into development.

Last, Mr. Chairman, I would just say I think it is very important for the Interior Department, if it is going to have these criteria placed upon it, that it look at all the criteria, not simply what the oil companies are interested in, but balance all the views presented to the Interior Department so we get local input, and local input and concerns are listened to.

I thank you for this opportunity to testify and appreciate the work you are doing, Mr. Chairman, and the committee, in this very, very important and crucial area.

The CHAIRMAN. We appreciate your testimony today, and on page 6, in response to the question of there being no specific statutory or regulatory provision which would automatically allow for delays in the leasing process, particularly for the discovery of new and important scientific data, we did specifically place language in the Outer Continental Shelf amendments to cover this area, so that that can be done.

Mr. PANETTA. That is great.

The CHAIRMAN. We will be pressing for full funding under CEIP, and we have had those questions posed today to several of the departments involved, and, of course, NOAA was a little reluctant to answer because their budget requests are currently impounded by OMB or the President at this time until his overall budget message comes up.

Congressman Miller spent much of the day with us as we went through witnesses, both yesterday and today, from various coastal States, all aspects of the industry, service as well as direct exploration and production companies.

The environmental panels yesterday led off with a major environmental panel and, of course, we had every government entity, not only department, but those agencies within the departments

specifically charged in the Outer Continental Shelf Land Act amendments.

One of the functions of this committee, an ad hoc select committee, as we were constituted in the last Congress, was not only to perform a legislative task, but also the very important followup task of oversight to see if the intent of Congress is carried out.

I think that your statement clearly supports that. Industry supported it; the States supported it. I think there are a few bureaucrats who weren't crazy about it, but that is understandable, and we certainly hope that we will continue through the next Congress until the clear intent of Congress is enacted.

We appreciate your testimony here today.

Mr. PANETTA. Mr. Chairman, you have my commitment in supporting not only the effort to continue the oversight of the committee, but also to get the necessary funding to truly implement, I think, the basic intent behind the Outer Continental Shelf amendments.

The CHAIRMAN. And we also did the Coastal Zone Management Act, and those amendments, and the relationship of that act to the Outer Continental Shelf Land Act amendments, and I think that with the expertise that the committee has developed in both of these areas with the parent committees, I think that we will be sure that we insure that the intent of the act, which was to expedite the development of Outer Continental Shelf resources in an environmentally sound manner, is carried out and that is what we are tasked to do, and I am sure we will be able to do it.

Thank you.

Mr. PANETTA. Thank you, Mr. Chairman.

The CHAIRMAN. The committee will stand adjourned.

[The following material was submitted for inclusion in the printed record:]

## TESTIMONY OF HON. JOHN A. MARKEY, MAYOR, CITY OF NEW BEDFORD, MASS.

JOHN A. MARKEY  
MAYORCITY OF NEW BEDFORD, MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
OFFICE OF THE MAYOR  
P. O. BOX A-2089  
999-2931

The City of New Bedford has had a long-standing interest in OCS legislation, and I thank you for the opportunity to testify. The City has a deep interest in the issues since our port is the largest commercial fishing port that serves the Georges Bank area, the area of interest for offshore oil development.

Our point of view is a matter of public record. We believe that both industries can coexist, ultimately since each industry is after a different resource. Because of the long history of relatively safe operations in an extensive area of environmental importance, namely, the Gulf -- and because of the long history of natural seeps close to coastal areas off California which has not entailed any apparent mitigating environmental effects, we are confident that both industries, fish and oil, can coexist in ways not incompatible to the resources for which they search.

We feel our view is a balanced view. We have supported parts of the legislation in the past, and in respect to one part of the legislation, our testimony provided the initiative to make it part of the legislation (Attachment #1). There are two areas of concern: 1st., that the legislation and the implementable regulations have to be designed to encourage exploration. My fear is that the separation between the exploration and production stages can be so fractured that exploration will be discouraged, for the

investment is only realizable if the operation can reach full term. Efforts should be directed to assure continuity between the stages, that the process will be stopped only for emergency conditions, i.e., when operation is a threat to the species.

Our 2nd concern has been with the possible loss of fishing gear. We feel that this is of especial concern since the fishing methods used in our area lend themselves to entanglements of their gear with oil debris. This has occurred with sufficient frequency in the North Sea, where the fishing methods and species harvested are similar to ours. But it also occurs periodically in our waters. A case in point is the recent determination of the cause of fishing gear loss off California (See attachment #2). What the case illustrates is the need to have regulations that can expedite claims and provide quick compensation.

A method of quick verification should be available, and if the source is identifiable, then to avoid the inevitable delays of compensation, the Federal government could award the claim to the damaged party, and then seek compensation from the industry. This is known as the power of subrogation and it is provided in the legislation, but it has to be extended to this provision.

We also feel that some vehicle should be available so that both industries can meet periodically in order that a cooperative relationship can develop over time. At the same time, this arrangement can provide a means to work out relationships so that differences do not turn into crises. Though the legislation does not mandate such a body, we feel that policy should favor

and encourage this kind of relationship. For more specifics, see attachment #1.

As a representative of a local community, some attention has to be directed to ensuring local participation, especially in the decision-making process. I note that the State has strongly criticized the Federal government for its indifference to the State's role in OCS development. It is ironical that the same must be said about the State. (See attachment #3).

There have been a number of occasions where we have had important policy differences with the State, notably the Georges Bank lawsuit. We have filed a brief as 'amicus curiae' for the defense. While we have no quarrel with the Federal government dealing directly with the coastal states, and we encourage it, we believe it is imperative that the regulations be defined so that the coastal communities within the orbit of onshore impacts receive the notifications along with the State. Minimally, the door must be open so that any locality likely to be impacted can have the opportunity to deal directly with the governmental body that has ultimate responsibility for the offshore waters. That body is not the State. And when I say 'deal directly' I mean in a way so that the localities input will substantially influence the decision-making process if the 'input' has merit. This is not a truism, and it means that procedure will not preclude the effective participation of the locality. Though one may argue that there are too many communities to deal with, there are simple ways to address this issue (e.g. to use CZM plans), for to a large extent, all that is required is the notification and a vehicle for substantial input for those communities that have the initiative to assume their responsibility.

I must confess complete bewilderment at the delays of OCS development.

When one puts it

...in the context of our economic needs,

...in the context of extensive domestic offshore experience,

...in the context of foreign offshore experience --

Britain, Norway, and Canada -- all of which are areas which have a history of extensive commercial fisheries -- then we are at a loss to see any rationale behind the delays. The irony of the situation should be noted for those who criticize the DOI for delaying OCS development for want of defined regulations, when they are the authors of the delay. At any rate, when one notes the long lead-time before there will be any significant impacts of consequence, this simply compounds our bewilderment at the delays. The exploration phase is relatively risk-free of environmental hazards, despite an infamous disclaimer to the contrary. The proper approach might be to permit extensive exploration under loose controls till the point is reached when substantial amounts of oil are discovered, not to exclude consideration of substantial impacts correlative to the amount of oil. At least this way, the potential recoverable resources of an area will be determined. If the amount discovered is substantial, then the controls can be tightened. Obviously, the industry would object, at this point, but given that the returns on investment are there, then there would be no other economic alternative. Obviously, the process has gone too far to accommodate this alternative, but it does throw into relief 2 stages of the process, each of which requires distinct environmental safeguards. Seen in this way, it may be helpful in the design of future regulations, such that everything need not be 'in place' before actual operations begin. No legislation can anticipate everything. Consequently as problems arise, then regulations can be defined to handle them, and for those problems that were anticipated but never materialized, then the regulations can be eliminated.

In conclusion, we recommend the following:

- 1) That the fishing gear compensation mechanisms be developed to expedite the process
- 2) That exploration be encouraged and continuity with the production phase be emphasized
- 3) That localities be assured of decision-making opportunities.

For more detailed recommendations, see attachment #4.

It is our hope that the Secretary realizes that his responsibility is the common good. Consequently, all parties that represent special points of view have to be measured relative to a norm beyond their special interest, whether that special interest be from the private or public sector, whether it be economic or environmental. That norm embraces all of these interests, but it orders them, providing a balance in terms of priorities based upon what is good for man. While it is difficult to judge the course of action, especially given the pressure of the varied competing interests, we at the grass-roots level remind you that your responsibility is not to seek the lowest common denominator, it is not to curry favor with current ideologies in vogue, it is not to favor singular or corporate interests, but to take a course of action with a perspective that gives priority to meeting our basic needs, while placing limits on this when it appears that the course of action will lead to extremes.

I would also hope that the Congress would remind themselves that the Secretaries' interest is not their constituency, nor their regions, and that all of us have to ask ourselves if what I would like is in the best interests of all the people.

I thank you for this opportunity to testify.

JOHN A. MARKEY, Mayor  
CITY OF NEW BEDFORD

## Attachment #1



JOHN A. MARKEY  
MAYOR

CITY OF NEW BEDFORD, MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
OFFICE OF THE MAYOR  
P. O. BOX A-2089  
999-2931

February 6, 1978

Department of the Interior  
Secretary Cecil D. Andrus  
18 & C Street N.W.  
Washington, D.C. 20240

Dear Secretary,

I would like to request your support in respect to a proposal which we consider to be of vital importance not only to the fishing industry, but to all parties that wish to secure the resources of the Georges Bank. My staff has been in contact with your office, and the preliminary discussions indicate an area of definite mutual concern.

Before proceeding to the point, let me provide you with a context which will shed light on our concern, and give meaning to our request.

In the Spring of 1977, my testimony on OCS legislation (S9) was delivered before the Senate Committee on Energy. One area of concern was the relationship between the two industries that would be operating on the Georges Bank. I argued that there was need of a "body" consisting of fish and oil representatives whereby both industries could sit down as equals. Such a body is of especial need for both parties: the fishing industry, since there is no equation between a collection of individual owners of vessels and a corporate entity that has unlimited financial resources; the oil industry, since their presence is that of an outsider entering a frontier area. We cited the gear loss in the North Sea as an instance of a problem that has need of resolution, and so we recommended a compensation fund to be administered by the above mentioned "body". This testimony was the first, and I believe the only to testify on and to support this solution.

The subsequent events relevant to the above are the following. A number of Senators\* were interested in supporting this position, and Senator Weicker made it part of the legislation. Subsequently, the House Ad Hoc Committee on OCS adopted the same amendment. A request was made by

\*Letter of Senator J. Bennett Johnston, La., April 26, 1977.

Congressman Studds' office to my staff for evidence of the problem in the North Sea.\* We were also told by the Congressman's staff that there was difficulty in placing the item in the legislation in the House, for a 'demonstrated need' had to be shown. But this was rectified when my testimony was cited. On that basis, a fishermen's compensation fund was placed in the House bill.\*\*

As much as we are grateful to the legislators for their efforts in this regard, an essential ingredient is still missing, and this is the basis for the letter. The body that will administer the compensation fund will be a judicial panel, and this will be its only function. What is missing is some kind of committee that can discuss the unanticipated problems that will undoubtedly occur in the future, some kind of body where both industries can act as equals in a cooperative way, where good will prevails. The following are some features that are essential to such a body:

- 1) Both industries are regarded as equals
- 2) The meetings between them will be effective
- 3) They have to meet periodically
- 4) A third party must be available to negotiate or mediate irresolvable differences.

Currently, in respect to Features #1 and #2, such a body exists on a voluntary basis. It is called NEMIC (New England Marine Industry Council). Though we look with favor on this body and acknowledge the good it has accomplished, its strictly voluntary nature and lack of a disinterested party as part of the proceedings only contributes to its ultimate ineffectiveness: for either party can refuse to participate at any time, and an irresolvable problem can lead to an impasse.

\*The City also wanted a Regional Conference on OCS to be centered on Fishermen from the North Sea (and the Gulf). Rhode Island also expressed an interest and willingness to share costs. The State recognized the value of the project but noted that other sources were available to finance it and that the State would like to pursue this matter independently of the Regional Conference. Presently, the matter is still under consideration and negotiations are underway with possible sources.

\*\*To complete the chronology: in May of 1977, at the OTC in Houston at a session sponsored by the State, my spokesman on Offshore Oil (R.B. Davis) expressed the same concern in a talk before over 350 representatives of the oil industry; in June, 1977 a similar expression was made at a Regional Conference on OCS in So. Eastern Massachusetts, to which the oil industry was a participant.

At this time it is unclear to us how to structure such a body. It should neither be too small so as not to be representative, nor so large that it lends itself to an adversary council; nor is it clear the manner in which the government should participate - the Coast Guard, DOI, the Associate Administrator of NOAA for Fisheries, and USGS.

Maybe, only both industries should meet in a quasi-private way as is done now, but with either party having the power to call for the third party to arbitrate the proceedings if a need arises. Maybe the "Supervisor" for the region will be sufficient for this purpose. Obviously, he will be the key man since he has the decision making authority on offshore oil in the region. He can also assure that the proper information will be made available to the parties involved.

It is possible that the minimal form of participation under governmental auspices is too formal to achieve the desired objective. It would seem though that an effort should be made to work with what exists (namely NEMIC) but such that there is the link with DOI and the satisfaction of the mentioned conditions.

At any rate, we feel the situation has need of such a body, especially in a frontier area where a working relationship remains to be developed. And that relationship can be harmonious and well ordered provided there exists a vehicle to resolve problems before they become issues, to make sure that which is minor remains so.

Consequently, I urge you to give serious consideration to the formation of such a vehicle in this region. This body seems to be implied by and is certainly consistent with the following passage from the impending legislation (S9):\*

"The Congress finds and declares that - because of the possible conflicts between exploration of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery...the Federal government must assume responsibility for the minimization of elimination of any conflict associated with such exploration."

The North Sea experience may be relevant since the species and methods of harvesting are similar to our area:

\*S9, Findings and Purposes with respect to managing the Resources of the OCS: Section #101 and #102.

"On 24 July 1974 the Secretary of State for Scotland announced that the Government had agreed with representatives of the offshore oil and fishing industries to set up the Fisheries and Offshore Oil Consultative Group with the following objective:

To exchange information on general matters concerning the fishing and oil industries, to discuss broad principles and to keep under review developments in connection with the exploitation of offshore oil and gas resources with the object of fostering close relations between the two industries so that each may carry out its operations with minimum interference to the other."\*\*

I look forward to your reply.

Sincerely,

JOHN A. MARKEY  
Mayor

JAM:rc

\*\*Fisheries and Offshore Oil Consultative Group Progress Report: June 1975, Chairman, J.B. Fleming, Scotland.

c.c. Senator Weicker, Conn.  
Senator B. Johnston, La.

Congressman G. Studds - NOTE: Our original inquiry was with Congressman Studds' office. We sought a modification of the impending legislation. We were told that there was a question of timing but especially whether such a body would be accepted. Two objections would be raised:  
1) creating a body without defined tasks and  
2) such a body would have to apply to all regions. Consequently, we are seeking a regulation from your office, a stipulation appropriate to the region and based on the legislation. Congressman Studds has assured us of his support for this regulation. We also have support from other parties, though we note the existence of division.

Roy Enoksen, President, Seafood Producers Association  
John Linehan, NMF liaison officer with Industry  
Keith Hays, Chairman, NEMIC, American Petroleum Institute, Washington, D.C.  
Carolita Kallaur, OCS Administrator, Washington, D.C.  
Frank Gregg, Dir., Bureau of Land Mgmt., Washington, D.C.  
(Attn: F. Basile, Dir., N.Y. Regional Office)  
Robert B. Davis, Offshore Oil Advisor, New Bedford  
Media: Standard-Times, WBSM, WNBH, & Channel 6

## Attachment #2

NATIONAL FISHERMAN JANUARY 1979

# Nets Snagged On Well Head Recovered, But Snags Remain

By Mark Miller

On the dock at Port Hueneme, Calif., on Aug. 24, 1978, three Santa Barbara trawlermen spread out pieces of net that had been lost more than two years before, torn off their boats when the nets snagged on an unidentified underwater obstruction.

The damaged gear was retrieved during an expensive operation costing a half million dollars. Identification of the obstruction followed considerable effort extending over a two-year period by employees of the U.S. Geological Survey (USGS), the Bureau of Land Management (BLM), Western Oil and Gas Association, two oil companies and a number of concerned fishermen.

The fishermen agree, however, that major credit for the success of this time-consuming and often frustrating effort belongs to John Richards, local Sea Grant Marine Advisor for the Ventura, Santa Barbara and San Luis Obispo tri-county area. It was his ability to coordinate the efforts of all these individuals and organizations which produced the result.

The unidentified underwater obstruction proved to be an unused, exposed well head. Coordinates (loran line 1830, about 117 fathoms) provided by John Todd, trawlerman out of Avila and Santa Barbara, who lost a net on the obstruction in April 1976, proved accurate and pinpointed the search. USGS and oil company representatives agreed the obstruction could be a well head.

At last, in July, 1978, the small 15' submarine Sea Otter — chartered from Can-Dive Ltd. of Vancouver, B.C. — was towed to the site and submerged to verify the condition of the suspected well head. Though a heavy concentration of plankton made the water murky, enough was seen to verify that it was an exposed well head, and that it was completely shrouded with fishing nets.

With this confirmation, Chevron, the responsible agent, but with the cost shared by Exxon which originally drilled the well in 1970, chartered and sent out the Ocean Prospector to remove the offending well head.

This rig, a semi-submersible, self-propelled drilling platform, carried out the removal of the obstacle, taking 19 days, port to port, at a charter cost to the oil companies of \$30,000 per day. The Ocean Prospector displaces 14,000 tons and rides on four monstrous pontoons. She measures 344' long x 286' wide with a 142' derrick capable of handling a million-lb. load.

Despite this sophisticated and powerful vessel, the project could not proceed until a team of divers, descending in a diving bell to the 719' level of the well head, could first cut loose the many layers of heavy trawl net. They were wrapped so thickly around the well that the divers reported they flared upward more than 50', trapping many fish and attracting others to feed on the harvest.

With the nets finally cleared after many hours of effort, the Ocean Prospector removed both the exposed well casing and the four corner posts which extended 22' above the sea floor and acted as guides for the lowered equipment from the surface. Finally, the well casing was blown by explosive charge to 12' below the sea floor.

Fishermen John Todd of the Corsair, Dana Enlow of the El Capitan and Ralph Hazard of Kildee, were surprised and pleased to recover several hundred feet of net and other gear, much of it still usable.

But the larger question of compensation for their lost and damaged gear remains unanswered. The fishermen bear the responsibility of filing claims with the oil companies. And there is no assurance the claims will be honored.

A preliminary review of the gear on the dock indicates it came from as many as five different fishing boats. However, most of the netting was lost when the divers cut it away from the pipes, so no one will ever know how many boats actually lost gear there. Salvage included a cod end, a complete wing, one door, parts of net sections with head rope and foot rope and other miscellaneous items.

Removal of this costly underwater hazard does not, however, eliminate the danger from the Santa Barbara Channel.

Ventura office, there are 19 similar exposed well heads remaining in the channel. Rau and the oilmen said that the remaining well heads and guide posts were not as high as the 22-footer just removed — probably more like 10'-15' above the sea floor. According to fisherman Ralph Hazard, the three well heads remaining just off Port Hueneme are currently snagging fishing gear, though no formal claim has yet been filed.

Rau said further that USGS has now asked the oil companies responsible for these remaining obstacles whether they plan to remove the well heads — which will depend in part on when a drill platform is available — or erect a permanent platform to reenter the well. Exxon plans to reenter most of the 10 unused wells in its big Santa Ynez field in the north of the channel. So does Union with its three wells of Port Hueneme. Thus these 13 will remain as active hazards for some time to come. The others may be removed, but no deadline has been established.

These obstructions are charted on a map prepared by USGS. Copies are available through the marine advisor. The chart provides water depth, latitude and longitude. The USGS has been asked to provide a chart with loran bearings, so it would be more usable to fishermen, but Rau says his office may have to go back to its headquarters in Reston, Va., for authorization. This will mean additional delay.

Two of the problems from the beginning were in convincing the USGS and the oil companies that oil equipment was responsible — they would have preferred to minimize the hazard — and in persuading fishermen to provide an accurate position report for an underwater snag. Oil company reluctance to go too deeply into the problem seemed indicated by their initial reaction to the claim filed by John Todd. A private claims representative interviewed him a year ago, but nothing further was heard of his report.

Location of any hazard is complicated because fishermen generally rely on loran for navigation, with some still using loran A while others are already using loran C.

But USGS uses latitude and longitude, while the oil companies use a totally different system called the Lambert Grid. All these are incompatible and, incredibly, there is no simple method of conversion from one to the other.

The need for some additional safeguards at this point seems obvious. For instance, despite the hard evidence of extensive damage to fishing gear, and the likelihood of more, no steps have yet been taken to prepare a map with the necessary loran guides needed to provide accurate guidance to fishermen of the remaining obstructions.

Still, progress has been made. Through the efforts of the USGS district engineer in Ventura, Mike Reitz, and Henry Wright of the Western Oil and Gas Association, acting for the oil companies, agreement has been reached that the USGS should handle the actual processing of a claim of damage by a fisherman in federal offshore waters. Claims should be sent to: Michael Reitz, District Engineer, USGS, 145 North Brent St., Suite 202, Ventura, CA 93003.

The claim of damage or loss should be accompanied by a depth reading and a loran fix, description of the gear lost, plus the date and time. Reitz will check past oil company activity in that area.

Another way for fishermen to claim financial compensation could be through a new law amending the Outer Continental Shelf Lands Act (see related item on this page.)

While primary attention has been focused on the federal role, before 1966 offshore oil activity was regulated by the state. That means that many old well pipes and other obstructions in what are now federal waters, as well as the state waters inside the three-mile limit, are covered only in state records. The Calif. State Lands Div. has been asked to help explore this situation, and exploratory talks have begun with the agency's Don Everitts. No procedure has been agreed on as yet to handle claims or provide verification, and available charts are inadequate.

Why are the obstructions there in the first place? Because an old USGS

regulation required oil companies to hold their lease rights to a tract by keeping a nonproducing well head ready for reentry. That meant the well pipe had to be set above the sea floor, with four corner guide posts set off 6' from the well pipe to act as guide for equipment used to reenter the well. This procedure was probably a holdover from onshore drilling experience.

This regulation has now been changed, fortunately, to permit unused wells to have their casing lowered below the sea floor. This change has been adopted by the USGS, which bears the responsibility for management of the drilling and **production phases of offshore oil operations.**

As additional protection from future well head problems, the local California office of BLM, which is in charge of offshore oil leasing, has prepared a new regulation to govern future leases off southern California in sector number 48. The new regulation stipulates that well heads and other structures be protected by a shroud to prevent fishing gear snags.

The regulation is now in draft form and must receive final approval from Washington. And even if it is approved, it applies only to southern California waters, in sector 48. The rest of the West Coast, listed as sector 53 and planned for future lease, is not included. Nor is the East Coast lease area covered.

What is learned in one area, unfortunately, is not always passed along to other areas. For example, in the Gulf of Mexico, where oil drilling has been going on for many years, shrimpers in particular have experienced problems with snags on abandoned oil equipment — old well heads, pipelines with protruding valves and stems and heavy debris dumped on the ocean floor.

One marine advisor who has kept track of this problem in that area says the only way shrimpers have been able to collect compensation is to remain on the obstruction until an oil company representative can arrive to verify the location and arrange for divers or submersibles to observe the ocean bottom.

Obviously, few fishermen can afford to remain on the site, out in changeable weather and losing valuable fishing time. Additional problems are that leases change hands, so it is difficult to assign responsibility, and subleasing to small

independent drillers often makes for even messier drill sites.

BLM reportedly charts oil-related activity and equipment in the Gulf, but the same problem exists in this regard — the charting is in latitude and longitude and does not provide loran fixes, so the charts are of questionable use to fishermen.

With this extensive experience in the Gulf of Mexico, it is hard to see how USGS, BLM and the oil companies operating in the offshore California waters could have been surprised by the problems with their exposed well heads. But they have taken their time about correcting the situation, and there are **still those 19 other exposed well heads.**

*Similarly in the North Sea, Norwegian fishermen have encountered the same problems and the same indifference from the oil companies.* A Norwegian publication reported that when film taken by an underwater camera was shown on Norwegian TV in November, it "revealed debris on such a scale that there was nationwide reaction in support of the fishermen's protests."

But the oil industry isn't alone in creating hazards for fishermen in the Santa Barbara Channel area. Culprits include the U.S. Navy and the Air Force. Bases surround the area: the Navy at Pt. Mugu and at Port Hueneme to the south and the Air Force at Vandenberg in the north. Both use the area for target practice, with drones and towed targets of various sorts, both in the water and in the air, and for missile testing. And there are jettisoned fuel tanks, unidentified objects from special missions no one will discuss, lost aircraft, even mines.

When fishermen snag obstacles of this origin, their claims are soon lost in a welter of red tape, and there is no satisfaction, certainly not a monetary settlement, and usually not even an apology.

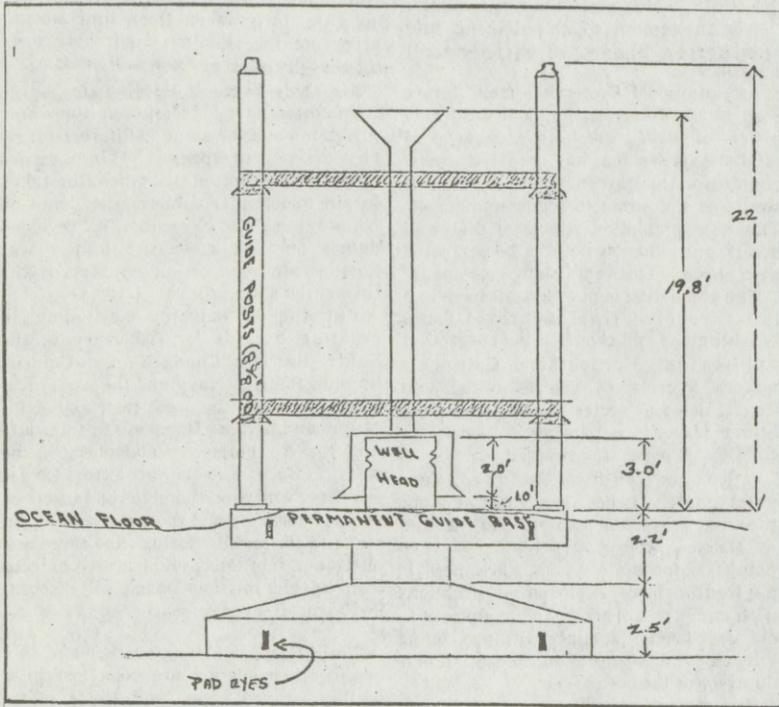
Even when valuable equipment is recovered intact and turned over to the branch of service in question, there is only a grudging thanks and again no reward, even to compensate for lost fishing time and probable damage to fishing gear in retrieving the object.

While the fishermen were examining the net remnants on the dock at Port Hueneme, John Todd asked if I recalled the Andrea Doria. Who could forget that classic sea disaster when the Doria was

holed in a collision and sank off New York Harbor.

Todd recalled that some years after the accident, divers descended to the sunken hull and recorded on film the astonishing sight of a giant ghost ship entirely shrouded in huge fishing nets which flared up many feet in the swirling currents.

Todd stopped for a moment and said: "That is what the well head must have looked like, with so many nets wrapped around it that it took divers almost two days just to clear them away." And that happened even though the passenger liner's final resting place is known. In the Santa Barbara Channel, however, fishermen locate most obstructions by hit or miss. Mostly hit, it seems.



Drawing Of Chevron's Exposed Well Head And Guide Posts.

## One Man's Opinion

# Oil Contingency Fund Act Promises More Than It Is Likely To Deliver

Some relief for fishermen might be made available through legislation passed Sept. 18, 1978, known as the Outer Continental Shelf Lands Act Amendments of 1978. The bill seems to promise a good bit, but the wording of several critical passages pertaining to compensation for fishermen appears to give with one hand and then take away with the other.

Title IV of the act, Public Law 95-372, establishes a Fishermen's Contingency Fund. The fund, to be built up from fees assessed various oil and natural gas developers on an annual basis, will consist of a series of \$100,000 accounts in each geographic area, not to exceed \$1 million nationwide. The fund will be deposited in the U.S. Treasury and will be available to the Sec. of Commerce for disbursement to settle claims. So far so good.

Disbursements will be made to compensate commercial fishermen for "damages to, or loss of, fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development and production in such areas."

A later section further specifies that this loss to fishermen will include "loss of profits due to damage to, or loss of, fishing gear . . ."

In filing claims for compensation of damage to gear, a fisherman will have a stronger case if he can document that it was a commercial fishing boat operating in an area affected by oil activities on the Outer Continental Shelf (OCS) — though not necessarily on the shelf itself, just affected by activities there. Also he'll fare better if he submits his report of damage within five days, if he can establish the fact there was no evidence of the obstruction in the "Notice to Mariners" or on proper nautical charts, and if there

were no surface markers or lighted buoys to mark the obstruction. Now all that is a bit complicated, and is intended only to establish a "presumption that such claim is valid."

An actual claim can be filed with the Sec. of Commerce (no local authority is established by the act) within 60 days of the date of damage (the fisherman is presumably in better shape legally if he acts within the five days cited previously). But then comes more bureaucratic hocus pocus. The claim is forwarded from Commerce to the Dept. of the Interior, where it is then referred to a hearing examiner to be appointed under still another authority.

And once the hearing examiner gets the case he may take up to four months before holding the hearing regarding the claim. After a verdict is rendered by the examiner, the loser has another 60 days in which to take the entire case to the U.S. Court of Appeals, where it can begin all over again.

There is a little kicker which fishermen should be aware of. If the fisherman himself is found to have caused the damage for which he filed a claim, he will be liable for the entire cost of the proceedings.

Tucked away in Title IV is a provision which appears to render the entire procedure outlined above an exercise in futility. It says that "Notwithstanding" any of the above descriptions of how to proceed to help the fishermen . . . "no payment may be made by the Secretary (of Commerce) from any area account established under this title — (A) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party."

So if you are up against Chevron, or Exxon, or Union or some company like that, don't bother the Sec. of Commerce or the Sec. of the Interior. Just go to court if you want satisfaction. Some bill!

At an Oct. 24 public hearing in Santa Barbara conducted by Interior concerning the proposed lease sale number 48 of oil leases off southern California and in the Santa Barbara Channel, an Interior official cited the provisions of the Fishermen's Contingency Fund as a prime example of how the government is moving to help fishermen adversely affected by oil development.

I had the opportunity to question the spokesman, Barbara Heller, a deputy assistant secretary, as to how she explained this limiting provision. She responded that because the oil companies now have to label their tools and equipment, fishermen could readily tell which company had caused the problem and could simply go to the offending company and request compensation. Just like that.

She apparently was not aware that much of the damage is caused by subsurface equipment which snags, rips or actually tears off the nets or other gear. When this occurs there is nothing on the surface to tell what happened or what equipment did the damage.

And even if by some miracle a fishermen did snag some oil gear and bring it to the surface complete with proper labels identifying it as belonging to Exxon or Chevron, it seems completely unlikely that any oil company would rush to offer compensation to a fisherman. When I told Heller of the case in the channel where nets had been recovered and identified from an old exposed well head, but that the investigation had been going on for several years and that no compensation had been forthcoming as of October 1978, she just shook her head.

Heller added that if after a few years it was demonstrated that responsible oil companies were slow to make payments of just compensation to fishermen, then perhaps Congress would change the law to correct this abuse. What kind of a dream world do these people live in?

We had one further exchange on this subject. Heller added in explanation of the clause that forbids payment by the

government of a damage claim against one of the big oil companies, that it would look bad for the government to be paying a claim for damages caused by Exxon or Chevron or some company like that. I agreed, but pointed out that for the fisherman, it would be nice if the government would pay his damage claim promptly and with no hassle, then turn around and collect from the oil company responsible.

This is known as the power of subrogation and is provided for in the act, but only for the government to act against a small company which is not financially responsible. Heller's only response was to admit that she didn't think the oil companies would have allowed such a provision in the bill.

Nor is the bill retroactive. Damage done prior to Sept. 18, 1978, is not covered.

Despite this, there are a couple good things in the bill worth mentioning. The Depts. of Commerce and Interior are authorized to conduct a two-year survey of both natural and man-made underwater hazards on the OCS. Immediate attention is to be given to that area of the OCS where oil and gas development is taking place or where it is planned. The result is to be "charts for commercial fishermen identifying obstructions on the Outer Continental Shelf," but presumably only after completion of the two-year survey — say sometime after 1981.

Knowing the problems this has caused fishermen in the Santa Barbara Channel and in the Gulf of Mexico too, these charts can't come too soon. But beware, or the feds will come out with charts in latitude and longitude, but not Ioran C.

Well, that's it. Consult your lawyer for further instructions. Or better yet, stay away from the oil rigs if you can.

— Mark Miller

## Attachment #3

Mayor's Office  
City Hall, New Bedford, MA 02740



December 30, 1976

Chief of the Conservation Division  
U. S. Geological Survey  
National Center  
12201 Sunrise Valley Drive  
Reston, VA 22092

Dear Sir:

Re: Proposed OCS Order No. 15  
Submittal of Information Concerning Development Plans to  
Coastal States.

Reference to notice appearing in Federal Register, Vol. 41, No. 204,  
dated October 20, 1976, inviting comments on proposed OCS Order No. 15.

The following comments are based on and a development of  
testimony given by the Honorable Rosalind Poll Brooker, City Council  
President, at the public hearing held December 9th in respect to OCS  
Sale #42. I am also a Special Assistant and Oil Advisor to the Mayor  
of the City of New Bedford. I have been authorized to submit the  
following comments.

In general, there are some built-in inadequacies attendant  
upon State participation in OCS developments. The benefits are obvious:  
planning and a degree of control in respect to one's destiny. The  
inadequacy is that the State will be making judgments about an activity,  
all of which it does not fully understand. Further, the resting of  
information in one office within the State can lead to unfair and  
undesirable options, where the State plays locational broker to select  
communities. There is no 'evil' in all of this. It is just a natural  
extension of using privy information in the best interests of those  
located nearest to those in control of the information. But it is a bias  
which must be checked since it works unfavorably to those outside the radius of  
influence. A third problem has to do with the reliability of the kind  
of data being submitted, and the expectation of those evaluating such  
data, and whether the latter will hold the former as liable to the  
data. The difficulty lies in specifying development with accuracy when  
it is dependent on contingent variables, on specifying onshore needs

## COMMITTEE MEMBERS

Antone L. Silva, Chairman, Postmaster  
Robert B. Davis, Coordinator, Planning Dept.  
Paul Saunders, Director, Harbor Development Commission  
Ed Sanchez, Jr., Chairman, HDC  
Norm Bergerson, Assistant Director, IDC  
Gilly Costa, Redevelopment Authority  
Paul Langlois, Former President, Chamber of Commerce  
Leif Jacobsen, Seafood Producers, Boat Owner

Clair Carpenter, President Taxpayers Association  
David Whittaker, Board of Health  
George Clark, Labor  
Earl Carter, Governor's Committee on OCS  
Joseph Barbero, Acting Director, N. B. Vocational School  
Frank McGrath, Southeastern Bank & Trust  
John Carew, Industrial Foundation  
Senator George Rogers

when it can vary by location, when such location can only be decided upon with direct negotiations, which negotiations are pro tem if location is dependent upon the State's approval.

In order to offset the above built-in deficiencies, we suggest two recommendations:

- #1. a) That the oil companies be permitted to participate in the State's evaluation of their plan either while the evaluation is in process or by calling for a meeting upon review of the document to be submitted by the State. This alternative is at the oil industries' discretion and will allow them to make their specialized knowledge available.
  - b) That the State be required to have their personnel trained, especially if alternative 'a)' above is not in effect. There exists training schools of 30-90 day periods, where civil servants can become understanding of the specialized conditions which they must evaluate. This training could be made available by the oil industry, or through the API.
- #2. That if a community or communities are specified in the 'Location' section for onshore impacts, then they should be notified and allowed to participate, subject to the above recommendation. Given the home rule tradition in the area, it would seem quite logical that the individual community should be party to the decision. A method to resolve this would be for the Supervisor to appoint a Community representative for the Region, which person would solicit comments from qualified Ports.

Both of the above recommendations should help resolve the three difficulties mentioned earlier. Another value in notification of the effected communities, is that it will permit them to identify developmental needs and thus seek early release of the Coastal Impact Funds that will become available to the effected communities. Only the community than the State will exercise the effort to determine special needs for future developments. Consequently, it is wise that the effected communities be permitted to participate as early as possible.

The following comments concern specific items.

There is no need for the 'Information for States' to be submitted distinct from the Development Plan. We would request that comments be submitted by 60 days, followed by a 30 day review period in which if there appear to be differences of opinion between the States, the lessee and the Supervisor, then the Supervisor shall notify the parties of the differences and upon the request of any one of the parties a meeting shall be held to discuss such differences. If such differences remain unresolved then they shall be stated and forwarded to the Director along with a recommendation of the Supervisor.

\* The 'Adequacy of Information' in the Plan as opposed to the approval/disapproval of the Plan can be submitted within 2 weeks.

In order to expedite some kinds of development, especially those which will have negligible impacts and involve the use of existing facilities which are not, say, at full capacity, we request that Section 4, entitled Development Plan, should be amended to read as follows: "The lessee or operator shall submit development plans for lease or unit areas either at least 6 months in advance of the contemplated date for commencement of operations or request a waiver if sufficient time in advance is deemed to be less than the 6 months. Waivers can also be stipulated for Amendments (Section 4D) and for Modifications of Approved Plans (Section #5). It is to be noted that the '6 months in advance' is not in order to allow time for an adequate review by personnel from the States and the Supervisor (30-90 days) but so that onshore (& offshore?) planning can take place in preparation for the development. A waiver is not to be regarded as an extraordinary request. It is one which by its very nature (less than 6 months) has to be expedited.

We suggest that Section 2D be deleted. Section 2B(4) contains the same information but as unspecified. It is unwise to demand a commitment to contractors when a plan is dependent on approval from another; also, such information is of no value to the purpose of onshore impacts, not to mention what is very evident--i.e. it is really nobody else's business.

For consistent procedure, we recommend that all plans submitted by the lessee be to the Supervisor who will then forward them to the affected States. Though it may appear unnecessary to notify States not directly mentioned in a plan, since the offshore impacts are not necessarily localized, we recommend that the affected States be designated by stipulation as is the case in the Register. What pertains to onshore impacts should generate no comment of consequence for those not directly affected. Besides, the comments of those not directly affected may afford a certain objectivity to the whole issue. Since some States may be outside the Region and yet be directly affected, as is the case of R.I. and New Bedford, then we suggest Appendix A have the following heading: "Each of the States specified below and any other State specified by the lessee shall constitute an affected State for the designated region." Though this approach is not as efficient and expeditious than working with one State, it should serve all parties best in the long run, as well as preventing the lessee from assuming the role of broker and operating without Regional input when there may be such effects.

To close, we urge that a certain looseness be followed in holding the industry to their specific assessments, since developments can involve a number of intangibles as well as unanticipated and surprising options which no one can predict. Thus a mechanism must be available to expedite such events. Further, the frame of mind must exist to distinguish between what is major and what is minor, the latter of course being qualified to be treated expeditiously. Lastly, the community cannot be ignored, for it is not right that the State have the power of broker when for the case in point such power is inherent to the community. This is not meant to reflect on any State, but to point out a problem heretofore ignored. We offer an alternative for its resolution.

I hope the above comments have been helpful to you.

Sincerely,

*Robert B. Davis*

Robert B. Davis

Coordinator

## Attachment #4

RECOMMENDATIONS OF MAYOR'S COMMITTEE ON OFFSHORE OIL\*Offshore

1. That a Board be established, composed of fish and oil representatives, in order to work together in a cooperative manner and to avoid potential conflicts.
2. That the Coast Guard and Platform Operators closely monitor discharges and fluid-flows during the spawning season.
3. That a minimum number of platforms be placed in intense fishing areas, and that platforms be spaced such to ensure workable navigational ranges for fishing vessels in tow.
  - a) That directional drilling be used in intense fishing areas.
4. That safety lanes be defined and oil traffic be confined to them in active fish areas.
5. That pipelines be buried in well-defined lanes, and buried to a depth to avoid exposure.
  - a) That where it is not feasible to bury pipelines, that the corridors be well-defined.
6. That fishing vessels be responsible for staying clear of the platforms and exposed pipeline while towing.
7. That leasing revenues be allocated for Research and Development in respect to the Open Sea Mariculture of select commercial species.
  - a) That if such is feasible, then plans be made for a pilot platform, i.e., the dual use of a platform in the production phase for the development of both fish and oil.
8. That leasing revenues be allocated for research in the control of ocean pollution.
  - a) That consideration be given to the development of effective dispersants, wicking agents and innovative boom equipment to protect harbors and bays.
  - b) That the Coast Guard have an alert system to protect harbors and bays.
9. That a communication system be established between OCS operators and fishing vessels, in order to assure safety and mutual aid in the event of emergencies.
10. That OCS development be significantly increased especially by commencing the exploration phase of the operation.

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\*The recommendations are not final. They were first authorized in June of 1977.

- a) That emphasis be placed on the continuity between the exploration and production stages.
11. That any on-structure drilling be made available to the participation of the industry.
    - a) That any federal development, other than to inventory the resource, only be undertaken if the private sector is unwilling to assume the task.
    - b) That if the government assumes the task and discovers significant reserves, that it be made available to the private sector, but at a proportionately higher participation rate.
  12. That a review of all OCS regulations be made in order to modify or eliminate those measures which delay development, while not sacrificing the intent of the newly-enacted safeguards.
    - a) That the review also determine new legislation and/or regulations which will expedite development.
    - b) That regulations be open and specified differently for different stages of development, i.e. fewer and looser regulations, would be more appropriate for the exploration stage than production.

#### Onshore

1. That the vacant developed and undeveloped land be considered by the Harbor Master Planning Committee for the location of OCS-support services.
2. That the South Terminal be reserved for fish, but that the adjacent areas be considered as an auxiliary site for offshore oil, and that consideration be given to the use of the inland areas for oil if not available for another use.
3. That Piers 3, 4 and Leonards and Homers Wharf be zoned for commercial fishing vessels.
4. That the expansion of marine services be encouraged, and
  - a) a feasibility study made of a joint private-public venture for the location of a drydock capable of handling vessels up to Coast Guard size.
  - b) That consideration be given to the development of another site for fish.
5. That the feasibility of extending the rail to the South Terminal be determined.
6. That planning be given for the dredging of the Harobr.

- a) That consideration be given to extending the channel south of the South Terminal to the Dike, not only for developmental reasons, but environmental, i.e., to improve the circulation of waters and the flushing action of the Harbor.
7. That the Harbor Master Planning Committee consider the various land uses (tourism, recreation, fish, oil, cargo) to determine priorities for the vacant developed and undeveloped land.
  - a) To wit, the commercial or recreational use of Palmer's Island, Tin Can Island, et al.
8. That consideration be given to the use of unused land south of the Dike, and north of Coggeshall St.
9. That the proposal for a Regional Strategic Petroleum Reserve consider multi-use of the surface facility with OCS operators, since the docking facilities will not be frequently used.
10. That the New Bedford/Fairhaven Bridge be replaced with a bridge whose horizontal clearance is no less than that of the Hurricane Barrier.
11. That the City continue its efforts to attract the oil industry, not only for economic reasons, but to assure that a spirit of cooperation will exist with the fishing industry.

## STATEMENT OF THE ASSOCIATED GAS DISTRIBUTORS

Associated Gas Distributors<sup>\*/</sup> (AGD) is an unincorporated association of natural gas distribution companies which supply gas service to more than 11 million customers along the East Coast, approximately 25 percent of the interstate market. Since 1970, the major interstate pipelines, upon which AGD member companies rely for most of their gas supplies, have sharply curtailed deliveries. This has been a source of continuing concern to AGD, whose members serve a great number of "high priority" residential and small commercial customers and, as public utilities, are obligated by various State laws and regulations to maintain adequate and reliable gas service to their customers.

In light of these circumstances, AGD's interest in offshore development is primarily twofold. First, since all distributors depend upon a large portion of offshore gas supplies to meet consumer demands in their service areas, it is important that development of OCS gas resources proceed at a pace sufficient to insure adequate and reliable deliveries of gas to AGD member companies from their pipeline suppliers. Second, many AGD members or their affiliates plan to participate directly in the acquisition and development of OCS leases in order to secure gas supply sources at a lower cost than other alternatives, such as SNG and LNG.

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<sup>\*/</sup> A list of the AGD member companies is attached as Appendix A hereto.

## ASSOCIATED GAS DISTRIBUTORS

It is from this background and perspective that AGD submits the following comments regarding Congressional oversight of OCS administration, the five-year leasing program and general implementation of the OCS Lands Act Amendments of 1978.

CONGRESSIONAL OVERSIGHT

Several years ago, Congressman Murphy set forth concisely the rationale for creation of the ad hoc Select Committee on the Outer Continental Shelf:

We in the House face a situation where at least six and perhaps even more committees have relevant jurisdiction over the development of our oil and gas reserves in the Outer Continental Shelf. The establishment of this select committee will prevent major jurisdictional problems which would occur because of vast overlapping jurisdictions in these areas.

April 22, 1975 Cong. Rec. at 3072.

This rationale remains valid and has become even more compelling with enactment of the OCS Amendments. Effective Congressional oversight necessitates a coordinated approach just as efficient OCS administration must proceed in a coordinated fashion. To the extent that oversight is fragmented among several Congressional committees the ability of the legislative branch to assess executive branch administration and react appropriately is seriously hampered.

## ASSOCIATED GAS DISTRIBUTORS

Retention of the ad hoc Select Committee will best assure effectiveness and efficiency in the oversight process.

Several other practical considerations warrant retention of the Select Committee. Most of the Congressmen serving on the Committee have invested significant amounts of time and energy on offshore development issues and will be Members of the 96th Congress. Continued application of their accumulated knowledge to OCS problem solving through the oversight process would be useful. Similarly, staff personnel of the Members and Committee are fully acquainted with the relevant issues and would not need to develop "from scratch" expertise sufficient to carry out effective oversight. Finally, the OCS Amendments require several reports to Congress and provide specific procedures for Congressional disapproval of certain administrative action. Pub. L. 95-372, § 8(a)(4). Congress has legislated itself full-square into the offshore developmental process and is now obliged to execute its responsibilities in the most forthright and expeditious manner. This Congressional role could become unfortunately complicated if House committee jurisdiction is not clear. Retention of the Select Committee would provide the necessary jurisdictional clarity and concomitant procedural certainty. The Congressional

## ASSOCIATED GAS DISTRIBUTORS

role would, thus, be implemented smoothly and with less potential for disruption of offshore development.

AGD accordingly urges that the House Select Committee on the OCS be retained in the 96th Congress.

LEASING PROGRAM

One of the most significant administrative actions taken to date under the OCS Amendments involves the Interior Department's initiation of the five-year leasing program. Recently, Interior requested comments and information concerning the establishment of the five-year leasing program pursuant to section 18 of the OCS Amendments. AGD's comments on this subject are appended to this statement.

Briefly, the most important point raised by AGD is that OCS leasing should go forward at least through 1979 as currently scheduled. The five-year program mandated by section 18 should not become an occasion for a leasing hiatus. Calls to the contrary based upon isolated glimpses of some of the findings and purposes of the OCS Amendments wholly fail to recognize the magnitude of our national energy supply needs or the "balanced" approach to offshore development envisioned by the OCS Amendments.

## ASSOCIATED GAS DISTRIBUTORS

IMPLEMENTATION OF THE OCS  
AMENDMENTS GENERALLY

Except for the initial stage of the five-year leasing program and a few rather minor procedural regulations, the bulk of regulations implementing the OCS Amendments have yet to be proposed. It is expected, however, that most of the regulations will be finalized during the first three months of 1979. AGD continues to support rapid implementation of the OCS Amendments to apprise industry and other interested parties of the OCS "ground rules" at an early date.

Among the many regulations to be promulgated, three specific areas of particular importance to gas distributors warrant close oversight by this Committee. These are sections 603 -- natural gas distribution, 205 -- alternate bidding systems and 25 -- development and production plans. Regulations implementing these sections will have a substantial bearing upon the extent to which gas distributors participate directly in the acquisition and development of OCS leases and upon the rate at which new gas resources are developed and made available to consumers in gas distributors' market areas.

Though AGD intends to participate fully in the administrative promulgation of these and other regulations,

## ASSOCIATED GAS DISTRIBUTORS

it is respectfully suggested that careful oversight by this Committee would hasten the administrative processes and lead to substantive regulations more closely attuned to the intent of Congress as expressed in the OCS Amendments.

\* \* \*

AGD appreciates this opportunity to present its views on the implementation of the OCS Amendments. With most of the administrative agency work on this subject yet to be performed, however, it would be appropriate and desirable for this Committee to convene oversight hearings again early in 1979 after the implementation process has progressed to a more certain state. At that time the Committee and all interested parties would be better able to critique the implementation process in terms of its real world impacts. AGD stands ready to participate in this endeavor.

ASSOCIATED GAS DISTRIBUTORS

Baltimore Gas and Electric Co.  
Bay State Gas Co.  
The Berkshire Gas Co.  
Boston Gas Co.  
Bristol & Warren Gas Co.  
The Brooklyn Union Gas Co.  
Cape Cod Gas Co.  
Central Hudson Gas & Electric Corp.  
Chesapeake Utilities Corp.  
City of Holyoke, Mass., Gas & Electric Dept.  
City of Westfield Gas & Electric Light Dept.  
Commonwealth Gas Co.  
Concord Natural Gas Corp.  
The Connecticut Gas Co.  
Consolidated Edison Company of New York, Inc.  
Pelmarva Power & Light Co.  
Elizabethtown Gas Co.  
Fall River Gas Co.  
Fitchburg Gas & Electric Light Co.  
Gas Service, Inc.  
The Hartford Electric Light Co.  
Haverhill Gas Co.  
Long Island Lighting Co.  
Lowell Gas Co.  
Lynchburg Gas Co.  
Manchester Gas Co.  
New Bedford Gas & Edison Light Co.  
New Jersey Natural Gas Co.  
New York State Electric & Gas Corp.  
Northern Utilities, Inc.  
The Pequot Gas Co.  
Philadelphia Electric Co.  
Philadelphia Gas Works  
Providence Gas Co.  
Public Service Company of North Carolina, Inc.  
Public Service Electric & Gas Co.  
Rochester Gas & Electric Corp.  
South County Gas Co.  
South Jersey Gas Co.  
The Southern Connecticut Gas Co.  
Tiverton Gas Co.  
UGI Corporation  
Valley Gas Co.  
Washington Gas Light Co.

UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOROffice of Outer Continental  
Shelf Program CoordinationCOMMENTS OF ASSOCIATED GAS DISTRIBUTORS ON  
FIVE-YEAR OUTER CONTINENTAL SHELF OIL AND  
GAS LEASING PROGRAM

On October 26, 1978, the Office of Outer Continental Shelf (OCS) Program Coordination (OCS Office) published a request for comments on the five-year OCS oil and gas leasing program required to be prepared by the Department of the Interior pursuant to section 18 of the OCS Lands Act Amendments of 1978, 43 U.S.C. § 1344. 43 Fed. Reg. 50055 (Oct. 26, 1978). The Associated Gas Distributors (AGD) <sup>\*/</sup> is keenly aware of the natural gas supply implications of the federal offshore leasing program and submits these comments in the interest of achieving a responsible and balanced program.

INTRODUCTION

AGD is an unincorporated association of natural gas distribution companies serving over 11 million customers along the Eastern Seaboard which account for approximately 25 percent of the nation's interstate natural gas consumers. Since 1970, the principle interstate pipeline companies supplying gas to the East Coast, upon which AGD member companies rely almost

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<sup>\*/</sup> A list of the AGD member companies is appended to these comments.

exclusively for their gas supplies, have sharply curtailed deliveries. The AGD member companies have accordingly experienced increasing difficulty in providing adequate and reliable utility service to their customers as required by the various state laws governing their operations. This situation is reviewed in detail on a current and near-term basis by the Federal Energy Regulatory Commission's Office of Pipeline and Producer Regulation in "Impact of 1978-79 Winter Curtailment for Twenty-nine Pipeline Companies," Docket Nos. TC78-5 et al. at 50-60, 77-81, 167-78, 182-89 and 199-208 (Sept. 18, 1978).

Given this background, the AGD member companies' interest in offshore development is basically twofold. First, all distributors depend upon a very sizeable portion of offshore gas supplies delivered by their pipeline suppliers to meet the consumer demands of their respective service areas. Second, many distributors or their affiliates plan to participate directly in the acquisition and development of OCS acreage. Some have already done so. Their objective is to obtain secure supply sources at a lower cost to them and ultimately their customers than gas supplies which they would otherwise have to acquire to meet demand, such as additional LNG and SNG.

Before turning to the specific points raised in the request for comments, several of the overarching findings and

purposes of the OCS Amendments of 1978 which relate to and affect the five-year leasing program should be emphasized.

Among other things, Congress has specifically found that:

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment; ...

OCS Lands Act Amendments of 1978 § 101(1)-(6), 92 Stat. 630, 43 U.S.C. § 1801 [hereinafter cited as OCS Amendments]. The thrust of these findings is a mandate to proceed expeditiously with the development of offshore resources in order to meet rising energy demands and to decrease reliance on foreign oil. The Interior Department must recognize these findings and promulgate a leasing program consistent with them.

Congress also specified a number of purposes in the OCS Amendments. The following are directly relevant to the leasing program:

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

\* \* \*

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; ...

OCS Amendments § 102, 92 Stat. 631, 43 U.S.C. § 1802. These purposes establish an "expedited," "rapidly as possible" and "earliest practicable" objective to the OCS Amendments overall and, concomitantly, to the leasing program required under section 18. The five-year leasing program must promote and seek to achieve these objectives.

#### THE AUGUST 1977 SCHEDULE

In its notice of request for comments, the OCS Office advised that the August 1977 leasing schedule "will be reviewed

for necessary adjustments and continuity with the proposed 5-year leasing schedule and for conformance with the" OCS Amendments. 43 Fed. Reg. 50056. The August 1977 schedule projected lease sales from that date through December, 1981. The portion of that schedule from January 1980 through 1981 should and will be reviewed in light of section 18 of the OCS Amendments. There is, however, no necessity for a whole-sale reassessment of that portion of the August 1977 schedule applicable through 1979.

Congress intended the section 18 leasing program to control the pace of offshore development only from a prospective timeframe beginning after enactment of the OCS Amendments and final administrative and judicial (if any) approval of the five-year program. The statutory language is explicit on this point:

leasing shall be permitted to continue until [the section 18] program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

OCS Amendments § 18(d)(3), 92 Stat. 651, 43 U.S.C. § 1344(d)(3) (emphasis added). Maximum adherence to the current leasing schedule is necessary and appropriate until such time as an approved, final five-year schedule replaces it.

Proceeding with the August 1977 schedule is, moreover, sound administrative policy. All interested parties have been "on notice" regarding the existing schedule at least since August,

1977. It is a reasonable schedule, prepared in anticipation of the OCS Amendments and "in close cooperation with the affected coastal States and takes into account the comments received from them and from local governments, industry, environmental groups and other interested parties." Andrus Announces Schedule For OCS Lease Sales, DOI News Release (Aug. 23, 1977). Governments and interested parties in the private sector have deployed their resources based upon Interior's commitment to the current schedule. Any significant revisions to it at this time would introduce needless uncertainties and inefficiencies into the offshore developmental process. This would be contrary to the sound administration of public lands as well as to the findings, purposes and explicit language of the OCS Amendments.

In sum, maximum full faith and credit should be accorded the August 1977 schedule until it is properly sup-  
planted.

#### SPECIFIC INFORMATION REQUESTED

The OCS Office has requested specific information concerning prospective OCS lease sale areas. For the most part, AGD does not possess data beyond that otherwise available to the OCS Office through the many federal agencies responsible for various and sundry aspects of energy policy. Much of the information requested has also already been collected in the programmatic

and numerous specific lease sale draft and final environmental impact statements prepared by DOI. AGD defers generally to these sources and limits its response to the informational request to those items of particular relevance to East Coast natural gas distributors.

AGD is primarily interested in the development of those OCS areas which do, and potentially could, supply the East Coast gas utility service areas -- the Gulf of Mexico and the Atlantic, designated as areas 1 through 8 by the OCS Office. 43 Fed. Reg. 50056-59. In this regard, the Gulf must be considered of highest importance, given its present and at least short-term preeminence as a producing area. Leasing in the Gulf should proceed at a pace sufficient to maintain its historical production levels. Promising, undeveloped areas such as the Atlantic should be leased to the extent necessary to assess promptly their producing viability and to bring their production, if any, "on line" as rapidly as possible.

The Gulf and Atlantic areas warrant special recognition in the leasing program for several reasons. The technology required for development of these areas is both known and obtainable. Environmental sensitivity is an important consideration in all OCS areas, and the Gulf and Atlantic areas present less potential for serious environmental problems than some other

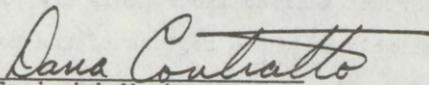
areas, such as Alaska. The capacity for quick, effective personnel and equipment response to potential environmental hazards is very high in the Gulf and Atlantic regions.

Two final points merit priority attention to the Gulf and Atlantic areas. First, land-based OCS support facilities, industrial and social infrastructures and all-important skilled labor pools are present now or readily available in these regions of the country. Thus, offshore Gulf development has not caused, and extensive offshore Atlantic development is highly unlikely to cause, significant sociologic upheavals. Lastly, the leasing program would be seriously deficient if it did not reflect and accommodate the existing methane gas transportation system, pipeline transmission and utility distribution. This system is virtually ubiquitous along the Eastern Seaboard. It has brought gas from the producing regions of the country to major Eastern market centers for decades and, in large part, now relies upon Gulf offshore supply sources. If the Atlantic Shelf in fact develops as a significant gas-producing area, the capability of this system is sufficiently flexible to deliver large volumes directly or by displacement. As compared with transmission of gas from other offshore regions, Atlantic OCS areas could be handled with relative ease. The East Coast gas transmission and distribution system is in place and ready to continue service to meet current and projected market demand.

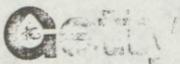
CONCLUSION

AGD appreciates this opportunity to contribute to the development of the offshore leasing program and remains vitally concerned that its member companies and their consumers obtain expeditiously the benefits of OCS gas supplies.

Respectfully submitted,



Frederick Moring  
Dana Contratto  
Attorneys for the  
Associated Gas Distributors



Getty Oil Company 6750 West Loop South, Suite 400; Bellaire, Texas 77401 • Telephone (713) 668-8400

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Southern Exploration and Production Division  
E. R. Smith, Offshore District Manager

December 4, 1978

The Honorable John M. Murphy, Chairman  
Ad Hoc Select Committee on  
Outer Continental Shelf  
Congressional Annex #2, Room 3575  
U.S. House of Representatives  
Washington, D.C. 20515

Sir:

Getty Oil Company, after careful review of the Outer Continental Shelf Lands Act Amendments of 1978 (PL 95-372), submits the following comments to be included in the record of the Oversight Hearings of the House Ad Hoc Select Committee on the Outer Continental Shelf Hearings of December 6 and 7, 1978.

The OCS Amendments attempt to resolve the conflicts, bureaucratic disputes, and delays in the present OCS activities and regulations. Although industry does not have enough experience under the revised Act to permit an adequate appraisal of its impacts, we foresee limited improvement unless regulations required under the Act are implemented in a prudent and timely manner.

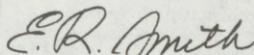
There are several critical areas which we feel should be addressed at the Oversight Committee Hearings:

- 1) Overlap of jurisdiction and possible conflicts among the federal agencies which have responsibility for regulation of OCS activities.
- 2) Adequate protection of confidential and proprietary data submitted by the industry.

- 3) Possible unreasonable post sale delays due to provisions of the Act which call for exploration and development plan approvals by state and federal agencies.
- 4) There are currently no regulations in effect dealing in such areas as oil spill liability, lease suspensions, documentation of vessels, fishermen's compensation, and others. These areas should be covered by the regulations.

It is our hope that your Oversight Committee will continue to monitor the Department of the Interior and other agencies as they attempt to implement PL 95-372.

Very truly yours,



E. R. Smith

ERS/nw



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT

DOVER, 19901

PHONE (302) 678-4101

PIERRE S. DU PONT  
GOVERNOR

November 29, 1978

The Honorable John M. Murphy, Chairman  
U.S. House of Representatives  
Ad Hoc Select Committee on Outer  
Continental Shelf  
Washington, D.C. 20515

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REP. JOHN M. MURPHY

Dear Jack:

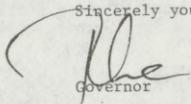
I regret that I am unable to participate in your oversight hearing on the 1978 amendments to the OCS Lands Act. I would like to offer these general remarks which I am requesting be made part of the hearing record.

The passage of the 1978 amendments obviously represents a landmark in the OCS leasing program. The amount of State participation recognized in the provisions of the 1978 Act represents substantial improvements over the previous program. Although the implementation of the Act is in its early stages, the State of Delaware is generally satisfied with the statute and the Department of the Interior's efforts to implement the statute. At this point, I can only draw your attention to one matter which I hope is not indicative of future practice by the Department of the Interior. On November 1, 1978, the Department of the Interior temporarily suspended certain rules, including those under which the states receive OCS exploration plans and environmental reports. This notice came as a surprise to the Mid-Atlantic states, and we would hope that any such proposals which change regulatory procedures would be preceded by consultation with affected states.

The Congress wisely included administrative grants to the states in order to assist them in responding to the substantial work load generated by the leasing program. Funds to implement this particular provision are sorely needed at the state level and your committee's influence in affecting prompt disbursement of those funds would be very much appreciated by affected coastal states.

Your committee is to be commended for its persistent and thorough efforts in forming the OCS leasing program. It was an honor to be part of that effort and I regret that I am unable to personally convey my comments to the committee. Best of luck in future endeavors.

Sincerely yours,

  
Governor

PSduP:ob

cc: Energy Siting Committee

BOARD OF SUPERVISORS

## COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

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DAN FORBUS

(LIVE OAK-SOQUEL)

MARILYN D. LIDDIKOAT

(APTOS)

December 8, 1978

GARY A. PATTON

(SEASIDE)

(PAJARO)

PAT LIBERTY

(SAN LORENZO-SCOTTS VALLEY)

Chairperson  
House-Senate Conference Committee  
on OCS Lands Act Amendments  
Capitol Hill  
Washington, D.C. 203

Dear Sir:

I understand that Ms. Deni Greene, Deputy Director of the Governor's Office of Planning and Research, testified before your joint Committee on Thursday, December 7. I was provided with a proposed copy of Ms. Greene's testimony, and authorized her to indicate that I generally supported her remarks. Local government officials, and Santa Cruz County officials in particular, have been particularly active in attempting to play a meaningful role in the federal OCS process. It is my feeling, a feeling shared by our Congressman, Leon Panetta, and one shared by every other local official I have talked to, that a meaningful place for local governments has not been provided by the federal government. I am enclosing with this letter a copy of my recent comments on proposed new regulations, which illuminates some of the concerns I have.

I wanted to stress a point touched upon in Ms. Greene's proposed testimony, lest there be any ambiguity in the message you are getting from Santa Cruz County. On page 3 of the proposed testimony submitted to me, Ms. Greene indicates that the negative nomination process has created expectations that are not being met, and that something ought to be done to change the character of the negative nomination process. She then states, "Some alternatives would be to:

...(2) Eliminate the negative nominations process."

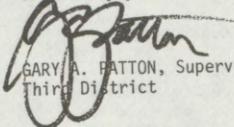
I fully concur that the negative nomination process has not served its purpose of removing from further consideration tracts where environmental or other concerns override the need for further study. In connection with the negative

nomination process related to OCS Lease Sale No. 53, many local governments, including Santa Cruz County, spent literally tens of thousands of dollars (some of it being federal funds) to make substantive comments and negative nominations. Basically, all these negative comments and negative nominations were ignored, and the lease sale EIS process is now going forward as to virtually each and every location where the USGS identified significant oil resources. There was, indeed, "no reason" for such a negative nomination process.

I want to make certain that the Committee does not think that I would support elimination of the negative nomination process. While that is indeed "an alternative", it is an unacceptable one to me and to other local government officials. What we want is a process that eliminates areas from further consideration and study where it seems clear that there are overriding environmental, economic or other reasons not to proceed with oil and gas development at this time. A letter to Secretary Andrus, from Congressman Panetta, is enclosed, more fully detailing my concerns on this point.

Thank you for allowing me to make these supplementary comments to Ms. Greene's testimony.

Very truly yours,



GARY A. PATTON, Supervisor  
Third District

GAP:sf

cc: Deni Greene  
Congressman Leon Panetta

Enclosures

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GARY A. PATTON  
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November 21, 1978

PAT PAVARO

(SAN LORENZO-SCOTTS VALLEY)

Director, Office of OCS Program  
Coordination  
Office of Assistant Secretary -  
Policy, Budget and Administration  
Department of the Interior  
Room 4126, 18th and "C" Streets, N.W.  
Washington, D.C. 20240

RE: COMMENTS ON CIRCULAR NO. 2437 REGARDING  
OUTER CONTINENTAL SHELF LEASING PROGRAM

To Whom It May Concern :

I have the following comments on the proposed Rule 3308, relating to the OCS Leasing Program:

1. The "leasing program" which is proposed to be developed under the authority of the Outer Continental Shelf Lands Act of 1953, as amended, is defined in Section 3308.0-1 as consisting of "a schedule of proposed lease sales ..." My comment is that a "program" is something a great deal different from a "schedule." Limiting the leasing "program" to the "scheduling" aspects of OCS development is artificially to limit the topics in which the public should become directly involved.
2. Section 3308.1 discusses the public notice that will be given in connection with developing the five year leasing program. The public notice is to consist exclusively of a notice in the federal register. I believe that this notice is inadequate, if the intention is fully to involve the public and local governmental agencies. The notice requirements should include publication in newspapers of general circulation, in each coastal city of 100,000 or more; in counties where there is no city of 100,000 or more, publication should be made in a newspaper of general circulation published in

the County seat. In addition, every coastal city and county should be directly informed by mail.

3. With reference to Section 3308.1, the proposed rule would require local governments wishing to respond to first submit their responses to the Governor of the State in which the local government is located.

I see no reason whatsoever for this restriction. If the intention is to coordinate responses from the State, so that a Statewide position can be carefully considered by the Department of the Interior, then local comments made to the Department of the Interior should be required also to be submitted to the Governor, who can convey a Statewide position. In fact, the effect of the proposed rule is substantially to discourage the participation in the OCS process by local jurisdictions. This is directly contrary to the intention of the OCS Act amendments.

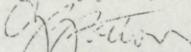
4. Section 3308.2 (b) indicates that the "proposed leasing program" shall be available to a local government affected by a program only when such local government requests the program from the Governor of an affected State. Unless the "proposed program" is of such volume that it would be a significant economic burden to distribute it directly to each affected government, each affected local government agency should be provided with a copy of the proposed leasing program, at the same time that it is submitted to the Governor of the affected State. Again, failure directly to involve local governments in the review and comment period, by requiring them to learn independently of the existence of the proposed leasing program, and then to request it from the State Governor's office, is to defeat the intention of the OCS Act amendments. As a practical matter, the delays which will be experienced by a local government will be extremely significant.
5. Section 3308.3 speaks of "periodic consultation with interested parties", and then indicates that such consultation shall take place "primarily through appropriate public notice as described in 3308.1". As previously stated, I believe that the public notice as described in proposed Section 3308.1 is inadequate. Mailed and newspaper notice should be added. If such notice is added, then I have no objection to this method of stimulating periodic consultation. Without such actual measures to notice interested parties, though, Section 3308.3 becomes a sham, since the affected parties will not learn of the possibility of consultation until it is too late.

The United States Supreme Court, on many occasions, has indicated that due process requires that notice be the best notice that is practical to give. In other words, where an interested person's mailing address is known, it deprives the person of due process if newspaper publication is used. Where a newspaper is available, it deprives the interested party of due process if notice is posted

on the courthouse door--and so forth. In general, the proposed regulation contained in circular no. 2437 does not afford maximum practical notice to the parties likely to be interested in the OCS leasing program.

Thank you for taking these comments into consideration.

Very truly yours,



GARY A. PATTON, Supervisor  
Third District

GAP:tk

cc: Congressman Leon Panetta  
Coastal County Supervisors  
Coastal Commission  
Deni Greene, Acting Director,  
Office of Planning and Research

LEON E. PANETTA  
18TH DISTRICT, CALIFORNIA

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## Congress of the United States

House of Representatives

Washington, D.C. 20515

October 12, 1978

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The Honorable Cecil D. Andrus  
Secretary  
Department of the Interior  
Washington, D.C. 20240

Dear Mr. Secretary:

I am writing to express my deep disappointment and disapproval of your decision to put 243 tracts of OCS Sale Area 53 into the next step of the leasing schedule, the preparation of Environmental Impact Statements (EIS's) and Draft Environmental Impact Statements (DEIS's), apparently without giving any consideration to the special needs of the central California coast and the views of the people and the Representatives and Senators from the affected areas.

As you know, I and representatives from this area have gone to great lengths to make you and your staff aware of the unique characteristics of both my coastal areas and those in the entire Sale Area. A prompt response was provided to your initial announcement of the Sale and all of the counties in my district indicated their opposition to the sale. Further, county supervisors from each county in my district and from a number of other California counties traveled to Washington at great expense to talk to you personally about the upcoming tract announcement, urging that areas of high environmental concern be eliminated. Finally, I have secured the support and cooperation of all the Representatives from districts in Sale Area 53 and from both California Senators in asking you to make some modification of the tracts that will go into the EIS process.

Despite the strong and unified position of the communities affected, these views were ignored by your Department. Perhaps the most disappointing fact is that while the people affected were only asking for some modification in the tract selection, the oil companies were able to get virtually everything they asked for in the tract announcement simply by labeling an area high in oil interest. Every area of high oil company interest was included

despite the fact that about half of the areas were also rated of high and extreme environmental concern.

In my district, in particular, the San Luis Obispo coast (included in the Santa Maria Basin area) includes some of the most rugged and magnificent coastline in the world and a number of state parks, and landmarks, including Morro Rock and Morro Bay State Park. I am sure I need hardly remind you that the area is dependent on tourism and fishing for its livelihood, businesses that could suffer severe economic hardship in the event of a spill or leakage from a drilling rig.

The same is true for the Santa Cruz coastline. While the areas in the tract announcement off Santa Cruz are not actually within my congressional district, they border the district very closely. Without any doubt, a spill in this area would jeopardize the livelihood of many in my district and would affect the numerous scenic areas in Santa Cruz, including the Santa Cruz Mountains and the Big Basin Redwoods State Park.

While it is true that preparations of an EIS does not mean an area will be leased, you know as well as I do that once this process is begun it gets harder and harder to reverse it or slow it down. Moreover, there is at least a fair chance that by the time the EIS is completely finished (allowing for the inevitable delays), we may not have an environmentally sensitive and sympathetic administration to deal with.

I am not asking that you cancel the whole lease sale process. Certainly, there are areas where environmental concerns can be accommodated and balanced with the need for energy supplies. But I do think that we know now that there are substantial environmental concerns in many areas and we know the areas where there are important values, industries and economies to be protected. We don't need to go through an EIS in these areas. This process will mean more time and expense for local governments, regional bodies and the state, expense that is completely unjustified, in view of the information we already have on the special needs of these areas.

Further, Mr. Secretary, I believe that you do have the statutory power to remove these areas from the leasing process at any time in the schedule. I can find no explicit ban in the laws and regulations for such an action. Certainly, too, if you can remove areas from the sale because there is low or moderate oil company interest or military interest, you can remove tracts on the grounds

of clear-cut environmental or economic conflicts.

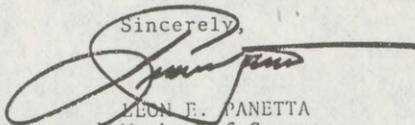
In view of the above, Mr. Secretary, I would also like to ask you for the following information: First, I believe that at this point you owe the people of the communities affected an explicit statement of your intentions with respect to the portions of the Sale Area 53 that are included in or affect my congressional district and that are of high or extreme environmental concern. Without this, I can only conclude that the Department of the Interior has been and will continue to be completely insensitive to the special needs of the central California coast and to the expertise and good intentions of those local officials who have worked so hard to educate the Department on their concerns about the proposed lease sale.

Second, I would like an assurance from you that the Pacific OCS office will be more responsive to the questions and concerns of local officials and interested individuals and groups than it has been to date. As one of the County Supervisors who met with you indicated, that Office has virtually ignored the data and information presented by many county governments and environmental groups. This situation must be reversed, if the statutory requirements for local input in the leasing process are to have any real meaning.

Third, I would like a commitment that the EIS process will proceed on schedule or slightly ahead of schedule, if possible. You are only too aware of the many delays that crop up in the preparation of EIS's, delays that in this case could mean more expenses by local government and prolonged frustration of those affected. This matter must be resolved as soon as possible and not allowed to drag on indefinitely to the detriment of our communities.

Once again, I want to register my deep concern over your decision on the tract announcement. I would appreciate a prompt response to the issues I have raised.

Sincerely,



LEON E. PANETTA  
Member of Congress

LEP:mfd

[Whereupon, at 5:27 p.m., the committee adjourned, to reconvene upon the call of the Chair.]

