TRANSPORTATION OF OIL BY PIPELINE FROM LONG BEACH, CALIF., TO MIDLAND, TEX.

JOINT HEARINGS

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE

AND THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 3131, H.R. 3243, and H.R. 3247

BILLS TO AMEND TITLE V OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 TO PROVIDE FOR PREEMPTION OF CERTAIN STATE LAWS PROHIBITING OR UNDULY HAMPERING CONSTRUCTION OF THE LONG BEACH-MIDLAND PROJECT; TO AUTHORIZE THE PRESIDENT TO RECOMMEND WAIVER OF LAWS TO EXPEDITE THE TRANSPORTATION OF CRUDE OIL, AND FOR OTHER PURPOSES

APRIL 2, 1979

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NOTE.—The first listed minority member is counterpart to the subcommittee chairman.

CONTENTS

TRANSPORTATION OF OIL BY PIPELINE FROM LONG BEACH, CALIF., TO MIDLAND, TEX.

MONDAY, APRIL 2, 1979

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON ENERGY AND POWER, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, AND THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,

Washington, D.C.

The subcommittees met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. John D. Dingell, chairman of the Subcommittee on Energy and Power and Hon. Morris K. Udall, chairman of the Committee on Interior and Insular Affairs, presiding.

Mr. DINGELL. The two subcommittees will come to order. Because of the remarkable gravity attached to the matters before the two subcommittees today, we are convening a joint hearing chaired jointly by my dear friend and colleague, the Honorable Morris Udall, the chairman of the Interior Committee, and the present occupant of the Chair.

The question of energy sufficiency of the United States is one of utmost urgency, and unnecessary, ill conceived, and frivolous obstacles to achieving energy independence cannot be tolerated. The Chair at this time recognizes my cochairman and dear friend, Hon. Morris Udall for an opening statement.

Mr. UDALL. Thank you, Mr. Chairman. I am pleased that our committees can continue the cooperative spirit of investigation that we have had in this and other matters. Our Subcommittee on Oversight and Investigations is chaired by Mr. Runnels of New Mexico. I have assigned to him the primary responsibility for coordinating our efforts in this matter. He has had surgery and cannot be here today.

We from the Interior Committee are pleased to work with you on this very critical matter. It seems to be my lot, and I guess yours too, Mr. Chairman, recently to preside over autopsies or post mortems on a number of energy disasters and crises.

Not only have we seen the abandonment of a pipeline that the country needs, but the week before last we had to shut down five nuclear reactors. Now we are all concerned with and involved in the events up at Harrisburg in the most alarming accident in the history of nuclear power.

So, in this kind of gloomy atmosphere I am here today with you to see if we can do something about resurrection. If there are any practicing Christians today who believe in resurrection, we are trying to resurrect what I think is a very good project.

It seems to me when we met with Secretary Schlesinger and the pipeline people a week ago, that the thing to do was to take everyone at face value. Sohio says they are still willing to build the pipeline if we can cut through the red tape and get it back on track very shortly. Other figures of the State of California say they have not attempted to block the pipeline, that they think it is in the national interest, and they believe it ought to be built.

So, we are here to find out as far as I am concerned what can be done; to what extent can we short cut the process; to what extent can we take action that will get this project back on the track at the earliest possible moment. I look forward to hearing the testimony today and perhaps coming up with some kind of legislated solution that will expedite this project which is in the national interest.

I thank you, Mr. Chairman.

Mr. DINGELL. The Chair thanks my colleague and cochairman.

The two committees are holding hearings on H.R. 3131 introduced by our colleague, Mr. Hance of Texas, and H.R. 3243 introduced by Chairman Udall, myself, and a number of colleagues on both committees relating to this matter.

There are some comments which I believe are important at this time. On March 13, the Standard Oil Company of Ohio, Sohio, announced, after 5 years and an investment of $50 million, that it was abandoning its efforts to build an oil pipeline from California to Texas.

This morning the Subcommittees on Energy and Power and Oversight and Investigations will be looking at what happened to the Sohio pipeline. What does the loss of the project mean to the health of California's citizens and to the Nation's energy program? What can we do to revive the project? Should we revive it?

As has been pointed out in the past, the project, if approved, would not only speed delivery of 500,000 barrels per day of Alaskan oil to U.S. refineries served by pipelines from Midland, Tex., but would result in a substantial improvement of the air quality in the Los Angeles air basin.

In August 1977 the Energy and Power Subcommittee began an investigation into the causes of the inordinate delay that has taken place in providing efficient and economic means of transporting Alaskan North Slope oil to the east coast and northern tier States in the continental United States.

At that time the chairman of the California Air Resources Board and the president of the California Public Utilities Commission promised the subcommittee that the permit process could be completed by mid-October 1977. In the next 18 months, there were endless company delays in applying for permits, bureaucratic delays in processing permit applications, and mutual misunderstandings.

These were compounded by threats of eternal litigation. Now Sohio has terminated the project. If this decision cannot be changed, the citizens of California will lose the health protections of $80 million in clean-air trade-offs promised by Sohio. The Nation will be denied a vital distribution system to move its scarce oil resources.

The purpose of today's hearing is not to find fault. We are here to see what can be done to reach a fair solution to the problems that remain. In other words, what can we do to help get the project back on line?

[Testimony begins on p. 12.]

[The texts of H.R. 3131, H.R. 3243, and H.R. 3247 follow:]

[H.R. 3131, introduced by:
Mr. Hance (for himself, Mr. Huckaby, Mr. Bailey, Mr. Atkinson, Mr. Volkmer, Mr. Kogovsek, and Mr. Leath of Texas) on March 20, 1979; and
H.R. 3247, introduced by:
Mr. Hance (for himself, Mr. Huckaby, Mr. Bailey, Mr. Atkinson, Mr. Volkmer, Mr. Kogovsek, Mr. Leath of Texas, Mr. Rose, Mr. Stenholm, Mr. Forsythe, Mr. Hightower, Mr. Whitehurst, and Mr. Devine) on March 27, 1979,
Cosponsored on March 29, 1979, by Mr. Stump;
Cosponsored on April 3, 1979, by Mr. Gramm, Mr. Wilson of Texas, Mr. Loeffler, and Mr. Simon;
Cosponsored on April 5, 1979, by Mr. Collins of Texas;
Cosponsored on April 24, 1979, by Mr. Leach of Louisana;
Cosponsored on May 15, 1979, by Mr. Ratchford,

are identical as follows:]

A BILL

To amend title V of the Public Utility Regulatory Policies Act of 1978 to provide for preemption of certain State laws prohibiting or unduly hampering the construction of the Long Beach-Midland project or any crude oil transportation system approved under such title, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crude Oil Transportation Amendments Act of 1979".

SEC. 2. (a) Section 508 of the Public Utility Regulatory Policies Act of 1978 (42 U.S.C. 2008), relating to procedures for waiver of certain laws, is amended—

(1) in the section heading, by inserting after "FEDERAL" the following: "OR STATE";

(2) in the subsection heading for subsection (a), by inserting after "FEDERAL" the following: "OR STATE";

(3) in subsection (a), by inserting after "Federal law" the following: "or State law"; and

(4) by adding at the end of subsection (a) the following new sentence: "For purposes of this section, the term 'State law' means any State or local law, rule, regulation, or ordinance.".

(b) The item relating to section 508 in the table of contents for such Act is amended to read as follows:

"Sec. 508. Procedures for waiver of Federal or State law.".

SEC. 3. (a) Section 504 of such Act (42 U.S.C. 2004), relating to applications for approval of proposed crude oil transportation systems, is amended by striking out paragraphs (1) and (2) and the text preceding paragraph (1) and inserting in lieu thereof the following:

"Applications for construction and operation of crude oil transportation systems submitted to the Secretary of the In-

terior by an applicant before August 1, 1979, are eligible for consideration under this title.".

(b) Section 505(c) of such Act (42 U.S.C. 2005(c)), relating to review of applications agency heads, is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of the Interior shall forward such comments to the President with the recommendations on or before March 1, 1980.".

(c) Section 506(b) of such Act (42 U.S.C. 2006(b)), relating to environmental impact statements, is amended—

(1) by striking out "December 1, 1978," and inserting in lieu thereof "March 1, 1980,"; and

(2) by striking out "; except that in the case of" and all that follows and inserting in lieu thereof a period.

96TH CONGRESS
1ST SESSION

H. R. 3243

To amend title V of the Public Utility Regulatory Policies Act of 1978 to authorize the President to recommend waiver of laws to expedite the transportation of crude oil, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1979

Mr. DINGELL (for himself, Mr. UDALL, Mr. CLAUSEN, Mr. BROWN of Ohio, Mr. MARKEY, Mr. SATTERFIELD, Mr. GRAMM, Mr. HANCE, Mr. LAGOMARSINO, and Mr. LUJAN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce

---

A BILL

To amend title V of the Public Utility Regulatory Policies Act of 1978 to authorize the President to recommend waiver of laws to expedite the transportation of crude oil, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Crude Oil Transportation Amendments Act of 1979".

FINDINGS

SEC. 2. The Congress finds that—

(1) a critical crude oil supply shortage exists in portions of the United States, particularly in the eastern, midwestern, and northern tier States, and will become more serious in the near future;

(2) it is in furtherance of the national interest that domestically produced crude oil be sold for consumption in the United States or to contiguous countries solely for domestic consumption in such countries;

(3) a large surplus of crude oil exists on the west coast of the United States;

(4) pending the authorization and completion of west-to-east crude oil delivery systems, Alaskan crude oil in excess of west coast needs will be transshipped through the Panama Canal at a high transportation cost;

(5) national security and regional supply requirements are such that west-to-east crude delivery systems serving both the northern tier States and inland States, consistent with the requirements of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, are needed;

(6) expeditious Federal and State decisions for west-to-east crude oil delivery systems are of the utmost priority; and

(7) resolution of the west coast crude oil surplus and the need for crude oil in northern tier States and inland States require expedited action on all necessary environmental assessments and decisions on permit applications concerning delivery systems and may require that Congress waive certain Federal, State, and local laws upon recommendation of the President.

WAIVERS OF LAW

SEC. 3. (a) Section 508 of the Public Utility Regulatory Policies Act of 1978 (42 U.S.C. 2008), relating to procedures for waiver of certain laws, is amended—

(1) in the section heading, by inserting after "FEDERAL" the following: "OR STATE";

(2) in the subsection heading for subsection (a), by inserting after "FEDERAL" the following: "OR STATE";

(3) in subsection (a), by inserting after "Federal law" the following: "or State law";

(4) by adding at the end of subsection (a) the following new sentence: "For purposes of this section, the term 'State law' means any State or local law, rule, regulation, or ordinance."; and

(5) by adding at the end the following new subsection:

"(c) MANDATORY WAIVER OF CERTAIN LAWS.—(1) During the 30-day period beginning on the date of the enactment of this subsection, the President shall identify those provisions of Federal or State law which are likely to hinder or preclude the timely construction or operation of the Long Beach-Midland project unless waived under this section. During such period, the President shall cause notice to be published in the Federal Register of the provisions identified under this subsection.

"(2) On the 60th day after the date of the enactment of this subsection, the President shall—

"(A) review whether adequate steps have been taken, subsequent to the publication under paragraph (1), to make unnecessary the waiver of any provision of law identified under such paragraph;

"(B) after completing the review under subparagraph (A), determine whether any provisions of law identified under paragraph (1) remain likely to hinder or preclude the timely construction or operation of the Long Beach-Midland project; and

"(C) prepare and submit to the Congress a report on such review and determination, containing—

"(i) an explanation why a waiver of any provisions of law identified under paragraph (1) is unnecessary, if he has so determined under subparagraph (B); or

"(ii) a proposed waiver of the provisions of law which he has determined under subparagraph (B) as remaining likely to hinder or preclude the timely construction or operation of the Long Beach-Midland project.".

(b) The item relating to section 508 in the table of contents for such Act is amended to read as follows:

"Sec. 508. Procedures for waiver of Federal or State law.".

EXTENSION OF TIME FOR FILING AND CONSIDERATION OF CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 4. (a) Section 504 of such Act (42 U.S.C. 2004), relating to applications for approval of proposed crude oil transportation systems, is amended by striking out paragraphs (1) and (2) and the text preceding paragraph (1) and inserting in lieu thereof the following:

"Applications for construction and operation of crude oil transportation systems submitted to the Secretary of the Interior by an applicant before August 1, 1979, are eligible for consideration under this title.".

(b) Section 505(c) of such Act (42 U.S.C. 2005(c)), relating to review of applications by agency heads, is amended

by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of the Interior shall forward such comments to the President with the recommendations on or before March 1, 1980.".

(c) Section 506(b) of such Act (42 U.S.C. 2006(b)), relating to environmental impact statements, is amended—

(1) by striking out "December 1, 1978," and inserting in lieu thereof "March 1, 1980,"; and

(2) by striking out "; except that in the case of" and all that follows and inserting in lieu thereof a period.

50-586 O - 79 - 2

Mr. DINGELL. The Chair observes that our first panel, and this is by way of announcement, is composed of Mr. Wilson, Mr. McJunkin, Mr. Fischer, and Mr. McCandless. Gentlemen, we do welcome all of you here and thank all of you for your kindness. We note that Mr. Quinn and Mr. Brown have been invited.

I understand from the staff that they are coming. We will permit them to take seats and testify at the appropriate time.

The Chair is advised that Mr. Clausen has an opening statement. We do recognize him at this time for that purpose.

Mr. CLAUSEN. Thank you, Mr. Chairman.

I am pleased to join you and my counterpart, the chairman of our full committee, Mr. Udall, of the Interior Committee, in not only participating in the hearing, but also as cosponsor of the legislation which brought about this hearing.

Certainly the goal that we have in the United States is energy and the recent events in Iran amplified by the recent decisions by the OPEC countries tends to place everything in perspective and certainly sends us all a stronger message.

Mr. Chairman and my colleagues, I have here the Oversight and Investigations Committee assignment along with our colleague, Mr. Runnels, who could not be here today. We had a mandate from the Interior Committee to follow the disposition of the Alaskan oil in the last Congress. I would like to read some excerpts from the views that I presented in the committee report because I think there is a measure of relevance here today.

In the October reported I stated:

> We believe it is in the national interest that at the beginning of the first session of the 96th Congress the Committee on Interior and Insular Affairs consider legislation to place in a priority category the various domestic alternatives to transport the west coast surplus of north slope Alaskan crude to the inland regions of the United States.
>
> The Federal Government must eliminate the unnecessary bureaucratic red tape with respect to processing oil pipeline permit applications. Whether it be a Federal or state or local action, interested parties must approach environmental issues in an equitable and reasonable manner. The only solution to our present dependence on a foreign cartel is American energy independence.
>
> We must remind ourselves that when Congress in 1975 passed the Trans-Alaskan Pipeline System Act, commonly known as TAPS, we gave full assurance to all the American people that Alaskan oil would be available throughout the nation to address our energy requirements. A domestic energy distribution network assures the security of the national, as well as economic, well being of the entire United States.
>
> The more completely we design and build our domestic energy distribution network, the more efficient our use of energy will be. I submit, how can we speak of exporting our great domestic supply at a time when oil imports grow day by day? Our problem is clearly a transportation deficit and an inadequate west coast high sulfur refining capacity, not in any surplus. Let us consider ways to move the Alaskan oil within our borders, not ways to move it out.

You can certainly see, Mr. Chairman, from those statements why I have joined in cosponsoring this legislation. I will be happy to yield to my colleague, Mr. Lagomarsino, also a member of the committee.

Mr. LAGOMARSINO. Thank you.

I want to commend Mr. Dingell and Mr. Udall for holding this hearing. I think it is very apt and important that we do so.

I want to associate myself with the remark made by my colleague from California, Mr. Clausen. I would like to add to them that with what is happening in Pennsylvania today, what happened last week

and what is continuing, I think it is even more imperative than it was 1 week ago we take every action feasible to complete some kind of transportation system so that Alaskan oil can be used in this country.

Mr. DINGELL. The Chair thanks the gentleman.

Gentlemen, the Chair first of all does express the thanks of the two subcommittees to our panel. We are grateful to you for your assistance to the committee. The Chair will now recognize the panel in this order. We will recognize first, Mr. McCandless; second, Mr. Fischer; and third, Mr. McJunkin.

Is Mr. Parkin in the room? You are listed as accompanying Mr. McJunkin. We may assume you will have some comments of your own. At the appropriate time you may come forward to the witness table.

Gentlemen, we recognize first Mr. McCandless. If you will identify yourself fully for the purposes of the record.

STATEMENTS OF A PANEL COMPRISING ALFRED McCANDLESS, CHAIRMAN OF THE BOARD, SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, ACCOMPANIED BY STEPHEN BROILES, DISTRICT COUNSEL; MICHAEL L. FISCHER, EXECUTIVE DIRECTOR, CALIFORNIA COASTAL COMMISSION; AND RICHARD G. WILSON, PRESIDENT, BOARD OF HARBOUR COMMISSIONERS, CITY OF LONG BEACH, CALIF., ACCOMPANIED BY LELAND R. HILL, DIRECTOR, ENVIRONMENTAL MANAGEMENT, ROBERT PARKIN, CITY ATTORNEY, AND JAMES McJUNKIN, GENERAL MANAGER

Mr. MCCANDLESS. I am Al McCandless, chairman of the district board and supervisor of the Fourth District of Riverside County. With me is Stephen Broiles, district counsel.

The South Coast Air Quality Management District is pleased to have been invited to testify on the processing of air quality permits for the Sohio crude oil terminal at Long Beach and to make recommendations on how this and future projects can be accelerated.

The district is the agency responsible for issuing air quality permits for stationary sources such as the Sohio terminal. This function is part of our overall statutory responsibility for attaining air quality standards in the South Coast Air Basin, where almost one-half the population of California resides.

The California Air Resources Board has oversight responsibility over the district's activities and, in the case of the Sohio permits, must concur in their issuance. As the members of your committee may know, southern California has the most serious air pollution problem in the Nation. While we are making progress in solving that problem, we still have a long way to go.

Consequently, it is important that new projects such as the Sohio terminal do not aggravate present high levels of air pollution in the basin. This can be accomplished by requiring the project sponsor to take mitigating measures as required under the Clean Air Act and California law.

The Sohio terminal is the first new source to be processed under the offset concept in the district. It has been an obviously long and frustrating experience.

I am happy to report, however, that the process as far as the district is concerned is practically over. My board concluded hearing testimony last Saturday and will meet on April 20, to review the closing briefs from involved parties, make a ruling on offsets and instruct staff to issue the permits.

The staff recommendation on offsets, which, subject to some unexpected discovery in the briefs, will in my judgment be adopted by the board, is to approve the offset proposals submitted by Sohio, which include an SO_2 scrubber. Staff recommended that the district board also approve the use of low sulfur fuel oil as an alternate to the scrubber in case Sohio finds the reduced cost and immediate availability of low sulfur fuel oil more attractive.

The low sulfur fuel oil option would be useful in the event that the certification of the environmental impact report [EIR] on the scrubber, required under the California Environmental Quality Act [CEQA], is unacceptably delayed.

In contrast, the low sulfur fuel oil option is immediately available and thus not subject to the 6- to 9-month EIR procedure. Interestingly, low sulfur fuel oil is a better option than the scrubber from the standpoint of air quality.

The California Air Resources Board staff representative at our hearing Saturday testified that his staff will recommend to its board that it approve the scrubber option but disapprove the low sulfur fuel option. In my judgment, if the air resources board follows this recommendation, it could be a setback to the Sohio project, for it would deprive Sohio of an indispensable option if the scrubber experiences delays.

Your letter expressed concern over the chronology of the events related to permitting the project. The more important of those events are as follows:

October 1976: New source review rule adopted for district by CARB.

March 1977: Sohio submitted final applications for permits to district.

May 1977: District staff completed analysis of applications under new source review rule and prepared to issue conditional permits. I want to call your attention again to the date, May 1977.

June 1977: Petitioners including League of Women Voters, Sierra Club, and others under provisions of State law petitioned district board to hold public hearings on Sohio applications.

July 1977: District Board commenced hearings.

September 1977: Hearings discontinued until supplemental EIR could be prepared and certified.

January 1978: Supplemental EIR certified.

January 1978: Board concluded phase I hearings, project approved, emission levels and offset requirements set.

July 1978: Sohio submitted offset proposals; Board set phase II hearings for September 1978.

September 1978: Sohio requested indefinite delay in phase II hearings to restudy its offset proposals.

January 1979: Sohio resubmitted offset proposal and requested hearings to resume.

March 8, 1979: Phase II hearings began.

March 13, 1979: Sohio withdrew from project.
March 21, 1979: Sohio returned.
March 30, 1979: Hearings recommenced.
March 31, 1979: Phase II hearing testimony completed.
April 20, 1979: Board expected to make decision on offset options and to instruct staff to issue conditional permit.
Data unknown: CARB takes action on concurrence.

In reviewing this chronology, the following conclusions can be drawn:

First: Subject to air resources board concurrence, district staff would have issued Sohio's permits to construct almost 2 years ago but for the petitions received from concerned parties and the need to respond to those petitions under State law.

Second: The CEQA requirements delayed the first phase of the hearings from September 1977 to January 1978 for 4 months.

Third: Sohio itself used 12 months, January 1978 to January 1979, to develop and submit its offset proposals. This could have been done in approximately 3 months if Sohio had followed District staff suggestions.

Fourth: The district used 3 months for staff preparation and 3 months hearing time for the combined hearings.

While the district board was anxious to complete the process as quickly as possible, we felt we should conduct those hearings in conformance with all legal requirements so as to afford all petitioners their rights under the law.

Your letter also asked for our recommendations on how approval of the Sohio project could be accelerated and how future projects could avoid similar delays. With regard to the Sohio project, the coastal commission permits were issued last month. I am confident that the District's air quality permits will be issued on or shortly after April 20.

I cannot predict what action the air resources board may take, but again I would urge them to approve both SO_2 options to give Sohio the means of avoiding EIR and construction delays on the scrubber.

Sohio must also be concerned about delays brought about by existing and potential litigation. Your own legislative counsels can give you better advice on this subject than I can. My feeling is that, unless these litigation concerns are resolved, Sohio will not find it in its economic interest to remain with the project.

In conclusion, it would be unfortunate if the only way the Sohio terminal can be revised is through Federal preemption. While the regulatory permitting process has been long and tedious, it is now practically completed and preemption at this point would probably cancel any mitigation by Sohio of the significant air quality impacts of the project.

Moreover, it could set a precedent that would be used by proponents of future projects that might have even a greater adverse effect on our air quality than the Sohio terminal.

Thank you very much, Mr. Chairman.

Mr. DINGELL. Thank you very much.

Our next witness is Mr. Fischer. Mr. Fischer, if you will identify yourself fully for the purposes of the record, we will recognize you for your statement.

STATEMENT OF MICHAEL L. FISCHER

Mr. FISCHER. Thank you, Mr. Chairman.

My name is Michael L. Fischer. I am executive director of the California Coastal Commission. If it would serve your pleasure, Mr. Chairman, I have submitted copies of my full testimony, but I will deliver an abbreviated form of that this morning.

Mr. DINGELL. Without objection, your entire statement will appear in the record. We will recognize you for your summary statement.

Mr. FISCHER. Thank you very much for the opportunity to report to you on the State of California's handling of the coastal zone aspects of the proposed Sohio pipeline terminal. It is a report I am pleased to make because I think it presents for your review a case history of prompt and responsible exercise of admittedly strong environmental regulations. It also demonstrates very clearly that Congress can expect States to fully consider the national interest in such projects and that legislation which would preempt State and local review is not justified.

Let me give you a summary of key points. First, the California Coastal Commission issued its permits to Sohio way back in 1977, 1½ years ago. The coastal commission was the first major permit by the State or Federal secured for the project.

Second, even though this immense project raised serious concerns about coastal zone resources, the commission consciously weighed those concerns against the national interest and decided in favor of that interest.

Third, even though this was a very complicated project involving intense citizen interest, there were many hundreds of citizens who wished to testify on this and who contacted our office, the entire 1977 permit process took 5 months.

Since 1977, Sohio has twice applied for amendments to that permit granted to them. They wished to add large storage tanks immediately on the shoreline instead of locating them several miles inland adjacent to the other tanks.

Fourth, the coastal commission expedited the handling of both amendment requests. We denied the request for the first amendment for three tanks and approved the second amendment which was for two tanks. The second amendment request was handled in 6 weeks from filing of the application to public hearing and vote.

The California Coastal Commission, in fact, was still uncomfortable about placing those tanks on the fill pier, but the entire Alaskan oil transportation project was too important, we judged, to jeopardize because of the tank issue. We had been informed only in late January that the project needed the tanks in order to be constructed at all.

In light of this experience, I hope that you and other Congressmen see that both Federal and State coastal zone management play a positive role in considering nationally important environmental projects.

The coordination between the Federal energy agency and our commission worked well, aided by the President's appointment of a special Alaskan transportation coordinator—some of you may know him—Doug Robinson. In addition, the coastal commission coordinated its policy decisions closely with other State and Federal agencies, including the State air resources board.

I think we have been quite careful and successful in seeing that Sohio is not caught in a bind between potentially conflicting environmental regulations. The Port of Long Beach, which is the coastal commission permit applicant now, has its coastal permit in hand.

As Mr. McCandless told you, they are just about done with their permit process. The coastal commission is done with its permit process. The port may now begin construction of a marine oil terminal to receive Alaskan oil. We frankly hope that you and the port will either be able to entice Sohio or find another oil company to build and operate such a terminal.

Mr. Chairman, attached to my statement is a chronology of the coastal commission's consideration of the Sohio project. Again, I think you will agree it demonstrated prompt, responsible action and cannot be seen to give cause for Federal preemption.

In fact, such a move would be quite inconsistent with the admirable precedent which you have set in the Federal Coastal Zone Management Act. That act, as you know, provides that Federal actions be consistent with State and local programs for coastal protection.

I hope you will find it possible to follow that precedent for a very constructive State-Federal partnership instead of setting the stage for possibly unnecessary adversary situations.

Thank you, Mr. Chairman.

[Mr. Fischer's prepared statement follows:]

STATEMENT OF MICHAEL L. FISCHER, EXECUTIVE DIRECTOR, CALIFORNIA COASTAL COMMISSION

Mr. Chairman, Congressmen, my name is Michael Fischer. I am the executive director of the California Coastal Commission. Thank you for this opportunity to report to you on the State of California's handling of the coastal zone aspects of the proposed Sohio Oil Pipeline terminal. It's a report I'm pleased to make, since I think it presents a case history of prompt and responsible exercise of strong environmental regulation. It also demonstrates quite clearly that Congress can expect States to fully consider the national interest in such projects, and that legislation which would pre-empt state and local review is not justified.

First, a summary of key points:

The Coastal Commission granted Sohio its permit 'way back in 1977—a year **and a half ago; it was the first major permit—State or Federal—secured for this** project.

Even though the proposal raised serious concerns about coastal zone resources, the commission weighed those concerns against the national interest and decided in favor of the national interest.

Even though the project was complicated, and there was intense citizen interest, the entire 1977 permit approval process took only five months.

Since 1977, Sohio twice applied for amendment to their basic permit to add large storage tanks right on the shoreline, instead of several miles inland, adjacent to their other tanks.

The Coastal Commission expedited the handling of both amendment requests, denying the first request for three tanks, approving the other for two tanks. The second amendment was handled in six weeks from filing of the application to public hearing and vote.

The Federal and California coastal management programs worked very well in considering and expediting review of this proposal to move Alaskan oil to and across California. The Coastal Commissions evaluated alternate sites for the proposed marine oil terminal and quickly determined that the port of Long Beach, a developed industrial port, was the least damaging site on the California coast for the tanker berths. The Commission consulted the Federal Energy Administration, now the Department of Energy, and gave heavy weight to the judgment of then FEA Administrator Jack O'Leary that the Sohio project had national energy policy benefits because the Alaskan oil is needed in Midwest and Northern Tier States to displace imports.

The California Coastal Commission approved the Sohio project marine oil terminal in the port of Long Beach very quickly. One reason for the quick action was to give the port and Sohio the Commission's land use decision, so the decision could be considered in the other permit proceedings before the south coast air quality management district and the Corps of Engineers. The Coastal Commission approved the major facilities for the terminal, the breakwater, oil tanker berths, trestle and pipelines.

The Coastal Commission recognized that the primary benefits of the project would be largely in the eastern and midwestern parts of the United States while the environmental effects—increased supertanker traffic along the coastline, possibility of large oil spills and air pollution would be largely felt in California. One of the key questions in resolving the project was what allocation of benefits and burdens is reasonable as part of a national or state energy policy. Using the California Coastal Act of 1976 which is the State's approved coastal zone management program, as the policy guide, the port of Long Beach, the Coastal Commission and Sohio arrived at an acceptable environmental mitigation program largely based on oil spill contingency planning.

But one issue brought the Commission back on what Sohio considered the critical path for project approval more than a year after the Commission approved the terminal. That issue was whether the large oil storage tanks that would receive the oil from the unloading tankers would be located on the pier next to the tanker berths to a distance inland.

The pier next to berths, Pier J in the port of Long Beach, was constructed from watery fill material. In the hearings on the terminal, the Coastal Commission received testimony that this unstable fill was not a suitable and safe site for three large 615,000 barrel capacity oil storage tanks. The pier is near a major earthquake fault, so special construction would be needed, and the pier area could be better used as a backup area for a container terminal, if the tanks could be placed inland. In its original permit decision, the Coastal Commission told the port that that tanks could not be constructed on Pier J, but the port could apply for a permit amendment for the tanks if it also provided analysis showing inland sites were not feasible or were more damaging overall to the environment. Essentially, the port and Sohio did not make a convincing case to the Commission that the tanks had to be on Pier J, and the Commission found the three tanks could be placed about nine miles inland with five other tanks Sohio proposed to build at the start of the pipeline to Midland, Texas. At no time did Sohio say the tanks could not be located inland off the fill pier. After the Commission denied the tank amendment, we had the impression Sohio would simply pump the oil from the tankers to the inland site. The port and Sohio's analysis indicated this extra pumping would cause increases in air emissions, but the emissions were well within the air emissions trade-off package being negotiated with California's air quality protection agencies.

Just this February the port returned asking the commission to approve two tanks on Pier J and including a Sohio statement that without the two tanks on the Pier near the tanker berths the entire marine oil terminal project was operationally unacceptable and the project would not be built. The coastal commission took this statement seriously, because Congress and the President had reffirmed the national interest importance of the project in the 1978 energy legislation. The commission waived its usual processing time requirements and approved the amendment request only six weeks after it was submitted by the port. The California Coastal Commission was still uncomfortable with placing those tanks on the filled Pier, but the entire Alaskan oil transportation project was too important to jeopardize because of the tank issue.

In light of this experience, I hope you see that Federal and State coastal management plays a positive role in considering nationally important energy projects. The coordination between the Federal Energy Agency and our commission worked very well, aided by the President's appointment of a special Alaskan oil transportation coordinator (Doug Robinson). In addition, the coastal commission coordinated its policy decisions very closely with other State and Federal agencies, including the air resources board. I think we were quite careful—and successful—in seeing that Sohio was not caught in a bind between potentially conflicting environmental regulations.

The coastal commission had very clear standards to use in evaluating the Sohio project and so was able early in the permitting process to signal that the Port of Long Beach was the best place to prevent and control oil spills and so the best place to locate a new deepwater oil tanker terminal. In fact, we had

hopes that other berths at the terminal could be used to improve the safety of oil deliveries to our Los Angeles area refineries.

The Port of Long Beach now has the permit in-hand from the coastal commission for construction of a marine oil terminal to receive Alaskan oil, and we hope the Port will be able to find an oil company to build and operate that terminal.

Mr. Chairman, attached to my statement is a chronology of the Coastal Commission consideration of the Sohio project. Again, I think you will agree that it demonstrates quite prompt, responsible handling, and cannot be seen to give *any* cause for Federal pre-emption.

CHRONOLOGY—CALIFORNIA COASTAL COMMISSION PROCESSING OF THE SOHIO PROJECT MARINE OIL TERMINAL APPLICATION

May 13, 1977.—The Port of Long Beach applied to the South Coast (Los Angeles area) Regional Coastal Commission to construct the Sohio Project marine oil terminal to receive Alaskan oil.

May 31, 1977.—Recognizing the national interest implications of the Project, the State Coastal Commission "pulled up" the application from the Regional Commission for direct review to expedite processing.

July 14, 1977.—The State Coastal Commission held a briefing on the Sohio Project and Alaskan oil transportation alternatives.

August 16, 1977.—The Coastal Commission held public hearings on the application in August and closed the hearings on September 21, 1977.

October 19, 1977.—The California Coastal Commission by a vote of 10–0 granted a permit to the Port to construct the marine oil terminal for the Sohio Project. The Commission found the Project in the national interest and found that the Port is the best site for the terminal. While the Commission approved the tanker berths, breakwater, trestle, and pipelines, the Commission did not permit large oil storage tanks to be built next to the berths on unstable man-made fill and required the Port to analyze alternate sites for the tanks.

December 12, 1977.—The Port submitted a permit amendment request to the Commission asking that the Commission approve three large oil tanks on the Pier next to the tanker berths.

January 18, 1978.—The Commission opened the public hearing on the amendment and deferred action, with the Port's concurrence, until the air pollutant emissions were analyzed for alternative tank locations.

July 21, 1978.—The Port, Sohio and their consultants completed the air emissions analysis of 15 different tank locations and pipeline configurations and the California Air Resources Board concurred with the analysis August 25, 1978.

September 20, 1978.—The Coastal Commision closed the public hearing on the amendment.

October 17, 1978.—The Commission denied the Port's amendment request by a vote of 6 in favor and 5 opposed, with 7 votes required for approval. In effect, the Commission found the tanks could be placed with Sohio's five other tanks about nine miles inland on bedrock.

February 5, 1979.—The Port applied again for a permit amendment, this time for two tanks on the pier near the berths, citing for the first time that without the tanks on the pier the Sohio Project would not be operationally acceptable and the Project would be dropped.

March 7, 1979.—The Commission waived the normal six month waiting period and accepted the amendment request.

March 19, 1979.—The Commission held a public hearing and approved the two tank amendment request by a vote of 8–1, citing that the tanks were approved because of the national interest objectives of the Project.

Mr. DINGELL. Thank you very much, Mr. Fischer.

Counsel advises me that Mr. Wilson will be testifying instead of Mr. McJunkin.

We will be happy to hear both of you gentlemen.

STATEMENT OF RICHARD G. WILSON

Mr. WILSON. Mr. Chairman, whatever is your pleasure. I will be happy to testify in behalf of the port first or Mr. McJunkin.

Mr. DINGELL. Why don't you proceed, Mr. Wilson, and then we will hear from Mr. McJunkin next.

Mr. WILSON. Mr. Chairman, my name is Richard Wilson. I am president of the Long Beach Board of Harbor Commissioners.

As the members of the committee may be aware, the Port of Long Beach is within the jurisdiction of the city of Long Beach and operated by the city of Long Beach Harbor Department, which was created by amendment to the city charter in 1931. The Long Beach Harbor Department is a semiautonomous agency of the city of Long Beach. It is responsible for the operation, control, and development of municipally owned port facilities.

The Port of Long Beach has one of America's only deepwater tanker terminal facilities. However, we have not been able to construct additional marine petroleum berths and facilities for the past 15 years due primarily to regulatory and permitting impasses.

Within the State of California, the Port of Long Beach operates under the mandates of the California tideland trust. The port, in this capacity, acts as a "utility" entrusted with the promotion of commerce, navigation, fishery, and recreation.

The Port of Long Beach is a vital link in the transportation and distribution of commodities serving markets within southern California, the United States, and around the world. The port provides the means for transferring cargo from ships to trains and trucks via modern cargo handling facilities.

Equally important is the influence the Port of Long Beach brings to bear on the job market—some 754,000 Californians rely on port activity for their livelihood. Last year, $584 million went into southern California's economy from port-related jobs and industry.

The port's presentation today will concentrate on the following: First, a chronological review of the events related to the development and permitting of the Sohio Pactex project; second, an overview of the economic impact of Sohio's withdrawal from the Port of Long Beach; and last, some recommended solutions as we see them to the permitting process within the State of California.

First, the Port of Long Beach has assumed four major roles relative to permitting processes necessary for the proposed Sohio project. They are:

One: Lead agency—with California Public Utilities Commission—pursuant to the California Environmental Quality Act;

Two: Applicant for United States Army Corps of Engineers permit—marine terminal;

Three: Applicant for the California Water Quality Control permits—marine terminal;

Four: Applicant for the California Coastal Commission permit—marine terminal and tank farm.

A chronology of events associated with these responsibilities is detailed as follows—

Spring 1974—Verbal interest expressed by Sohio to Port of Long Beach.

June 1975—Sohio submittal for preliminary investigations.

September 1975—Draft environmental impact report preparation begun.

May 1976—Application for a Department of the Army permit submitted.

September 1976—Draft EIR circulated.

January 1977—Dredging waste discharge application submitted to Water Quality Control Board (WQCB).

March 1977—NPDCES applications for hydrostatic testing and oil/water separators at tank farms submitted to WQCB.

May 1977—Final EIR certification.

May 1977—Coastal commission application submitted.

May 1977—NPDCES application for hydrostatic testing of pipeline submitted to WQCB.

October 1977—Determination to prepare supplement to final EIR.

October 1977—Coastal commission approval of permit with no tanks on pier J.

December 1977—Supplement to final EIR certified by Board of Harbor Commissioners.

January 1978—All WQCB permits issued.

October 1978—Denial of three tanks by California Coastal Commission.

March 1979—Two tank amendment approved by California Coastal Commission.

Although some of the permit processes ran concurrently, the entire environmental process relevant to the Port of Long Beach's responsibilities has taken 45 months, June 1975 to present. To date, three environmental processes are complete.

One: California Environmental Quality Act review;

Two: California Water Quality Control Board permit approval;

Three: California Coastal Commission permit approval.

The U.S. Army Corps of Engineers permit is expected to be issued once all other necessary approvals are complete.

Mr. Whitehouse in his testimony before a Senate committee on March 27 referred to the permitting "regulatory maze" in reference to the California air quality issues. Let me illustrate this maze to you—in exhibit I which we prepared on May 8, 1976—this exhibit is a detailed flow chart of the marine project process [see p. 26].

Mr. DINGELL. Without objection, that will appear in the record at the appropriate place as will the other appendix to your comments.

Mr. WILSON. Thank you.

To further illustrate this permitting plight, let me digress for one moment. Last month we headed the first trade mission of any port within the United States to the People's Republic of China. Our 3-week trip could be termed very successful—which in turn means increased trade for California and the Western States.

However, if the People's Republic of China is interested in importing bulk fertilizer, coal, or cement or exporting petroleum, then we in California are confronted with the same permitting maze you have before you in exhibit 1. Gentlemen, this has to cease or we are going out of business and you can forget about balancing our foreign trade deficit.

Secondarily, the economic and master planning impact of Sohio's projected withdrawal from the Port of Long Beach will affect southern California in three primary areas:

One: Loss of jobs and revenue directly related to the project;

Two: Loss of other related port projects and future developments contingent on completion of the Sohio project; and

Three: Significant indirect economic impacts on the economy of Los Angeles County and the city of Long Beach.

If Sohio cancels this project, then the Port of Long Beach will lose some $2 million in annual revenue that could have been used to improve future port development and trade for the State of California.

As for the construction phase of the project, it has been estimated that over 1,000 direct construction man-years of employment plus an additional 822 indirect construction man-years of employment would be involved. Operationally, 432 jobs would have been created including employees for the marine terminal, Domingues tank farm facility and tanker operations. In addition, employment resulting from operations will create 272 indirect jobs in the southern California basin.

If Sohio cannot pass through the bureaucratic regulatory maze—then plans for increased recreational access within our port; relocation and addition of other petroleum operations; and the creating of landfill for sorely needed container storage and marshaling will be lost.

Specifically, Sohio has agreed to pay for the development of a 5-acre recreational corridor buffering commercial port activities from downtown Long Beach. New recreational facilities are scheduled to be provided for picnicking, a bicycle and pedestrian promenade, fishing facilities, and sightseeing and viewing platforms located in a previously undeveloped portion of the port.

The Sohio project will provide the physical catalyst needed for the development of a consolidated marine petroleum terminal complex in the Port of Long Beach capable of providing facilities for new petroleum terminals, as well as relocating existing older petroleum facilities operating in the inner and middle harbors. In addition to the two Sohio petroleum berths, four additional berths for future operations could have eventually been provided offering substantially greater environmental safeguards.

The other major project impacted is the anticipated pier J 60-acre landfill to be created primarily from Sohio dredge material increasing backload storage and marshaling areas for our overcrowded container terminals.

The loss of the $30-million landfill project and the subsequent $8-million development of a container terminal complex on that landfill would create severe cargo congestion, inefficiency of terminal operations, and potential vessel traffic conflicts.

We have projected that the $2 million annual revenue from Sohio would have put the port in a position to issue and service some $20 million in bonds for projects related to marine and recreational operations. Our port master plan identifies many of the programs that will benefit from the Sohio generated revenue including two dry bulk terminals, new inner harbor container terminals, a marina, and a passenger cruise terminal.

If the Sohio project is killed, then what is happening in this country and in the State of California in particular, is that any business desiring to export or import and who witnesses the permitting difficulty that we have incurred could not and would not proceed with their project.

The port has received several projects which would further benefit the State of California and would improve the balance of trade in

this country. Those projects are not moving forward because they are awaiting the results of Sohio. These and other projects could generate an additional $1,800,000 annually in revenue to the harbor and indirectly to the State of California.

Without the project, Long Beach will receive all of the detriments and none of the benefits of the Alaska to Midwest project when you realize that all the tankers going from Alaska to Panama will stop in Long Beach on their return voyage call for bunkering and ship chandlery. We have calculated that the pollution from these tankers in transit could approximately equal the pollution from the project. There are no trade offs required for this existing pollution.

It is evident that substantial economic and future planning needs of the Port of Long Beach, southern California, and the United States will be adversely affected if the demise of a project which would have provided a vital link in the transportation of a scarce national resource is not completed.

We would like to close our remarks by making some suggestions that will result in a reduction of the frustration and overly lengthy regulatory lag that seems to engulf any project that we at the Port of Long Beach and other ports in the State of California are confronted with.

The Port of Long Beach [POLB] is aware of the need to improve the quality of the environment in the Los Angeles Basin. The POLB is also aware of the continuing commerce growth in this area, which requires an increasing demand on port facilities which have run out of land. Therefore, it appears to the POLB that there has to be immediate legislation that balances these economic and environmental factors.

We are all familiar with the current scheme, whereby a project developer must file a separate application with numerous permitting agencies, seek the preparation of the environmental documents, and spend enormous sums of money attempting to wend its way through the current regulatory and bureaucratic maze. And at the end, after completion of the environmental documents and the permits, find that opponents of the project may file separate legal challenges in the trial courts of the State—that may or may not have trial preference—which results in their being subjected to inordinately lengthy appellate procedures that can effectively delay the project for years.

The "one-stop" permit process needs to be implemented immediately. This approach would reduce this process to a manageable level, and would eliminate the seemingly endless opportunities to litigate the validity of the environmental and permit documents.

Specifically, the Port of Long Beach recommends that immediate consideration be given to a "one-stop" permit process at the local, State, and Federal levels, that would allow a project developer or proponent to file an application for a project with a central State agency. That agency would be held to strict and limited time limits within which to process both the regulatory permit processing by all of the applicable Federal, State, and regional agencies.

It is obvious to all that the air pollution issues are paramount in the Los Angeles Basin on most major projects. The Port of Long Beach, which is an intermodal conduit to our nation, but which is not a major pollution source by comparison, is now being stagnated by what appears to us to be an inequitable regulatory approach.

We are referring to the fact that while emissions from railroad locomotives and ships are not subject to existing regulations, the California air agencies are attempting to regulate these sources of emissions by requiring proposed port projects to "trade off," in major cases, all of the train and ship emissions as part of the stationary source emission problem.

Even more serious is the attempt to control the emissions of ships in transit to and from our ports within an area as far as 60 miles out to sea, as far north as Port Conception and as far south as the Mexican border. This type of regulation places the Ports of Long Beach and Los Angeles, as well as the other California ports, at a serious disadvantage with the fiercely competitive ports in Washington and Oregon and the gulf ports.

It further places the ports at odds with other legal mandates, for example, the requirement of the California Coastal Act of 1976 that ports encourage maximum use of rail transportation.

We recommend that if it is necessary for such mobile emission sources to be regulated that they be treated as distinct mobile source entities—not part of stationary sources—and that such regulation be conducted in accordance with Federal standards that are uniformly applied and do not result in a punishment of the California port industry.

We suggest that amendments to the Clean Air Act be considered that would extend the time limits for compliance with the desired attainment requirements of the act. We also believe that consideration should be given to the economic impacts on an area from strict imposition of the Clean Air Act and its implementing rules and regulations. We believe there should be room for compromise without placing any given area in a total no-growth position under the very stringent existing requirements.

Most importantly, from a legislative standpoint, the Port of Long Beach supports the principles set forth in H.R. 3131—attached hereto as exhibit 2 [1]—which amends title V of the Public Utilities Regulatory Policies Act of 1978, and preempts certain State laws prohibiting or unduly hampering the construction of the Long Beach-Midland project or any crude oil transportation system approved under such title. This is viewed as the only practical method remaining to revive the project.

In addition, we also support and advocate the concept contained in the draft bill—see exhibit 3 attached—which would also amend the Public Utilities Regulatory Policies Act to authorize the President to recommend waiver of Federal, State, and local laws to expedite transportation of crude oil if it is in the best interest of the Port of Long Beach, the State of California, and the United States.

We have taken this position because it is now apparent that the Southern California Air Quality Management District [SCAQMD] and the air resources board [ARB] cannot determine what type tradeoffs need to be established in order to grant a permit. If the ARB's position is sustained that a scrubber will be required, we recognize that an EIR will have to be processed before an application is complete. Once the EIR is completed and the permits are finally

[1] H.R. 3131 appears at p. 3 of this hearing and is not reprinted as an exhibit to Mr. Wilson's testimony.

granted then every permit is subject to legal action. Therefore, it is our opinion that this process could not reasonably be accomplished in less than 3 years.

We also believe that the Federal air standards and the State air standards can be satisfied by a different method other than the scrubber technique at the Southern California Edison plant. We also understand, and you have heard today, that the SCAQMD concurs with that opinion. As the Federal air standards now exist, it appears to us that Federal legislation can alleviate all the air problems.

The Port of Long Beach legal counsel is of the opinion that when the Supreme Court of California returned the issue of the adequacy of the EIR for trial, instead of making the decision itself, that a single case alone cannot be resolved in less than 18 months.

We are also of the opinion that the Federal Government can and should preempt the existing litigation against the final EIR and move forward with the project on the basis of a federally approved EIS.

Within the past 2 weeks the California Coastal Commission has granted a permit to construct two tanks on pier J and there is a 60-day time period for which any citizen with $54 can file in the Supreme Court of Los Angeles to attest the validity of the granting of that permit.

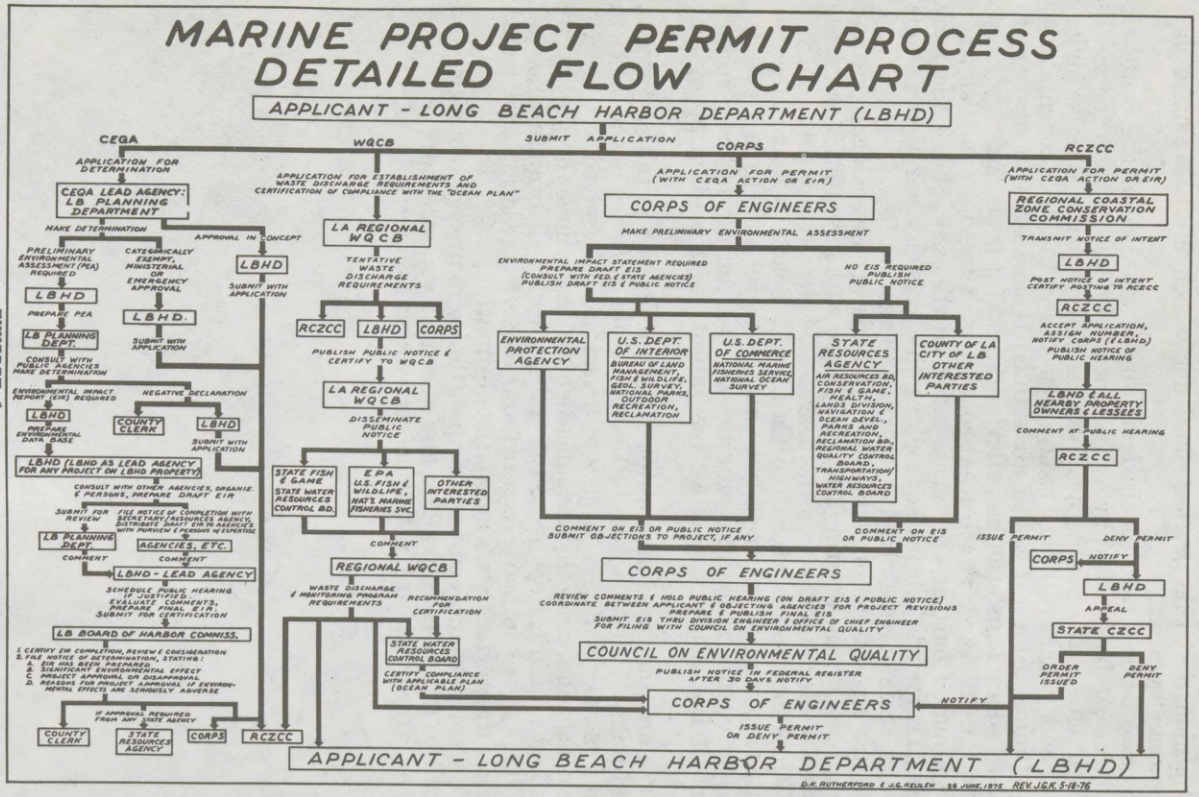
Mr. Jan Smutny-Jones, prior to granting the permit approval, stated publicly that he would file such action against the commission. Such a lawsuit will take from 2 to 3 years to be resolved.

In conclusion, since the announcement to discontinue the project, we have had no indications from the Governor of California or his staff that he is going to move forward and request legislation that would alleviate this serious State and national situation.

We want to thank you for the opportunity to present our views and we will be happy to respond to any questions you may have.

[The attachment to Mr. Wilson's statement follows:]

EXHIBIT 1


MARINE PROJECT PERMIT PROCESS
DETAILED FLOW CHART
APPLICANT - LONG BEACH HARBOR DEPARTMENT (LBHD)
SUBMIT APPLICATION
CEQA
WQCB
CORPS
RCZCC
APPLICATION FOR DETERMINATION
CEQA LEAD AGENCY: LB PLANNING DEPARTMENT
MAKE DETERMINATION
APPROVAL IN CONCEPT
PRELIMINARY ENVIRONMENTAL ASSESSMENT (PEA) REQUIRED
CATEGORICALLY EXEMPT, MINISTERIAL OR EMERGENCY APPROVAL
LBHD
PREPARE PEA
LBHD.
SUBMIT WITH APPLICATION
LB PLANNING DEPT.
CONSULT WITH PUBLIC AGENCIES MAKE DETERMINATION
ENVIRONMENTAL IMPACT REPORT (EIR) REQUIRED
NEGATIVE DECLARATION
LBHD
PREPARE ENVIRONMENTAL DATA BASE
COUNTY CLERK
LBHD
SUBMIT WITH APPLICATION
LBHD (LBHD AS LEAD AGENCY FOR ANY PROJECT ON LBHD PROPERTY)
CONSULT WITH OTHER AGENCIES, ORGANIZ. & PERSONS, PREPARE DRAFT EIR
SUBMIT FOR REVIEW
FILE NOTICE OF COMPLETION WITH SECRETARY / RESOURCES AGENCY; DISTRIBUTE DRAFT EIR TO AGENCIES WITH PURVIEW & PERSONS W/ EXPERTISE
LB PLANNING DEPT.
AGENCIES, ETC.
COMMENT
COMMENT
LBHD - LEAD AGENCY
SCHEDULE PUBLIC HEARING IF JUSTIFIED. EVALUATE COMMENTS, PREPARE FINAL EIR; SUBMIT FOR CERTIFICATION
LB BOARD OF HARBOR COMMISS.
1. CERTIFY EIR COMPLETION, REVIEW & CONSIDERATION
2. FILE NOTICE OF DETERMINATION, STATING:
A. EIR HAS BEEN PREPARED
B. SIGNIFICANT ENVIRONMENTAL EFFECT
C. PROJECT APPROVAL OR DISAPPROVAL
D. REASONS FOR PROJECT APPROVAL IF ENVIRONMENTAL EFFECTS ARE SERIOUSLY ADVERSE
IF APPROVAL REQUIRED FROM ANY STATE AGENCY
COUNTY CLERK
STATE RESOURCES AGENCY
CORPS
RCZCC
APPLICATION FOR ESTABLISHMENT OF WASTE DISCHARGE REQUIREMENTS AND CERTIFICATION OF COMPLIANCE WITH THE "OCEAN PLAN"
LA REGIONAL WQCB
TENTATIVE WASTE DISCHARGE REQUIREMENTS
RCZCC
LBHD
CORPS
PUBLISH PUBLIC NOTICE & CERTIFY TO WQCB
LA REGIONAL WQCB
DISSEMINATE PUBLIC NOTICE
STATE FISH & GAME
STATE WATER RESOURCES CONTROL BD.
EPA
U.S. FISH & WILDLIFE, NAT'L MARINE FISHERIES SVC.
OTHER INTERESTED PARTIES
COMMENT
REGIONAL WQCB
WASTE DISCHARGE & MONITORING PROGRAM REQUIREMENTS
RECOMMENDATION FOR CERTIFICATION
STATE WATER RESOURCES CONTROL BOARD
CERTIFY COMPLIANCE WITH APPLICABLE PLAN (OCEAN PLAN)
APPLICATION FOR PERMIT (WITH CEQA ACTION OR EIR)
CORPS OF ENGINEERS
MAKE PRELIMINARY ENVIRONMENTAL ASSESSMENT
ENVIRONMENTAL IMPACT STATEMENT REQUIRED PREPARE DRAFT EIS (CONSULT WITH FED. & STATE AGENCIES) PUBLISH DRAFT EIS & PUBLIC NOTICE
NO EIS REQUIRED PUBLISH PUBLIC NOTICE
ENVIRONMENTAL PROTECTION AGENCY
U.S. DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT, FISH & WILDLIFE, GEOL. SURVEY, NATIONAL PARKS, OUTDOOR RECREATION, RECLAMATION
U.S. DEPT. OF COMMERCE
NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEAN SURVEY
STATE RESOURCES AGENCY
AIR RESOURCES BD, CONSERVATION, FISH & GAME, HEALTH, LANDS DIVISION, NAVIGATION & OCEAN DEVEL., PARKS AND RECREATION, RECLAMATION BD., REGIONAL WATER QUALITY CONTROL BOARD, TRANSPORTATION/ HIGHWAYS, WATER RESOURCES CONTROL BOARD
COUNTY OF LA CITY OF LB OTHER INTERESTED PARTIES
COMMENT ON EIS OR PUBLIC NOTICE SUBMIT OBJECTIONS TO PROJECT, IF ANY
COMMENT ON EIS OR PUBLIC NOTICE
CORPS OF ENGINEERS
REVIEW COMMENTS & HOLD PUBLIC HEARING (ON DRAFT EIS & PUBLIC NOTICE) COORDINATE BETWEEN APPLICANT & OBJECTING AGENCIES FOR PROJECT REVISIONS PREPARE & PUBLISH FINAL EIS
SUBMIT EIS THRU DIVISION ENGINEER & OFFICE OF CHIEF ENGINEER FOR FILING WITH COUNCIL ON ENVIRONMENTAL QUALITY
COUNCIL ON ENVIRONMENTAL QUALITY
PUBLISH NOTICE IN FEDERAL REGISTER AFTER 30 DAYS NOTIFY
CORPS OF ENGINEERS
NOTIFY
ISSUE PERMIT OR DENY PERMIT
APPLICATION FOR PERMIT (WITH CEQA ACTION OR EIR)
REGIONAL COASTAL ZONE CONSERVATION COMMISSION
TRANSMIT NOTICE OF INTENT
LBHD
POST NOTICE OF INTENT CERTIFY POSTING TO RCZCC
RCZCC
ACCEPT APPLICATION, ASSIGN NUMBER, NOTIFY CORPS (& LBHD) PUBLISH NOTICE OF PUBLIC HEARING
LBHD & ALL NEARBY PROPERTY OWNERS & LESSEES
COMMENT AT PUBLIC HEARING
RCZCC
ISSUE PERMIT
DENY PERMIT
CORPS
NOTIFY
LBHD
APPEAL
STATE CZCC
ORDER PERMIT ISSUED
DENY PERMIT
APPLICANT - LONG BEACH HARBOR DEPARTMENT (LBHD)
D.K. RUTHERFORD & J.G. HEILEN 26 JUNE, 1975 REV. J.G.H. 5-18-76

Mr. DINGELL. Mr. Wilson, your comments are most trenchant. You have said here that you have no indications that the Governor of California or his staff are going to move forward to request legislation that will alleviate the conditions to which you have alluded; is that right?

Mr. WILSON. Mr. Chairman, I make that statement because I have not, and I do not believe Mr. McJunkin or the city attorney have had any communications from the Governor of the State of California indicating he will move forward.

Mr. DINGELL. We are given to understand that Mr. Quinn and the Governor were invited to testify this morning so that they could inform us their views of these matters from the standpoint of the State.

I am very much troubled that they have not chosen to give us the benefit of their assistance today. It will compel us, of course, to proceed without hearing their testimony if they do not choose to be present.

Would you like to be heard at this moment, Mr. Parkin?

Mr. PARKIN. I am Mr. Parkin, city attorney of Long Beach. I represent the Port of Long Beach. I have no prepared statement. I will be glad to answer any questions.

Mr. DINGELL. If you have any comments, we will be glad to receive them.

Mr. PARKIN. Mr. Wilson has pretty well outlined the problem. If you have any questions on the status of litigation I will be happy to answer.

Mr. DINGELL. Mr. Wilson's comments are rather a denunciation of delay and waste of economic opportunity and hurt to not only Californians, but the interest of the community and, of course, the national interest, too.

Mr. McJunkin, we will hear you now, sir.

Mr. MCJUNKIN. Basically Mr. Wilson's statement expresses my thoughts. I do wish to stress receiving all the regulatory permits is only round one. We are faced under current law with 3 or 4 years of litigation before this project can be accomplished. I will be happy to answer any questions.

Thank you.

Mr. DINGELL. The committees do thank you for your most helpful testimony.

After the State has requested Federal action I detect they have not chosen either to be present with us or to indicate what their views are regarding this matter. I am told that the Governor of the State of California is up in New Hampshire to suggest very strongly that we have a constitutional amendment balancing the Federal budget, which seems to be a very nice idea, particularly since he has suggested we should now construct this project with Federal funds, which I am advised will cost something on the order of $1 billion.

I am curious whether the two positions are consonant one with the other. In any event, it appears that one's viewpoint on Federal and private initiatives varies with viewpoint. We look forward to Mr. Brown's explaining that particular dissonance in his views. And perhaps we can arrange a debate by Mr. Brown against Mr. Quinn or Mr. Quinn against Mr. Brown, or perhaps Mr. Brown against Mr. Brown.

50-586—79——3

In any event, the Chair will now recognize my colleagues for questions. The Chair will recognize first his colleague, Mr. Moffett, for 5 minutes, under the rule.

Mr. MOFFETT. Thank you, Mr. Chairman.

I would like to direct a question to Mr. Fischer, if I might. A lot has been said about the hundreds and hundreds of permits that are required. I thought it was a rather awesome number, truthfully, and am inclined to think that many of them must be unnecessary and redundant. As I look at the list submitted by the State of California, it is quite obvious that the vast number of the permits required are really very minor permits.

Would you say that this figure of 700 permits does not accurately reflect the true picture of what is necessary and might, in fact, exaggerate the red tape involved with this project?

Mr. FISCHER. Mr. Moffett, my judgment is very similar to that indicated by the tone of your question. Clearly the important aspects of this project are air quality and land use and coastal zones and those matters have been decided by the voters of the city of Long Beach, by the coastal commission and the air resources board. The remainder of the permits to be secured are either administerial and quite automatic or very understandable where a pipeline route has to cross a city's jurisdiction or has to dig up a road that encroachment permits for those sorts of things are required and are usually handled quite expeditiously. We have not seen in the California press any ballyhoo about the 700 number.

Mr. MOFFETT. That is more or less a creation of the national media.

What kind of obstacle does a road closing permit by a small town in California present to an outfit like Sohio?

Mr. FISCHER. If I might, Mr. Chairman, without Mr. McCandless' permission, Mr. McCandless is also a member of the board of supervisors of the Riverside County. He is better prepared than I to answer such a question.

Mr. MCCANDLESS. It is administerial in nature, very routine. Unless there is a third-party involvement, petitioner, or something like that who wishes to make some kind of particular issues out of it, then that becomes a matter than can only be decided at the time such circumstances serve us.

Mr. MOFFETT. Is it considered fairly rapidly?

Mr. MCCANDLESS. Yes. It is a very routine thing in California counties because there are encroachment permits daily issued by the road department to such things as cable TV, gas companies, and other types of utilities.

Mr. MOFFETT. I would hope that my colleagues would also look at the kind of permits that are being referred to here as major bureaucratic obstacles. I think they will see that many of them are minor permits requested by small towns.

Mr. Fischer, our Secretary of Energy has said that in his view the main reason for Sohio's withdrawal from the project on March 13, 1979, was the feeling on the part of the company that they would be unable to avoid dilatory litigation.

Do you agree with that characterization from what you know of the reason for their withdrawal?

Mr. FISCHER. Mr. Moffett, I hesitate to speculate on the reasons for the withdrawal. I will submit to you that it is not dilatory handling of the administrative process of the permit. There may be concern on litigation.

Frankly, the coastal commission has been in existence now for 6 years. We have more than several dozen cases pending against us. We could not present to you another case in which a lawsuit brought by an environmental body, in effect, killed a major project. I would submit that the San Onofro powerplant is another project of a similar scale that the coastal commission approved. That approval was challenged and the construction of the plant has gone forward, and, barring other heretofore unforeseen circumstances, may soon be in operation.

Frankly, litigation should be a concern, but it should not, in my judgment, be a major break factor.

Mr. UDALL [presiding]. The time of the gentleman from Connecticut has expired.

Mr. MOFFETT. That is the quickest 5 minutes I have ever seen.

Mr. UDALL. We are going to be ruthless.

The gentleman from California, Mr. Clausen, is recognized for 5 minutes.

Mr. CLAUSEN. I want to go across the list of witnesses here.

Mr. McCandless, are you in support of the project going forward?

Mr. MCCANDLESS. The district has been favorable to the project since it was first presented to us. Under the new source review rule brought about by the Air Quality Act and its amendments, we are obligated to go through a certain procedure, and that is the procedure that we have been going through that I outlined in my testimony.

Mr. CLAUSEN. Mr. Fischer, are you in favor of the project going forward?

Mr. FISCHER. Yes, sir.

Mr. CLAUSEN. We can anticipate the Coastal Commission of California will be supporting it and restricting anything in the way of delaying activity?

Mr. FISCHER. Our role is done, so far as we are concerned.

Mr. CLAUSEN. The same is true of Mr. McJunkin and Mr. Wilson?

Mr. WILSON. That is correct.

Mr. MCJUNKIN. That is correct.

Mr. CLAUSEN. Mr. Wilson, I have been very much intrigued by your testimony. The whole of the situation there in southern California has been described as a litigation nightmare.

I wonder if any one of you could identify or establish for the record the kinds of suits that have been filed, and whether or not they are really nuisance suits or suits designed by certain individuals to inhibit the progress of this particular project, or are they legitimate suits that have been filed?

Mr. WILSON. I will refer that to our city attorney, Mr. Parkin, who deals with that all the time.

Mr. PARKIN. To date there are three matters pending in the courts that involve this project.

The first is the lawsuit that was brought by the Citizens Task Force on Sohio challenging the adequacy of the environmental impact report

prepared jointly by the Port of Long Beach and the Public Utilities Commission of California. This suit was initially filed in the Superior Court of the County of Los Angeles and transferred to the Supreme Court of California in March 1978. The reason for the transfer——

Mr. CLAUSEN. I wonder if I can interrupt you for a moment. All I want to do is get a general answer because I will be running out of time. Submit for the record the details, if you would like.

Mr. PARKIN. There is a second lawsuit against the Port of Long Beach challenging the legality of the lease that was granted by the Port to Sohio.

There is a third lawsuit in the Supreme Court challenging the withdrawal of the pipeline belonging to the Southern California Gas Co. by the public utilities commission.

Mr. CLAUSEN. The public utilities commission is an entity of the State of California?

Mr. PARKIN. Yes, sir.

Mr. CLAUSEN. Mr. Wilson, this entire issue on air quality management, the trade-off agreements that were tentatively signed, and the project itself was subject to a local referendum in that particular area. It was placed on the ballot. From what I can understand, it received a significant amount of support in the area. What was the result of the vote and, in your judgment, what was the significance of that vote as far as the local position and support for the project?

Mr. WILSON. More than 62 percent of the voters that turned out voted in favor of moving forward with the Sohio project. In my judgment, the people of the city of Long Beach are looking forward to this project going forward.

Mr. CLAUSEN. What is the opposition, and where specifically is it coming from, in your view?

Mr. WILSON. What kind of opposition do you mean at this point?

Mr. CLAUSEN. What is holding it back? Is it organized? Is there organized opposition by certain groups, or is it just by individuals? You made reference in your testimony to the fact that for $54 anyone could come in and file a suit and slow down the project. That is the reason I wanted elaboration of this.

Mr. WILSON. At the present time, I know of no organized opposition to this project. I do know of individuals that oppose this project, and those individuals have in the past filed suits and have threatened to file them in the future.

Mr. CLAUSEN. Mr. Chairman, in the interest of time I will ask unanimous consent to submit some questions in writing.

Mr. UDALL. Without objection, that may be done and this privilege will be extended to members of both subcommittees.

The gentleman from Nevada, Mr. Santini, is recognized for 5 minutes.

Mr. SANTINI. Thank you, Mr. Chairman.

I am concerned, as are most observers and participants in the decisionmaking here, on where we go from here. Obviously there are some questionable impediments to past decisionmaking, but to my mind, it is particularly imperative that we figure out what problems we have left, No. 1; who has the authority to solve those problems, No. 2; and will a commitment be made to problem solving, No. 3.

It has already been defined as a problem of the magnitude of national interest, and it seems to me, given that circumstance, I would like to address a question to Mr. Fischer.

It was his feeling that the impending potential for litigation did not represent a major break consequence in terms of whether or not Sohio would proceed. I would share with you, Mr. Fischer, a synopsis of potential litigation that remains, not past litigation that has been pursued, and ask you if you feel that these are not in any respect make-or-break kinds of litigation.

No. 1; The options that it seems to me are most likely to attract further lawsuits. This includes the California Coastal Commission's permit.

No. 2; The adequacy of Sohio's EIR. And, in addition to the pending court challenge, additional lawsuits are possible. This raises the question of whether the tradeoffs are required to be realized as a Pactex supplement rather than a separate EIR.

No. 3; The South Coast Air Quality Management District permit. Challenges to this permit could be directed both at specific tradeoff approvals and interpretations of the new source review rule.

In addition, the permit can be challenged for noncompliance with the California Air Quality Act since no subsequent EIR was prepared.

As mentioned above, the new EIR is being prepared on the scrubber by the public utilities commission. This could attract additional litigation.

No. 4; The permit itself could be subject to challenge.

No. 5; The miscellaneous challenges encompass all the elements noted above which any group that wishes to frustrate or impede possible implementation of this pipeline might wish to pursue.

To my mind, given that kind of nightmare issue prospect for prolonged litigation, some perhaps of meritorious content, some plans of dilatory content, it would be very difficult, it seems to me, for any rational decisionmaker to come down and say that does not represent a major break consequence in this decision.

In view of your prestige and your position and your conclusion, I would appreciate your response to those respective lawsuits.

Mr. FISCHER. I thank you, sir, for the compliment.

Let me proceed in response to that question by first letting you know that I am not an attorney. I am an executive of a regulatory agency. I cannot have any of my conclusions presented to you as any sort of legal advice.

My conclusions are really based on two factors: First, the history of previous lawsuits against the coastal commission. The coastal commission position has been upheld something like 97 percent of the time at the appellate level, not necessarily at the trial court level.

Second, while there have been some worst-case situations when developers, once their project has been approved, have been assigned down at the bottom of the list and it might take a year to get through the superior court level to the appellate level. In very, very few instances is the worst case of a very vigorous appeal brought by a number of parties taken to a superior court with a loaded docket and presented with a situation of a temporary restraining order or preliminary injunction, thereby placing the proponent, as I see, in the worst

situation. He can't proceed and he can't proceed without some delay. That sort of situation has occurred extremely rarely.

If the worst case were to be realized, then certainly you might characterize that from a developer's point of view as a nightmarish situation. I don't think it is reasonable to expect that worst case would necessarily happen.

Mr. UDALL. The gentleman's time has expired. The Chair recognizes the gentleman from Alaska, Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman.

Being as I am from the State where this oil originally comes from, I do apologize for all the problems it causes the State of California. We thought we solved a problem when we struck that great well up there. I will make one statement and then I will yield to the gentleman from that district, Mr. Lungren.

If anybody thinks this project is feasible now, if it is further delayed it may be so, especially if there is no more oil coming from Alaska. Because of some actions in this Congress there is a possibility that there may not be any more oil wells drilled and developed in Alaska, and that plays a very major role in the construction of this pipeline.

No company is going to invest in a line that decreases in ability to convey oil to the midland by 1980 when we are on the downside. And that plays a major role. So we have lost already four of the high productive years and we have to keep that in mind.

I would like to yield the rest of my time to Mr. Lungren from the district which has a great deal to do with this project.

Mr. UDALL. The gentleman has 4 minutes.

Mr. LUNGREN. Thank you, Mr. Chairman.

Mr. Wilson and Mr. McJunkin, can you tell us the cost of the regulatory compliance that has been involved for the Port of Long Beach and, if you know, for the entire project?

Mr. WILSON. The Port of Long Beach has expended $5,760,000 thus far in attempting to get the permits that we are required to get.

Mr. LUNGREN. Mr. Fischer, in response to a question earlier you suggested that perhaps the worst case would not be materialized in terms of lawsuits in the future. I would like to ask you, how would you characterize the overall 4-year delay in regulatory procedures from the beginning of this project to right now? Would you characterize that as being exemplary, as something we should try to do in the future? Do you recognize there are serious problems with it if we are going to get any major energy projects in California?

Mr. FISCHER. Congressman, just as the number of 700 permits was called into question earlier, I would respond first by calling into question the 4-year time, applications were not filed anywhere in California 4 years ago. They were filed 2 years ago, 2½ years ago.

Mr. LUNGREN. Part of it is preparation of the application, is it not?

Mr. FISCHER. That is correct. I would suggest that for major projects such as this one which would have a potentially very serious impact upon the environment of the Los Angeles basin, that a period of time, in the neighborhood of 2 years or so, is not an unreasonable length of time. When it stretches out beyond that and where you can demonstrate a case history of inconsistent and erratic regulatory determinations, then you might have a case. I would suggest in this situation you do not have so.

Mr. LUNGREN. Let me ask you this. We are going to have to consider in this Congress certain energy legislation. Some of us from California are concerned as to whether that energy legislation will adequately take care of the needs of Californians as opposed to the rest of the country. One of the problems I run into with some of my colleagues is that we in California have been so cavalier in our attitude toward the need of energy in the rest of the United States, particularly with respect to the Sohio project, we may not be able to be looked favorably upon when we have those concerns.

What kind of answer do you suggest I give to other members of Congress, that 2½ years delay for a major project is something we should allow or something we should countenance or, as you seem to suggest, something that we should really have as a positive thing?

Mr. FISCHER. In response let me put a couple things together.

First, the coastal commission and the Governor's office have both recognized the national interest implications and the coastal commission, as I said earlier, approved the project 1½ years ago. We took 5 months to do so.

Mr. LUNGREN. Have you conferred with the Governor since the announcement came up about the cancellation of the project?

Mr. FISCHER. I know of the interest he has in seeing that Sohio reconsider and I have been involved in conversations with him and with legislators where they were thinking of ways to place a time limit in the statute of limitations when lawsuits could be filed and urging the Supreme Court to take original jurisdiction.

Mr. LUNGREN. Has any decision been made?

Mr. FISCHER. I do not have knowledge of that.

Mr. LUNGREN. Do you know when a decision might be made on that?

Mr. FISCHER. No, sir, I do not.

Mr. LUNGREN. Mr. Wilson, do you believe that this project can be revived if we do have legislation on the Federal level?

Mr. WILSON. Mr. Lungren, I hope that it will be revived and believe it will be revived. Without Federal legislation I do not think it could be revived. If it is not done quickly, so that we are talking about moving forward by, say, the 1st of July of this year, I do not think it will be revived.

Mr. LUNGREN. Have you given up hope of being able to revive——

Mr. UDALL. The time of the gentleman has expired. The Chair has next on the list the gentleman from Texas, Mr. Gramm. Do you have any questions?

Mr. GRAMM. Thank you, Mr. Chairman.

I wish I had the opportunity to question Governor Brown because I would like to make reference to a statement he made in testimony before the Senate Energy Committee. But, unfortunately, since there is an empty chair there, Mr. Fischer, my question will fall to you.

In testimony before the Senate Energy Committee, Governor Brown said, and I quote:

> The pattern of intracorporate indecision and delay shown in the Sohio project is illustrative of the inability of American society to control its own energy destiny.

It seems to me, the clear intent of this statement was to impose the burden of the failure to obtain a license and to build a pipeline on the private company. The problem with this statement is that it seems at

variance with all the facts that I have been able to determine surrounding the pipeline licensing process.

To begin with, California opposed the abandonment of the gas pipeline owned by El Paso Natural Gas Co. which Sohio has proposed to convert to carry oil.

Second, in August 1977, when the Subcommittee on Energy and Power was in the process of conducting legislative oversight into the cause of the delay of transporting Alaskan North Slope oil to the East, representatives of California promised that the decision on permitting the pipeline would be completed by mid-October 1977.

Mr. Quinn, chairman of the California Air Resources Board, has said, "We do not intend to hold the rest of the Nation hostage in return for more gas."

The problem with that statement is that it is 2½ years old.

So it seems to me that while you people from California are very busy telling the Nation that you support this project, the main truth is this project has not been completed. Licensing has not been completed and all fingers point to you as being the guilty party so far as holding it up is concerned.

I would like a response to that question.

Mr. FISCHER. Mr. Chairman, with your permission, I do not represent the Governor of California. And should I appear to do so, it would be at certain peril to myself.

I simply could not do that.

I would only call to your attention, Mr. Gramm, that the chronology of the process through the air resources board, which I think is before you and prepared by the air resources board, indicates when Sohio applied for the permit it was after 1977. So the first date you have indicated could not have been met in any event.

It also indicates the efforts of the State of California to implement Federal law which required the tradeoff of emissions into an air basin that is already choked with air pollution problems.

I think I will let my comments stand as that.

Mr. GRAMM. I would like to request for the record that we have a submission of a flow chart on the application for licensing. I would like the flow chart to be both in terms of State approvals and local approvals on air quality standards. [See p. 26.]

I would like to ask, to the extent that I have time left, Mr. McJunkin to comment on my question.

Mr. MCJUNKIN. I am in somewhat the same situation that we can't fathom the Governor's or Mr. Quinn's mind at all times. I think there has been a concerted effort by the State to delay this, hoping to ransom and I think the record is obvious.

Mr. GRAMM. Thank you, Mr. Chairman.

Mr. SANTINI. Will the gentleman yield?

Mr. DINGELL. The gentleman has 30 seconds.

Mr. GRAMM. I yield.

Mr. SANTINI. My question is about the prospective litigation nightmare that looms on the horizon. The bill as presently written does not specifically address that very real problem.

Would you, Mr. Wilson, or Mr. McJunkin, or Mr. Fischer, or Mr. McCandless, care to respond on the desirability of having this litigation take into consideration the very real problem of prospective lawsuits as a basis for defeating the entire pipeline project?

Mr. UDALL. There are 10 seconds left.

Mr. PARKIN. I think that threat of future litigation is a real problem, Mr. Santini. This is based on the history of this project. I think something has to be done if the project is going to go forward to preempt the pending and future litigation and to roll it up into at least one lawsuit rather than a series of lawsuits strung out over a period of time.

Mr. UDALL. The gentleman from Texas, Mr. Loeffler.

Mr. LOEFFLER. Thank you, Mr. Chairman.

This clearly is the epitome of a problem associated with Government overregulation. I would like to address my questions to Mr. McCandless and to Mr. Fischer who announced in their opening statements that they are opposed to preemption by the Federal Government and ask them then what is their solution to this problem? I have heard no solutions. All I hear about is continued regulatory proceedings that still must be complied with, and that is then followed by litigation. What is the answer then from your vantage point?

Mr. MCCANDLESS. The biggest single time killer in this project was the unilateral decision on the part of the State air resources board to negotiate with the Sohio Corp. on the tradeoff package without including the local district or making clear the reasoning behind why they wished to go this route. It is my assessment that the air resources board wishes the scrubber and pursued it to the degree they have because they wished to prove that scrubbers on oil-fired plants are an acceptable technology. And once they have proved that, then to have them ultimately installed on all oil-fired plants.

In the process of trying to attain this goal, Sohio came along and became what it is and we are sitting here doing what we are doing.

Mr. LOEFFLER. You haven't given me an answer as to how you are going to come up with some sort of resolution to the problem which will be accomplished in timely fashion. The time has almost expired with respect to the economic feasibility of the project itself, a project which is in the national interest?

Are you going to sit on it in California and let time expire so that those of us in the Southwest have to continue to subsidize the price availability of fuel throughout the United States because of your slowness?

Mr. MCCANDLESS. Our district is made up of 10 people on the governing board of whom are elected city councilmen or members of boards of supervisors of 4 counties. We are businessmen. We run our district as a business. Our district policy almost constantly finds itself in conflict with the California Air Resources Board and the present administration in the State of California. It is that problem that we have and that problem that delayed this project.

Mr. LOEFFLER. Mr. Fischer, would you care to comment?

Mr. FISCHER. Yes, Congressman Loeffler. First, let me talk to the short run. I think that is a shortrun and longrun question. In the short run related to Sohio, I think we have not presented you with a possibility of long administrative action. There is a possibility of litigation but the coastal commission has granted its permit. The Port of Long Beach has approved the land use permit and the air quality district is about to approve an air quality permit. With that issuance within the next month Sohio is done with its permit process. I would

suggest that if litigation is really a serious concern, then perhaps Congress might direct its attention to attempting to streamline and shorten, without eliminating, that citizen's right, I guess I would put it.

In the long term, I think Congress has very responsibly recognized that the Nation has a serious air pollution problem and it has established air quality legislation and it is the implementation of that legislation, of that Federal legislation, that California is engaged in.

The Federal Government also recognizes the importance of coastal zone management. Frankly, I think I would welcome, in the long run, additional Federal involvement and advise an early coordination in regulating air, land, and water uses. But I would not at all welcome Federal preemption.

I would call to your attention a similar kind of preemption bill that California passed dealing with liquefied natural gas siting. I was talking to a representative of the natural gas company last week and he said:

> You know, I think we would have gotten our energy facility sited more quickly had the legislature not put the hackles up on everybody's back by forcing one decisionmaker and by preempting all other State and local agencies from the process.

Mr. LOEFFLER. When you look to the environmental impact of the project itself, the impact on the environment by the project is negligible.

My question then is what happens if the scrubber proposition is declared inadequate? That means that everything is done; is that correct?

Mr. MCCANDLESS. That is why in the remarks and in the staff recommendation we are offering alternatives to the scrubber. In fact, we are recommending one alternative which is not only more effective and cleans up the air better as a tradeoff, but is also cheaper and does not have the cumbersome length and time necessary to approve and construct.

Mr. UDALL. Mr. Loeffler's time has expired.

Mr. LOEFFLER. Thank you, Mr. Chairman.

Mr. UDALL. Chairman Dingell and I have agreed to jointly chair this hearing. I have to leave in a few minutes to go to the floor, so I will ask my questions now.

Mr. McCandless, pursuing the point just made, some of the people of Southern California Edison indicate that the scrubber technology that has been carefully negotiated, this scrubber installation, may not work. To some extent it is an unproven technology and may have consequences of byproducts that we don't know about.

Do you and your people object to having Sohio, which is concerned whether they are ultimately responsible for two or three times that expense if it does not work, have an arrangement in which they, in effect, could give Southern California Edison $80 or $90 million and let them use it under your supervision as best they can to employ whatever technology will do the most to clean up the air? Are we going to tell Sohio, "If you build this line, you are stuck forever to provide the equivalent of what we thought these scrubbers would provide?"

Mr. MCCANDLESS. Mr. Chairman, there is a very simple solution to this problem that the air resources board is not willing to accept and

stated so Saturday. By introducing 1,580 barrels of 0.1 sulfur oil per day into the fuel system at the Alameda plant complex, you would meet all of the requirements neecssary, Federal, State, and local, and we would be on our way.

Mr. UDALL. You say the California board is not willing?

Mr. MCCANDLESS. The California Resources Board staff testified Saturday in Long Beach at our hearings that they would not accept that option if it were one that Sohio would select over and above the scrubber.

Mr. UDALL. Let me ask as my second question, which leads into this, does your organization intend to ask Sohio both for the scrubbers and for low sulfur oil?

Mr. MCCANDLESS. Yes; we have four options at the present time, unless some of the briefs to be submitted in the next 10 days demonstrate something in the way of negativeness to offer Sohio in the sulfur-dioxide tradeoff.

Mr. UDALL. Do you intend to demand both scrubbers and low sulfur oil which you mentioned earlier?

Mr. MCCANDLESS. No, sir, we do not.

Mr. UDALL. You do not?

Mr. MCCANDLESS. No.

Mr. CLAUSEN. Will the gentleman yield?

Mr. UDALL. I yield.

Mr. CLAUSEN. You make reference to the California Air Resources Board as being the one objector. Aren't these all appointees of Governor Brown?

Mr. MCCANDLESS. It is an appointed board.

Mr. CLAUSEN. Is this an indication of his position on this matter?

Mr. MCCANDLESS. I am not in a position to speak for the Governor. I have an opposite pedigree.

Mr. CLAUSEN. Clearly he has a lot of communication with the appointees of the resources board, I would imagine.

Mr. MCCANDLESS. I would imagine, yes, sir.

Mr. CLAUSEN. Thank you.

Mr. UDALL. Let me ask quickly, and you can give me answers in 10 seconds or less, I would hope. Mr. McCandless, how long will it be, if all goes well, before you have finished the final paperwork and can turn this project loose, given an optimistic scenario?

Mr. MCCANDLESS. We have scheduled the final determination of the evidence and the submittal of the briefs which will come this week wrapping it all up on April 30.

Mr. UDALL. You can have your part of the approval process done by April 20?

Mr. MCCANDLESS. Yes, sir.

Mr. UDALL. Mr. Fischer, how long for you and your organization?

Mr. FISCHER. Our process has been completed.

Mr. UDALL. Mr. McJunkin, how long can we expect you folks to delay us?

Mr. MCJUNKIN. We are subject to 1 year's delay because of the court challenge to the amendments added to the EIR.

Mr. UDALL. Mr. Wilson?

Mr. WILSON. When the air quality district makes its decision, as Mr. McCandless indicated, that decision then has to go to the ARB

and that is Mr. Tom Quinn, and Mr. Tom Quinn, I do believe, does talk to the Governor.

Mr. McJUNKIN. Also the air permit is useless until the court suit is finally litigated.

Mr. UDALL. Would your problem be taken care of by preemption legislation that the Congress is contemplating?

Mr. McJUNKIN. Provided there was a rather harsh schedule for court action much like the TAP Act.

Mr. UDALL. All I want to say in conclusion is that I think the country is in very sad shape if we cannot find a way to build this project. It is almost insane to have a surplus of oil in one part of our country, have another part of the country need it, have a transportation system that exists and only needs a small piece of additional construction and some reworking of the pumps to do what the country needs.

I for one intend to find what went wrong and make the project possible and salvage it if it can be done. I think it can be done, and we all should be working to that end.

The Chair recognizes the gentleman from Montana, Mr. Williams.

Mr. WILLIAMS. Thank you, Mr. Chairman.

I direct this question to either Mr. McCandless or Mr. Fischer. I draw your attention once again to the flow chart which has been presented by the Long Beach Harbor people. I agree that it is enough to strike fear in the heart of a pocketbook, even one as big as Sohio's. And I am sure it has caused a lot of high blood pressure down at the harbor authority.

Going back to the good old days, maybe the bad old days, depending on your perspective, it was not like that. In fact, there was one line from the top of the chart to the bottom that was an express lane, and down it, of course, the applicants, usually American corporations; moved at high speed looking neither right nor left, violating along the way the rights of small private property owners, running down the delays that are inherent in the due process in this country and generally speeding along unattended. This finally caused the public to ask them to signal when they were going to turn and that is what caused this chart.

Now, we have gone too far. It is obvious. So I would ask either Mr. McCandless or Mr. Fischer or perhaps both to comment first on Mr. Wilson's suggestion that we have a one-permit stop on the expressway and, second, from your vantage point, gentlemen, could you define for us how we can get in the middle from that back to the bad old days and still allow us some due process?

Mr. McCANDLESS. That is quite a complex question. I think philosophically the problem lies in the fact that Government is trying to be all things to all people and as a result it is really not doing the job for anyone right because we have gotten involved in the environmental aspect of it to the point that there is overkill. The pendulum is beginning to swing back, but it will take a lot of time.

You may say that is not a very good answer. But that is where it all began. And that is where it is going to have to end. We are going to have to take a look at the various pieces of legislation on the Federal, State, and local levels and say to ourselves there was abuse. We had to address ourselves to that abuse. We have gone too far. Now let us go back to some common sense and bite the bullet in a few cases where we

have power bases or advocacy groups for the benefit of the majority rather than minority.

Mr. WILLIAMS. Do you think, sir, that can be done best, can that change in the regulatory process, can that be handled best with direction from the State and local governments, or can it be handled best by action here in the Congress?

Mr. MCCANDLESS. I am a believer in local government because I think it is more responsive to what it is that the people in their area where the Government functions want. There are certain things that the Federal Government by the very nature of its makeup should do.

An example, if I may, Mr. Chairman. The new source review rule required under the Clean Air Act is very vague in its drafting which required interpretation. And with all due respect to the legal profession, if you have 9 lawyers in a room and you are talking about the new source review rule, you would get 10 opinions. That is the beginning point of this Sohio problem. We spent 77 hours in hearings on phase I not so much because Sohio is an applicant, but it was the first major complex application under the new source review rule that we had spent almost a year working on to try to make sense out of it. And 3 weeks before we completed, the California Air Resources Board passed one for us which under State law we are forced to administer.

Mr. WILLIAMS. Thank you.

Mr. FISCHER. Mr. Williams, you asked about the one-stop suggestion. I would like to generally say that is not all that it is supposed to be. I know that we in California have reviewed other States' efforts at one-stop permit processing and find it has one principal beneficiary, that is the Xerox Corp.

Generally what happens is a permit application goes to a central agency, maybe the Governor's office, and that office ships copies of those permit applications out to all the different regulatory agencies. And then the independent requirements, as Mr. McCandless indicated, of Federal law on air quality and water quality, et cetera, have to be followed to their independent conclusions.

I would suggest not a solution but at least four things that you should keep in mind in attempting to come to a solution. I concur that a solution is needed. First, recognize there are other factors than the regulatory process that cause a decision such as Sohio's.

You saw the coverage of Governor Brown's statement before the Senate. I would again very proudly indicate to you that I think you are looking at a couple of public agencies that have exercised their regulatory functions quickly and responsibly. Don't paint every problem like this as a breakdown in the regulatory process.

Second, continue Congress' commitment to environmental protection and to due process. You must not toss the baby out with the bath in any review here.

Third, as Mr. McCandless indicated, some greater clarity of what the Federal requirements mean, particularly in air and water quality, would help our agency.

Finally, I would strongly support Mr. McCandless' statement that the decision should be made to the extent possible at the State or regional level. I think you will find that we at that level have every bit as many monkeys on our back as do you at the national level to expedite and coordinate things.

Mr. UDALL. The gentleman's time has expired.

Mr. Dingell?

Mr. DINGELL. Mr. Chairman, just a housekeeping suggestion. We have here a complete flow chart of the permitting process under the Coastal Commission of the State of California. I wonder if our witness on behalf of the California Air Resources Agency for Southern California could submit to us a similar flow chart, as requested by one of our colleagues earlier, for the permitting applications, State and local, of the clean air requirements.

Mr. MCCANDLESS. We will be very happy to.

[The following material was received for the record:]

SOHIO CHRONOLOGY

PREPARED BY STAFF OF THE CALIFORNIA AIR RESOURCES BOARD

The following chronology updates the status of the Sohio project. As noted, decisions on the two final applications would have been made by March 19 if the company had not cancelled its project. A final permit vote is now scheduled by the South Coast Air Quality Management District (AQMD) on March 30, 31 and April 1.

November 1975

Sohio announced publicly its intention to construct a large oil terminal in Long Beach and its plan to reverse the flow of El Paso pipelines.

December 1975

The California Air Resources Board (ARB) and the U.S. Environmental Protection Agency (EPA) informed Sohio that air permits would be required for the project and suggested that Sohio file promptly for the permits.

January 1976

The Federal Environmental Impact Statement (EIS) process was started by the Bureau of Land Management (BLM).

April 1976

Preparation of the California Environmental Impact Report (EIR) was started by the Port of Long Beach (the Port) and the California Public Utilities Commission (PUC).

May 1976

As part of a Federal Energy Administration (FEA) study on the disposition of Alaskan Oil, work began on the Sohio project's air quality impact. ARB and EPA entered into a working arrangement with FEA and the contractor.

Spring 1976

Although Sohio had not yet applied for the air permits, the ARB staff and EPA, using available data, analyzed pollution aspects of the project and concluded that potential emissions were substantial, equivalent to more than 100,000 new cars.

Summer 1976

The private contractor hired by the FEA confirmed the emissions estimates.

July 1976

ARB issued draft report to FEA on emissions from the Sohio project.

August 1976

ARB met with Coast Guard to explore possibility of reducing emissions by controlling tankers.

September 1976

EPA again notified Sohio that an air permit would be required and stressed the need for the company to apply promptly.

October 28, 1976

Sohio submitted the first part of its air permit application, but failed to provide detailed data on project design or operating parameters. Sohio also failed to offer mitigation measures or pollution "trade-offs."

November 1976

The ARB, EPA and AQMD informed Sohio that its October application was legally deficient and requested additional information.

January 1977

Sohio informed the air pollution agencies that it was not yet prepared to complete its application.

March 1977

The ARB, in an effort to expedite Sohio's technical work, supplied the company wtih detailed technical questions which remained unanswered by the October application.

June 1977

The Port, at Sohio's request, applied to the Coastal Commission for a permit to build the terminal.

April 1977

Sohio submitted some additional technical data but acknowledged that its application was still incomplete. The company said the application would be completed shortly.

ARB chairman Tom Quinn suggested to Sohio that the "trade-off" requirement of the application could be satisfied by installation of a scrubber on a Southern California Edison Company (SCE) power plant and suggested that Sohio contact Edison to determine if that company cooperate.

May 1977

The final EIR was issued.

June 1977

The final EIS was issued.

Sohio announced changes in its project design and lease conditions. ARB and FEA requested written clarification.

In an effort to expedite the permit process, AQMD decided to divide the public hearing process in two, with Phase One to review emissions information and Phase Two to consider a "trade-off" package. Phase One hearings began in July.

The Coastal Commission scheduled public hearings for August 16.

July 22, 1977

The AQMD began hearings on Sohio permit application.

August 1977

Sohio provided information regarding project changes and also informed ARB that it had not yet contacted SCE.

ARB chairman Quinn and state Energy Commission chairman Richard Maullin jointly contacted Edison to determine if the company would cooperate with Sohio on a "trade-off" package. SCE indicated its willingness to meet with Sohio representatives to discuss the matter.

Fall 1977

Work started on Supplemental EIR.

October 19, 1977

The Coastal Commission voted to approve the Sohio project but determined that oil storage tanks could not be constructed on Pier J, as Sohio requested, unless the company provided additional data.

November 1977

Draft Supplemental EIR issued after greatly expedited effort.

December 1977

Because of Sohio's failure to contact SCE regarding "trade-off" possibilities, Governor Brown met in London with British Petroleum (BP) executives to urge that Sohio be asked to negotiate with SCE.

Following the Brown-BP meeting, top officials from BP and Sohio met with the governor and representatives from the ARB, state Energy Commission and Public Utilities Commission to discuss the Sohio project.

The Port applied for amendment to Coastal Commission permit allowing construction of tanks on Pier J.

December 1977

Final Supplemental EIR issued.

Final Supplemental EIR certified by PUC.

January 1978

The Port Board of Harbor Commissioners voted to lease terminal to Sohio.

The Port issued Notice of Determination on EIR (equivalent to certification).

January 1978

The AQMD voted to approve the Sohio project, conditional on submission by the company of an acceptable "trade-off" package.

Sohio contacted SCE to begin exploring "trade-offs". This initial contact of Sohio came nine months after the ARB had first suggested SCE as a "trade-off" partner.

Coastal Commission hearing scheduled on the Port permit amendment, but deferred to May at the Port's request.

February–July 1978

Sohio and SCE met numerous times to negotiate "trade-offs". Negotiations broke down on several occasions and ARB chairman Quinn and federal Department of Energy representative Douglas Robinson assisted to resolve difficulties.

July 1978

Sohio and SCE reached basic agreement on the "trade-off" package. EPA and the ARB expressed acceptance of the SCE-Sohio agreement and the AQMD staff began an informal review of the agreement even though it had not been formally submitted by Sohio.

August 1978

SCE and Sohio formally signed a contract for the "trade-offs".

September 1978

AQMD scheduled Phase Two hearings to consider "trade-offs", but Sohio formally requested a postponement. The company was notified that hearings would be rescheduled immediately whenever Sohio requested.

October 1978

The Coastal Commission denied amendment to the Port permit.

December 1978

SCE applied for a permit to modify its power plant to allow installation of a scrubber and De-Nox system, the equipment specified in its contract with Sohio.

January 1979

Sohio formally filed its "trade-off" package with the AQMD and requested that Phase Two hearings be rescheduled.

Sohio executives met with the ARB to discuss pending litigation and other issues. The company said it needed final decisions from all state agencies by late summer.

February 1979

Sohio executives met with leaders of the state legislature to request special legislation to expedite litigation. The legislative leadership promised cooperation and said special legislation could be enacted.

Sohio executives met with Governor Brown and ARB chairman Quinn, who promised cooperation. Sohio again said final decisions would be needed by late summer.

March 1979

Following a five month postponement at Sohio's request, the AQMD's Phase Two hearings began on March 8. A final vote was scheduled for March 16 or 17, with the AQMD staff recommending approval of the Sohio project.

The Coastal Commission, at Sohio's request, granted a procedural motion to expedite consideration of locating storage tanks on Pier J. The Commission set a vote on the tank issue for March 19.

Sohio on March 13 announced it was abanding the project.

Coastal Commission voted on March 19 to approve permit amendment allowing storage tanks on Pier J.

Sohio on March 21 reactivated the air quality application and the AQMD scheduled hearing for March 30.

Mr. DINGELL. Mr. Wilson, you testified today about extraordinary delays and extraordinary regulatory proceedings at the State level, and so on. If this had been handled as it should have been handled in the normal course of events, normal delays, and normal permitting procedure, when would we expect to be pumping oil out of that pipeline?

Mr. WILSON. I think we would be pumping oil out of that pipeline today. I think we could have gotten the thing off the ground 2 years ago and had it built.

Mr. DINGELL. How long would we have been pumping oil?

Mr. WILSON. Not very long. Probably the first ship would have arrived maybe today. So it would not be very long, but it would have taken about 19 months for us to construct the facilities to accommodate the ships.

Mr. DINGELL. So we were at least 2 years behind what we should have been, given ordinary procedures?

Mr. WILSON. That is correct.

Mr. DINGELL. Mr. Lagomarsino is recognized for 5 minutes.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Wilson, and/or Mr. Fischer, can you give us a rough figure on how many of the steps on the flow chart are directly attributable to Federal regulation or Federal legislation?

Mr. HILL. My name is Lee Hill. I am directer of environmental management for the board.

This flow chart that is before you, and also has been submitted as exhibit 1 in our testimony today, represents our responsibility, only the port's responsibility vice Sohio and the port.

To answer your question directly, the core is the result of Federal legislation. That permit is one that is handled by the Federal Government. The coastal zone is the one on the right-hand side, which is the State, and the water quality is also State, and the one immediately to the left is a State act, also CEQA.

Mr. LAGOMARSINO. Mr. McCandless, I think it might be helpful if you could explain your position. From some of the questions that have been asked of you, I think there is an impression, at least among some of the members of these committees, that you are a State officer rather than what you are.

It might be helpful if you could briefly describe the difference between the South Coastal Air Quality Management District and the State air resources board.

Mr. MCCANDLESS. My primary duty is as an elected officer of the County of Riverside. I represent the area from Palm Springs to Blythe.

The second duty assigned to me by my board is Riverside representative from the air quality management district made up of five supervisors, four city councilmen, and a Governor appointee.

Mr. LAGOMARSINO. Then would you describe how that is different from the State board?

Mr. MCCANDLESS. The origin of this board was a joint powers agreement between the four counties involved, to try to address ourselves to what we consider to be a common problem. That was done over a 2-year phase-in from independent air pollution control districts in the four respective counties to one central control, where the employees of those former county districts become employees of the one district, and all of the various assets and capital of the four districts become one district with the governing board of five supervisors.

In 1977, as a result of legislation being passed in the State of California, the project or the district that we had created through a joint powers agreement was created by State statute, and the governing board was expanded from 5 to 10 people, along with a number of other less palatable aspects to the legislation.

We are responsible primarily under State statute for the control of stationary sources. The California Air Resources Board has primary responsibility for mobile sources.

In addition to mobile sources, the California Air Resources Board has an overseeing power of all local districts to ascertain that they have a meaningful program of air pollution control.

Beyond that point, the California Air Resources Board has no statutory authority over our district or districts like ours.

Mr. LAGOMARSINO. But they do have the authority apparently in this particular case to overrule what you are about to do.

Mr. MCCANDLESS The rule 213, the new source review rule I mentioned earlier, is the basis on which they say they have the authority because of the fact they wrote that rule in such a way that anything our district does in the way of a new source such as the Sohio program must have their concurrence.

Mr. LAGOMARSINO. They wrote the rule?

Mr. MCCANDLESS. They wrote the rule, yes, sir.

Mr. BROWN. Is that a regulation by the air review board or is it a piece of legislation passed by the State legislature?

Mr. MCCANDLESS. It is an administrative rule passed by the State air resources board in compliance with the Clean Air Act.

Mr. LAGOMARSINO. Do you believe they have the authority to do that?

Mr. MCCANDLESS. Under the State statute they do. They did it 3 weeks before we could complete the 11-month hearing process with the cities.

Mr. LAGOMARSINO. I would like to say for the record that I think that although there is plenty of blame here, we should be very careful in assessing that blame against Mr. McCandless and his organization. It appears to me they have acted responsibly. I would disagree with him on one thing. I don't think what we are proposing is really a preemption. It looks like everything that pertains to the environment has been done and all we are talking about now is some power grab perhaps by the State air resources board.

If we said go ahead with the conditions that have already been laid out, I don't think would amount to a preemption at all.

Mr. DINGELL. Mr. McCandless, do you wish to make a brief comment on that matter?

Mr. MCCANDLESS. Let me draw a parallel to give you a feel for what goes on in California.

If a land use matter that comes before a given county in the State of California today, if a general plan amendment is required and a zone change is required before that person may build what it is he or she wishes to build on that land, the time required under the present State statute will take approximately 2 years to complete that process.

That, I think, is synonymous with what we are talking about here when we say why is it taking so long to build another oil terminal?

Mr. DINGELL. The time of the gentleman has expired.

The gentleman from California, Mr. Moorhead, is recognized.

The Chair advises before we commenced that Secretary Schlesinger will be appearing at 12:30 and will appear only briefly because he has a Cabinet meeting at 1. So we recognize now the gentleman from California, Mr. Moorhead.

Mr. MOORHEAD. Thank you, Mr. Chairman.

From the testimony of each one of you it appears that we are unanimous in believing that this project should be completed and at the same time we have a company, Sohio, which says that it no longer appears to be economically feasible unless some of the threat is taken care of.

I understand that the respect that needs to be taken care of by each one of your agencies has already been approved except for perhaps approval by the court of the environmental report on the scrubber and the project, itself.

What we have to find is a way to approve the project.

Can you think of any way by Federal legislation that we can take care of this matter in a reasonable period of time so that we can go forward?

Mr. MCCANDLESS. Mr. Chairman and Mr. Moorhead, what is left on this project, and that is what you are addressing your question to, is very little in time as far as the regulatory agencies are concerned.

Mr. MOORHEAD. How do you take care of the court procedures?

Mr. MCCANDLESS. The only thing left is the challenges that may become court oriented. That is something I am not in a position to be able to advise the Congress on.

Mr. MOORHEAD. Mr. Fischer, do you have any comment about that?

Mr. FISCHER. No. I would have to join Supervisor McCandless in that statement. My only other comment would be to urge that you question carefully Mr. Jan Smutny-Jones who will be here this afternoon and who is one potential litigant. You may learn of the rationale for litigation and what legislation may be appropriate there.

Here, clearly, we are dealing with separation between different branches of Government and I am incompetent to advise you there.

Mr. MOORHEAD. We understand it may take 2 years to build the project once everything is approved. That being so, if there is another 1½ years of appeals and court action and so forth, a large portion of the oil pool may already have been shipped someplace from Alaska

before the project can be completed and that will make the economic feasibility much poorer than it would have been if it could have started as the oil came into availability.

I don't know whether any of you have a comment on that. If that is true, of course, the longer we delay the less likelihood it will be that Sohio or anyone else will want to build a project such as this.

Mr. FISCHER. Mr. Chairman, I would question the "or someone else" aspect of that statement. There is certainly North Slope Alaskan oil. There is oil to be gained from other parts of the Pacific coast. I would expect that there is a possibility that this pipeline could be used by others than Sohio.

I think one of our problems is that we are expecting Sohio to pay for the whole thing, so they must look at it on a short-term basis that the Congress need not.

Mr. MOORHEAD. Are you suggesting that the Government ought to pay for it?

Mr. FISCHER. I don't know that the Government ought to pay for it but somehow encourage putting together a joint pool of private-public outfits.

Mr. MOORHEAD. I think one thing we should also be concerned with is that Newsweek in the April issue which is just out comments on this project and states that the point conception project, the LNG project, is very much put in jeopardy by the failure of this Long Beach Sohio project to go forward. We are talking about a bad precedent.

Are we to see every single one of our energy projects go down because of redtape? That is what we are concerned with.

Is there any kind of deadline we are faced with on the commencing of this project that would trigger new prohibitions against the project? Can you tell me about that, Mr. McJunkin?

Mr. MCJUNKIN. I believe Mr. McCandless could explain it better. But there is a Federal deadline that States must have an implementation plan completed and approved by June 30 of this year or the EPA will introduce a moratorium on all construction. At least that is my understanding.

Mr. MOORHEAD. That is true, Mr. McCandless?

Mr. MCCANDLESS. In essence it follows those lines. There would be no support of water and air projects or public works projects because the State implementation plan had not been completed and turned over to the Environmental Protection Agency.

Mr. MOORHEAD. It seems to me there could be very little chance of that being completed in that period of time.

Mr. MCCANDLESS. The district spent 2 years on it and was on schedule to turn it over to the air resources board on February 1.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman.

I would just like to state at the outset my unhappiness with the inability of the Governor of California to appear here this morning. I think that in all of our efforts to expedite something which I believe is in the national interest, as this project goes beyond California's interest and the narrow interests of the people on the west coast. It

really would have been a wonderful gesture on the part of the Governor of California if he could have been here this morning, especially in light of the fact that he personally requested this hearing last week.

I think also that it would have been a good thing if at least he could have sent over Mr. Quinn, the chairman of the California Air Resources Board, as someone who could have been his spokesman.

I understand, Mr. Chairman, that Mr. Brown has a date in New Hampshire this evening. I know Mr. Quinn is his former campaign finance director, perhaps they are speaking about other things today. I would hope that the Governor of California, being the one person who could sit at that panel and not speak at his peril, would be able to expedite the legislative process in California. The Governor would be able to tell us whether or not he would like to see State and local laws overridden, and he could tell us whether or not he would object to them rigorously. He might let us know whether or not it is needed, or let us know how hard he is working to expedite things through the California Legislature, that the representatives of Sohio in their testimony today will tell us are absolutely at a standstill.

I think the one person who should be here, who we know is nearby although in what mystical form we are not sure, is not here today. I would hope that the interests of the country, in this instance, are not playing second fiddle to his own self-aggrandizement in the perpetuation of himself in another political role in 1½ years from now.

Let me ask Mr. Fischer if I may, whether or not you consider this pipeline to be of sufficient national importance to have these committees override State and local laws in order that this pipeline be built? What is your own personal opinion?

Mr. FISCHER. My personal opinion is that the project is in the national interest and that our Commission in fact bent its priorities and policies to grant that permit.

No, I do not think that Federal preemption is quite necessary or advisable. I think it would be an awful precedent. Actually, I have no opinion on whether Federal legislation could help streamline and render less fearsome the litigation jeopardy that the project feels it is in.

Preemption of the regulatory process would, I think, be both unnecessary and a poor precedent.

Mr. MARKEY. The difficulty is in the testimony of Mr. Whitehouse before our committee today. He testified that while speaking with the representatives of the California assembly that he confirmed again what the legislative leadership in Sacramento had advised Sohio in January and February of this year that the California Legislature could not be expected to clear an EIR adequate to in any way expedite this process. Although the California Legislature was very courteous, was very compassionate, in no way could they be sure there could be any action taken that was needed to save the project.

In light of those statements I am hard pressed to understand how something in the national interest can be short-circuited by a local legislature and at the same time not be able to justify considering the legislation which is proposed by Chairman Dingell and Chairman Udall.

I would hope that the people in New Hampshire this evening would understand that the legislation which is before us today is of vital

interest to providing for the energy independence of our country, and to making sure that we break the dependence which we have on foreign oil, and perhaps precluding the necessity of selling this oil to Japan, and that the Governor of California in his appearance today could have acted wisely and well in helping to expedite that process.

I yield to the gentleman.

Mr. CLAUSEN. Inasmuch as we seem to be dealing with the Governor of California in absentia I though it might be appropriate if I were to go back to the oversight hearings that we held in California by the Subcommittee on Special Investigations. I asked this question of the Governor, so at least we will have this much on the record since he is not here to make the presentation himself.

I said:

Governor, do you support the Sohio project and the terminal in Long Beach?

Governor BROWN. I frankly believe that the project as worked out in the contract between Sohio and California Edison is an excellent proposal. It is about as good as anyone is ever going to get. I think it sets a historical precedent whereby a corporate citizen not only contributes to the economy but makes a significant contribution to the environment. So I worked on it and I very much think it is in the public interest.

Mr. CLAUSEN. So you support the project?

Governor BROWN. I support the project as I now understand it, and see it. There will obviously be some permitting questions and the powers that have to vote and conclude on it. As far as I am concerned, when I look at it. I have not spent 2 years for nothing, I think that the $80 million investment in cleaning up pollution that the project creates is a substantial precedent that ought to be given a chance to work. So I am backing it without attempting to interfere with the independence of the appropriate regulatory agency.

So we at least have that much.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from California, our colleague Mr. Lungren.

Mr. LUNGREN. Thank you, Mr. Chairman.

In talking about the problem of going to a one-stop permitting process you indicated whom you would consider to be the beneficiaries. Actually, don't we have a situation in the multistop process where truly the only beneficiaries are attorneys? I say that having been a member of the firm that worked with Sohio. I know what enormous law fees are involved. Aren't we getting away from the people in making decisions when the people in my home town can vote 2 to 1 in favor of this and yet after so many years we still don't have a project?

Mr. FISCHER. Congressman, my comment was on the one-stop shop, the unworkability of that as an objective and, frankly, I would say in some cases the undesirability.

I would join with you in saying it is both very desirable and would be very effective management of the regulatory process to get more coordination between the water quality control board and the coastal zone management agency and local planning department, regional housing authority and that sort of thing.

I do know that the Governor's office is planning research and an outfit called Office of Permitting Assistance has called joint hearings.

As a matter of fact, we held a joint hearing at the coastal commission meeting last week to deal with the proposed OCS lease sale. I expect you and the other citizens should be urgently insisting that wherever there are multiple agencies regulating they expect that there be a

joint public hearing and a joint staff report and there be a coordinated timing.

Mr. LUNGREN. That would have helped in this project?

Mr. FISCHER. Yes; it would have helped.

Mr. LUNGREN. Mr. McCandless, you indicated that your organization has suggested that low sulfur content oil to be utilized in the powerplant in my district would be preferable in your view, in your organization's view, to the scrubber program; is that correct?

Mr. MCCANDLESS. Yes, sir.

Mr. LUNGREN. Can you tell me whether there has been any reluctance on the part of Sohio to that suggestion?

Mr. MCCANDLESS. Sohio is, to use a vernacular I can think of, between the rock and the hard spot. They have to please the air resources board because the air resources board has to concur in the decision that we make.

As Mr. Whitehouse so aptly put it the other day, he is not the chairman of the board of a public works corporation.

Mr. LUNGREN. Isn't it true that Sohio has basically taken the position that they are willing to commit the amounts of money involved, $80 million, as long as some government agency will tell them how to spend it? As a matter of fact, won't they give it to the government agency and tell them now to decide to use it to clean up the environment?

Mr. MCCANDLESS. Mr. Whitehouse and the other members of the Sohio team have made comments of this nature, yes.

Mr. LUNGREN. Would it be fair to say that Tom Quinn and the Air Resources Board have basically held Sohio hostage to that idea that the scrubber is the system to be utilized?

Mr. MCCANDLESS. I would say that is a very salient observation.

Mr. LUNGREN. And they hope to use the scrubber system as something to be used statewide and they are using this project to prove its worthiness?

Mr. MCCANDLESS. This, I believe, is one of their goals. That is my assessment of the situation, yes, sir.

Mr. LUNGREN. Would it not be a good idea if we had Tom Quinn talk with us and explain the rationale of the Air Resources Board of the State of California and how it affects this project which everybody appears to agree is in the national interest?

Mr. MCCANDLESS. You are asking me if I think it would be a good idea for Mr. Quinn to be here? I would say yes.

Mr. LUNGREN. Maybe the question you and Mr. Fischer have not been able to answer because of your position should be directed to Mr. Quinn, the air resources board, and Governor Brown.

Mr. MCCANDLESS. Yes, sir.

Mr. LUNGREN. Mr. Wilson, earlier we talked about Federal preemption. I would feel that you come to this reluctantly. Is that not true.

Mr. WILSON. That is absolutely correct. We have for more than 4 years gone through the processes that are required at the present time. Though they ought to be altered we still have complied with them.

As Mr. McCandless and Mr. Fischer have said, we are at the end or nearly the end of all this process. We should have been there 2 years ago, but we are there now. But we are not at the end of litigation.

We are not at the end of what Mr. Quinn is going to do. Unless those things are cut off so that this is truly the end we could just go on forever.

Mr. LUNGREN. There are many of us in the Congress who, I think, are philosophically predisposed against preemption in most areas. We have seen that the Federal Government in many areas can't do as good a job as State and local government. But I think if in fact we were to come to the conclusion this was the only possible way to solve a problem that has arisen with a resource, I think we are talking about the pipeline as a resource because it delivers our natural resources from Alaska, that if you think that is the only way to solve it, some of us may go for it. In your judgment, is this the only way?

Mr. WILSON. Yes, Mr. Lungren. We have come to that conclusion reluctantly. We wish there were some other way. We do not believe there is.

Mr. LUNGREN. Is there any possibility that we could deal with this problem by State preemptive legislation where the State would give us a one-stop procedure and put some reasonable limitation on the amount of time and the number of lawsuits that could challenge the completion of these various permits?

Mr. WILSON. We do not think that is possible, given the present climate in the State of California. Also, you have one additional problem and that is that under the constitution of California I am of the opinion that the legislature cannot give the Supreme Court of California original jurisdiction. They themselves could take it but somebody has to ask them to make that decision.

Mr. LUNGREN. The latest California State Supreme Court decision dealing with the permit process, will that, in your judgment, contribute to the delay of this project?

Mr. PARKER. No question about it, Mr. Lungren. The State supreme court sent it down on March 22 after having had the case for 1 year, stating they were deferring jurisdiction to the superior court. The whole process starts again. The matter has to be calendared in trial court and go through the appellate stage and eventually it will go to the supreme court.

Mr. LUNGREN. That will take 1½ to 2 years?

Mr. PARKIN. I would say at a minimum.

Mr. DINGELL. The Chair recognizes now his friend and colleague, Mr. Brown, from Ohio.

Mr. BROWN. Thank you, Mr. Chairman.

Mr. McCandless, you seem to have given me the clearest picture of what the situation is, although I pick up some points from the comments of others. I gather that the first problem is that the economics of the Alaskan oil supply may mean that unless this project gets started pretty soon, the Standard Oil Co. of Ohio may have no economic interest in the completion of the project because it becames marginal economically.

But there are limitations, as I understand it, in the law. I want to be sure that I understood you correctly. Those limitations, as I gathered from what you have said, are a result of the new source review rule in the State of California, which is pursuant to the Federal Clean Air Act, the rule having been established by the Air Resources Board of the State of California. The effect of those limitations is that there can

be no construction of the pipeline or of the port facilities to handle the pipeline begun after July 1, 1979; is that correct?

Mr. McCandless. No; I believe there is a misunderstanding here. We were talking about the State implementation plan to meet the Clean Air Act requirements having to be filed with the Environmental Protection Agency by July 1 or there would be sanctions to local and State governments by the Federal Government in terms of their subsidy grant and whatever else you may say, which is different from what we are talking about here, or you are asking me as a new source review rule.

Mr. Brown. Well, the new source review rule does provide for the filing of these things by July 1? Is that correct or not?

Mr. McCandless. The new source review rule is a standing piece of administrative district rule which governs the application and approval of new sources of pollution that come into the basin that are not there now and would, if constructed, add to the existing emissions inventory. The new source review rule addresses that under the Clean Air Act.

I said earlier that we had spent almost a year working with a task force of businessmen, ecologists, and environmentalists. We had what we thought was a pretty good rule after I don't know how many hours of hearings. Less than 3 weeks before we completed that process in November, the California Air Resources Board passed a completely different set of rules.

Mr. Brown. What you had done will not fit that new rule?

Mr. McCandless. We went to them after we had completed that process and went ahead and passed our rule in November and said:

Here it is. It is a better rule. It is structured better. It can be implemented better. It is easier to understand. It does not have the problems that your rule has. Drop your rule and let us go ahead with ours.

They said:

No, under State statute we made a finding that you were not living up to the State requirement by being,

whatever they called it at the time.

So we passed a rule for you and you are going to have to administer our rule.

Mr. Brown. Does that hold you to a new procedure?

Mr. McCandless. Yes, sir.

Mr. Brown. Must I review then what you have done?

Mr. McCandless. It holds us to the procedure under their draft of the new source review rule until such time as they change that procedure or relinquish to us.

Mr. Brown. What is the effect of that? Does that merely provide the prospect for litigation or does it hold up the permitting of the beginning of the project?

Mr. McCandless. Under that new source review rule the air resources board wrote into it that they would have review process over everything that we did.

Mr. Brown. So they have not reviewed what you have done yet under their own rule?

Mr. McCandless. No.

Mr. Brown. So they must take that step?

Mr. McCandless. Yes.

Mr. BROWN. As I understand it, it would be imprudent in an economic sense for the Standard Oil Co. of Ohio to begin the project until they know that they are going to get approval from the air resources board; is that correct?

Mr. MCCANDLESS. This is right.

Mr. BROWN. That hinges on whether or not the environmental impact report and the permit on the scrubber system has been approved; is that right?

Mr. MCCANDLESS. Yes; it hinges on whether or not a scrubber is what is going to be the tradeoff.

Mr. BROWN. The air resources board has required a tradeoff, and a scrubber system is the method that they have approved for that purpose; is that correct?

Mr. MCCANDLESS. They have been negotiating separately from our normal process and come up with a scrubber as we have outlined. That is what they want to see.

Mr. BROWN. The upshot is that we have three different requirements tied together. Until that scrubber is permitted you really can't get a final resolution of the construction of the project in terms of the terminal and pipeline; is that correct?

Mr. MCCANDLESS. Yes; our final recommendation will include an option that will include the scrubber in addition to the low sulfur oil that I talked about earlier.

Mr. BROWN. Then, finally, we also have the question of lawsuits, likely under these various permitting processes which have not been completed as yet. We see the Supreme Court of the State of California remanding previous lawsuits back to the local or what is called the superior court; is that correct?

Mr. MCCANDLESS. Yes, sir.

Mr. BROWN. I can understand, I think, under those circumstances, why Standard Oil of Ohio decided to abandon the project. It seems to me to leave an indefinite time period in the future before there is any approval. If the economics of the supply of oil from Alaska means that the pipeline can never be paid off, then it would be easier to bring the Alaskan crude through the Panama Canal, with all the environmental risks and additional expense to the consumer.

I guess I am beginning to get a picture of why the project has begun to fall apart.

Do you see, any of you, a way out of this dilemma, with any degree of precision, short of a TAPS kind of legislation with reference to this project?

Mr. MCCANDLESS. You have two things left. If the air resources board could agree to a low sulfur option instead of the scrubber, this would make the total package more attractive to Sohio.

Mr. BROWN. If you can, describe to me what that low sulfur option is?

Mr. MCCANDLESS. At the Alameda plant where the scrubber is being produced you have six boilers being made by a common source of fuel. By introducing into the existing fuel a 0.1 sulfur to the amount of 1,580 barrels per working day, the amount of sulfur that would go through those six boilers would be less and therefore at the stack would meet the necessary emission standards without a scrubber, without this, without that.

Mr. DINGELL. The time of the gentleman has expired. You have indicated, however, Mr. McCandless, that this has already been indicated as being unacceptable to Mr. Quinn and the California Air Resources Board.

Mr. MCCANDLESS. The staff representative of the air resource board testified Saturday that he could not recommend this option to his board.

Mr. DINGELL. Did he state why?

Mr. MCCANDLESS. Yes; he gave three reasons.

Mr. DINGELL. What are the three reasons?

Mr. MCCANDLESS. First, he questions the availability of low sulfur oil.

Second, that it would place the Nation, California, or this project more dependent on foreign oil.

And, third, there might be a strategy if low sulfur oil became available where we want to use it on all powerplants and, therefore, we would have preempted this one and we would not be able to do it there also.

Mr. BROWN. Would the gentleman yield for a minute?

Mr. DINGELL. Very briefly, yes.

Mr. BROWN. I am not sure I understand. If you put the low sulfur oil in that plant so the generating plant was in compliance, how that would impact on Sohio beyond the fact they would not be required to put on the scrubber? What would they be required to do at that point?

Mr. MCCANDLESS. As far as the sulfur compounds nothing, because you are burning a low sulfur oil. Therefore, the emissions coming out of the stacks would not require a scrubber or any other type of device to meet the sulfur content requirement.

Mr. BROWN. What would Sohio be obliged to do in order to accomplish the tradeoff?

Mr. MCCANDLESS. They would buy or pay the difference between the cost of the 0.25 sulfur oil that is presently being burned and the 0.1 to the amount of 1,580 barrels a day, estimated to be in the neighborhood of $10 million less.

Mr. BROWN. In perpetuity?

Mr. MCCANDLESS. The life of the terminals as I understand it has been projected as 15 years. So, the scrubber and all of these things have been cataloged into a 15-year timeframe. The $82 million, or whatever it is, is scheduled to take care of whatever is necessary for a 15-year period and only a 15-year period was considered to be the life of the terminal.

Mr. DINGELL. Can you advise us whether this scrubber is off-the-shelf technology? Has it been proved to work or is it unproven?

Mr. MCCANDLESS. There is nothing like it in operation in the world. There are scrubbers, Mr. Chairman, but there are not scrubbers like this expected to do what this is expected to do.

Mr. DINGELL. Why do you make that statement, sir?

Mr. MCCANDLESS. Why do I make the statement that they are not scrubbers?

Mr. DINGELL. Yes; that this scrubber is in effect unique? Is it unique insofar as the engineering? Is it unique insofar as not being tested?

Mr. MCCANDLESS. This is an oil-fired plant. This is a five-stage scrubber, a very complex thing, and there is not one like it anywhere. This will be the first one if it is ever constructed.

Mr. DINGELL. Have there been any studies to ascertain whether or not the scrubber will work?

Mr. MCCANDLESS. The position that the engineering people have taken is that they can meet the necessary requirements by the design that they have once that design is implemented and maintained properly in its operating mode.

Mr. DINGELL. Who are the engineering people to whom you allude? The Southern California people, the California Air Resources Board?

Mr. MCCANDLESS. The testimony given to our board on the scrubber was a part of the Sohio testimony and it was their consultants who were doing the speaking.

Mr. DINGELL. Thank you.

The Chair notes that there is a vote on the floor. It is on suspension of the rule of H.R. 199 relating to the Santa Ana Pueblo Indians. The Chair feels in view of the importance of this matter and the presence of the witnesses who have traveled long distances, I must persist here. The Chair recognizes Mr. Barrett.

Mr. BARRETT. Following his appearance at the subcommittee meeting in August 1977, did Mr. Quinn contact any of you gentlemen at the table and comment to you that the permitting process should be expedited so that it could be complete by October?

Mr. MCCANDLESS. To my knowledge, our board has never been contacted by Mr. Quinn or the executive staff, Mr. Barrett.

Mr. BARRETT. Mr. Fischer, were you advised that there was an urgency to complete the permitting process by the October 1977 deadline?

Mr. FISCHER. Mr. Barrett, I don't know. I was not with the coastal commission during 1977. I have been with the commission for a year now and during that entire year Mr. Quinn and I have been in close contact trying to work together to get the process speeded up.

Mr. BARRETT. Would that be the same response with respect to the Port of Long Beach?

Mr. MCJUNKIN. Not quite. We were having continual meetings with Mr. Quinn during that period urging expedition of the permit. I don't recall his stating any importance of an October deadline though he may have. I don't recall it if he did.

Mr. BARRETT. Have any of you gentlemen heard anything about a proposal that the Federal Government build the Sohio pipeline if Sohio drops out?

Mr. MCCANDLESS. This was a proposal by Mr. Quinn some 2 weeks ago. I believe he made this announcement on arrival in Washington, and then I believe it also appeared in an interview that he had on return to California from Washington.

Mr. BARRETT. Wasn't it the proposal of the Governor that Mr. Quinn was transmitting to the Federal Government?

Mr. MCCANDLESS. The proposal was that the Federal Government build the pipeline.

Mr. BARRETT. My question was, wasn't it Governor Brown's proposal?

Mr. MCCANDLESS. Mr. Quinn was the one who proposed it.

Mr. BARRETT. Did he not suggest that he was acting on a suggestion made by the Governor?

Mr. MCCANDLESS. I don't remember that being part of the dialog, Mr. Barrett.

Mr. BARRETT. Does anyone else know?

Mr. DINGELL. I must confess in meeting with Secretary Schlesinger I heard Mr. Quinn make a suggestion on the part of California. I assume he was speaking as an official of the State and a representative of the Governor on whose behalf I was told he appeared.

Mr. BARRETT. I have no other questions, Mr. Chairman.

Mr. DINGELL. Gentlemen, we have kept you overlong. We thank you very much for your assistance to us.

The Chair has just a couple of questions.

This is directed to Mr. McCandless.

Mr. McCandless, in response to the Senate committee in a document entitled "Response to Questions Submitted to the State of California," this answer appears: "Action on this final permit is scheduled for Friday, March 30." Today is Monday, April 2. You advise us that final action is now scheduled for April 20. At an earlier time when Mr. Quinn was before this committee in the summer of 1977 he advised that this matter would be concluded by November 1977. Recalling the Ciceronian Catalin orations there appeared these words: "How long, O Catalona?"

My question to is "How long, O California, must we wait to resolve this issue which is now before us?"

Mr. MCCANDLESS. We were not able, Mr. Chairman, to recommence the hearings without advertising the legal amount of time which was 7 days. The 7 days started the moment we received a letter from Sohio wishing to reinstitute the hearings. The first date then legally we could recommence the hearings was March 30. That was last Friday. I got agreement from our board to work Friday, Friday night, Saturday, Saturday night, and Sunday, if necessary, to complete the hearing process.

The evidentiary hearing process that we sit up then requires that there be a 10-day period after the transcript is filed with the district for the receiving of written briefs upon which then they will be entered into the record. That 10 days will be completed and we will have an opportunity as individuals to review our various records.

We will make a determination on April 20 which is the soonest that we can get our board together, meet the necessary criteria of the 10-day period, and have enough time to digest the written briefs that will be submitted during that period.

Mr. DINGELL. The California Air Resources Board in the preparation submitted by its staff advises as follows: "The following chronology updates the status of the Sohio project. As noted, decisions on the two final applications would have been made by March 19 if the company had not canceled this project. A final permit vote is now scheduled by the South Coast Air Quality Management District on March 30, 31, and April 1. This date has now slipped to the 20th.

The question really is, having received a plethora of promises from you in California commencing back on September 1977 and continuing into the spring and, I expect, possibly into the summer of 1979, when is the final date on which this permit will be issued?

Mr. MCCANDLESS. The final date will be the date that our district receives from the Sohio Corp. those contracts entered into with the third parties that are going to provide the trade offs and those contracts have been reviewed by our counsel and meet the criteria that were set forth in our hearings.

Mr. DINGELL. Are you indicating to us then that the April 20 date is not a hard, final, firm date?

Mr. MCCANDLESS. It can be April 20 if the applicant is ready to go with his contract an hour after we finish our deliberations.

Mr. DINGELL. Gentlemen, the Chair thanks you all for your assistance to us in clearing up this rather murky matter as regards the date.

The Chair is troubled. Here we have oil which is desperately needed in the Eastern United States carried through the Panama Canal at a substantial environmental detriment and enormous consumer cost under circumstances where the Port of Long Beach is losing $2 million in annual revenue which would have underwritten a $20 million bond issue to finance recreational and commercial development, where the situation is holding up action on other projects for the Port of Long Beach which would generate some $1.8 million in annual revenue for the Port of Long Beach in California, where we have a slowdown which has eliminated 1,000 man-hours of direct employment and 882 man-hours of indirect employment, which has eliminated some 432 direct jobs in the State and 272 indirect jobs, which has blocked substantial improvement in air quality in the Los Angeles basin, which has added to the Los Angeles air basin's pollution through the emissions of the tankers required to carry oil through the Panama Canal, where the situation has deprived the Port of Long Beach of 60 acres of landfill and recreational area and industrial development, which has deprived them at that point of 5 acres of recreational buffer, and which has interferred with the development of trade with China, and which has had an adverse effect upon the U.S. balance of payments, and yet we lack a firm date as to when this matter will be settled.

We are advised that there will be massive potential for costly and time-consuming litigation. Frankly, gentlemen, it appears to me that it is time that the Congress acts to assist California in carrying out its activities and in moving this project forward in the national interest.

Gentlemen, we thank you all for being with us.

Mr. WILSON. Thank you.

Mr. DINGELL. The Chair advises now that Secretary Schlesinger is here. Mr. Secretary, we thank you for being present with us. We look forward to your testimony. If you will come forward to the witness table and identify yourself and your associate for the record, we will be pleased to receive your statement. There are several cards in front of you. I suggest you make sure you have the one which identifies you and not one that identifies Governor Brown.

STATEMENT OF HON. JAMES R. SCHLESINGER, SECRETARY, DEPARTMENT OF ENERGY, ACCOMPANIED BY LESLIE J. GOLDMAN, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR POLICY AND EVALUATION

Secretary SCHLESINGER. If there is anybody under any illusion, I am not Governor Brown.

Mr. DINGELL. Mr. Secretary, I think we are rather clear. You appear to be rather more decisive in your approach than he. We, therefore, recognize you. We also welcome Mr. Goldman here this morning.

Secretary SCHLESINGER. Mr. Chairman, you have my statement for the record.

Mr. DINGELL. Without objection, that will be inserted in the record. We will receive such summary or such other comments as you desire to make.

Secretary SCHLESINGER. I will make some summary comments, Mr. Chairman.

First, I will have recourse to the classical allusions that you started by your reference to, "How long, O Catalin, how long."

Mr. DINGELL. It did seem appropriate, Mr. Secretary.

Secretary SCHLESINGER. From the standpoint of the Department of Energy which has been attempting to move this pipeline project for better than 2 years, this is becoming the equivalent of the labors of Sisyphus who was condemned to continuously roll a stone up a hill in Hades, which then proceeded to roll back down.

It has, Mr. Chairman, been a very frustrating experience to get this pipeline moving forward. It is a history of crippling and tragic delays. As you know, Mr. Chairman, the basic problem is an abundance of crude oil on the west coast. It is not so much a glut of crude oil as it is a transportation deficit, and the Sohio pipeline was, in part, designed to solve the transportation deficit problem.

For 2 years now, indeed longer than 2 years, it has been our intention to create West to East pipelines that would avoid the need for transshipping Alaskan oil through the Panama Canal and at the same time provide the incentives for the companies to explore the North Slope vigorously and to bring the pipeline capacity of the trans-Alaskan system up to its potential level of 2 million barrels a day.

At the present time the pipeline is moving about 1.2 million barrels a day. We feel that the construction of West to East pipelines is clearly in the national interest and we must acknowledge that such national interest should supersede State or local interests when they are in conflict.

In order to bring about the pipeline's construction we have worked closely with all parties—Sohio Southern California Edison, and State and local authorities. Indeed, early in 1977 we appointed a Federal project coordinator to move that pipeline forward. Our efforts to this date, however, have not yet reached fruition.

We hope that as a result of these hearings and similar hearings in the Senate, we will be able to achieve the completion of the pipeline project. The necessary Federal permits are in place except for two or three that will require additional information from the Sohio Co. to complete processing.

The problem has not been Federal permitting, but rather State and local permitting. There is no reason, in our judgment, that this pipeline project should not go forward. It has, however, become immersed in a regulatory quagmire. As early as the summer of 1977 we expected, on the basis of indications which we received from senior State officials, that the pipeline indeed would have its permits in place at the end of 1977 or early in 1978. That date of expectation continues to recede.

We have worked very carefully with all of the appropriate authorities in order to resolve the question of air quality control. We worked as intermediaries between Sohio and California Edison in order to formulate arrangements that will indeed satisfy the air quality standards on the west coast.

When it became clear earlier this year that the pipeline project might go awry, we called in all of the participants for a meeting which you, Mr. Chairman, were kind enough to attend, in an attempt to get started in the right way once again.

It appeared at that meeting that Sohio had become frustrated with the endless delays it had encountered. As we attempt to move this pipeline project forward we must recognize that it is being financed privately. Indeed, it is an investment by Sohio and must therefore be an investment that is favorable from a benefit-cost standpoint. The continued delays and notably, the prospect of additional litigation, which means that the day of the pipeline construction might actually begin is clouded with uncertainty, makes it more and more risky for a private corporation to make these kinds of investments.

It is for this reason that I believe the issue of litigation will have to be cleared up by action of the State and the Federal Government. As a result of our continued involvement in this effort, Mr. Chairman, we have come to various conclusions.

Under the heading of "Lessons Learned," a distinction should be made between emergency action necessary to meet the requirements of the Sohio pipeline project and other actions by States and by the Federal Government to deal with the longer-term problem.

Over the course of recent years, for a variety of laudable motives, we have added to the regulatory requirements necessary to complete a project such as the Sohio pipeline. Each one of these requirements is understandable and defendable, in and of itself, but collectively they lead to conflict between one bit of legislation and another bit of legislation, one agency and another agency, so that a process of interminable delays is created to obtain approval to undertake major energy projects.

We have created a climate in which anyone can say no. There is one who can say yes. For that reason, while we are dealing with the question of the emergency measures for this individual pipeline project, we should also turn to the longer term issues. We are considering one stop permitting at both the Federal Government level and the State level to eliminate some of the difficulties.

While we should be cautious in having the Federal Government move into areas reserved for State authority, it seems to me necessary for the states to make timely decisions in order to preserve their authorities. One lesson we learned from the Sohio case is the difficulty associated in dealing with the multiple layers of authority within the State of California.

Sohio attempted to resolve the problems of air quality by negotiating an agreement with Southern California Edison that was fully consistent with the expectations of the Air Resources Board of the State of California. It thought that it had solved its problems with regard to air quality.

When Sohio went before the South Coast Air Quality Management District Board, however, it was evident that the board had different views with regard to the requirements to preserve air quality. I think that this latest information, in part, explains the great degree of disenchantment that Sohio has expressed with the project.

So, Mr. Chairman, I believe that one of the beneficial results of this whole experience may be that we move toward the establishment of a central or one stop permitting system for major energy facilities.

Thank you, Mr. Chairman. Those initial comments should suffice.

[Mr. Schlesinger's prepared statement follows:]

STATEMENT OF JAMES R. SCHLESINGER, SECRETARY OF ENERGY

Chairman Dingell, Chairman Udall, Members of the Commerce and Interior Committees, I appreciate this opportunity to appear before you today to discuss the Standard Oil Company of Ohio's Pactex proposal to construct a crude oil pipeline from Long Beach, California to Midland, Texas.

Construction of the Sohio project is a matter of national interest as it would provide an efficient means for distributing Alaskan North Slope crude that is surplus to West Coast needs. To that end, the Department of Energy and its predecessor agencies have worked industriously over the last several years to overcome the institutional paralysis that is now associated with such major projects. That effort has been frustrating. Expectations of imminent progress have repeatedly gone unrealized. However, our efforts to help reconcile the often competing concerns of State, local, Federal and private interests will continue until adequate West to East transportation facilities are in place.

Construction of such facilities is a matter of the highest national priority. Federal responsibilities for project approval are now almost complete. Consistent with reasonable local requirements, the national interest must be given due weight so that blockage of such essential projects may be avoided.

Before addressing the specifics of the Sohio project, I would like to describe briefly the current and future disposition of crude oil supplies on the West Coast. Prior to the oil embargo of 1973–74, demand for crude oil had been growing rapidly on the West Coast. On the basis of projections made by the North Slope producers and others that West Coast demand would continue to grow and accommodate the influx of supply from the North Slope when the Trans-Alaska Pipeline opened, the decision was made to locate the pipeline across Alaska and to deliver the ANS production to the Port of Valdez for dispostion to West Coast markets. Subsequent to the embargo, however, increased utilization of hydroelectric power, the availability of natural gas, stringent environmental standards and reduced demand coupled with intensified efforts directed at increasing crude oil production primarily from Alaska, California and the OCS have combined to produce a surplus of domestic crude oil on the West Coast.

The Trans-Alaska Pipeline is currently delivering oil to Valdez, Alaska, at an average rate of slightly over 1.2 million barrels per day. Of that total, approximately 850 thousand barrels per day is being absorbed on the West Coast and approximately 320 thousand barrels per day is being shipped through the Panama Canal to the Gulf Coast. Some additional volumes of ANS production, on the order of 80 thousand barrels per day, are being shipped to the Virgin Islands for refining.

Demand for petroleum products on the West Coast is predominantly for light, low sulfur products, to meet strict environmental standards and the heavy demand for gasoline. Additional volumes of relatively heavy ANS oil on the West Coast have resulted in a regional crude oil surplus because of the lack of refinery capacity capable of turning these heavier crudes into the appropriate lighter products.

While there is a so-called "surplus" of domestic crude production in PADD V of about 400 thousand barrels per day which must be defined elsewhere in the U.S., PADD V refineries are still importing some light crude from Indonesia. While most light Indonesian production has not yet been backed out of the West Coast and is not likely to be for some time, North Slope production has significantly reduced imports in general, particularly heavier crude oils on the West Coast.

The surplus of domestic production on the West Coast is depressing crude prices and discouraging further investments in exploration and production of both Alaskan and Californian crude oil supplies. The solution to this problem require both the building of efficient transportation systems to move the surplus to refineries where it can be used *and* the retrofitting of existing refineries on the West Coast to increase their capacity to process heavier crudes into marketable products.

The most promising possibilities for significantly increasing our domestic crude oil production in the near future exist in PADD V. The greatest opportunities for potential short-term increases are on the North Slope of Alaska. There is also some evidence of significant new finds in the Beaufort Sea. Potentially large deposits of oil and gas are believed to exist both in California and on the OCS off the coast. These deposits, located primarily in the San Joaquin Valley and coastal regions, contain the potential for perhaps doubling the current rate of California crude oil production. This oil is relatively high in Btu content, but unfortunately is also quite heavy and sour, and consequently difficult both to produce and refine.

In order to take maximum advantage of the potential for enhanced crude oil production west of the Rockies on December 21, 1977, the President issued a statement directing the Department of Energy to take appropriate action. One initative advocated expanion of the Trans-Alaska Pipeline to 1.5 million barrels per day. As part of this expansion, we expect the capacity of the Pipeline to be increased by another 100 to 150 thousand barrels per day by the end of this year. Further negotiations on the part of the owner/operators of the system may achieve the desired goal within the next several years.

Second, the President ordered a step-up in production at the Naval Petroleum Reserve at Elk Hills. We have embarked on that effort and by the end of 1979 will have increased Elk Hills production by amost 100,000 barrels a day since the President's directive.

Third, the President ordered steps to increase California production. In June, 1978 we modified the entitlements program to reduce the entitlements burden on heavy California production and took action to expand the markets for California crude oil and products. As of November 1978, the alarming decline in California's production as a result of shut-ins had been halted and production was about 60,000 barrels per day greater than it otherwise would have been.

The President's December 1977 energy directive also called for appropriate action to expedite the approval and construction of at least one and, perferably, two west-to-east pipelines, particularly the Sohio pipeline, in order to provide the most efficient means of moving PADD V production which is surplus to West Coast demand to interior regions. The completion of such systems will expand the markets for Alaskan and other West Coast oil, reduce significantly the costs of transportation and thus further stimulate domestic production without additional cost to the consumer.

The involvement of the Department of Energy and its predecessor agency, the Federal Energy Administration, in the Sohio project began in February 1977 when, after two years of growing impasse, California and Sohio officials asked us to intervene in the project and act as an "honest broker" to help resolve disagreements over the necessary air quality permit. At your request, I have attached a chronology identifying the Department's involvement in the Sohio project.

In President Carter's National Energy Plan of April 1977, he made it clear that the construction of one or more crude oil pipelines to link the West Coast with refining markets east of the Rocky Mountains was a high priority. To ensure timely consideration of the various proposals by the appropriate Federal and State agencies, the President announced the designation of a Federal Project Coordinator ffrom the Department of Energy to facilitate agreement between relevant Federal, State, local and private parties as well as to help expedite the approval of the necessary permits.

When the Federal Coordinator became involved in the Sohio Project in the spring of 1977, the State of California and Sohio were deadlocked over the project's expected impact on the quality of the Los Angeles basin.

The proposed terminal at Long Beach was to be located in what is termed under both Federal and State laws, as a "non-attainment" area. It is also situated in one of the worst air pollution areas in the country, particularly for the type of pollutants that would be emitted by the project. Under existing California law, which is similar to but somewhat more stringent than current Federal standards under the Clean Air Act, terminal and related project activity emissions must be controlled to the greatest degree possible at the source. Any remaining emissions must be offset by even greater reductions in emissions from other existing sources in the area. The level of emissions caused by the project and the appropriate means of trading off those emissions have been the major stumbling blocks in the permitting of the Sohio project.

It was only after many months of intense negotiations, in which I played a direct role, that Sohio and the California Air Resources Board (ARB) in

September of 1977 were able to reach agreement on the level of emissions which the terminal would produce and the appropriate trade-off ratio that should be applied. During this period, DOE testified before the ARB, the local air quality permitting agency, and advised other State officials that the Sohio project would provide substantial benefits both to the Nation and the State of California. During this period DOE took the position that California's environmental concerns need not be sacrificed and that with creative thinking the project could be accommodated. DOE urged that the State proceed expeditiously to resolve any outstanding issues while taking into account the national energy implications of their decisions.

In support of the efforts of the Federal Coordinator, I personally met with California officials in July of 1977 at which time major progress was made toward a final agreement on the trade-off question. It also was indicated to me that under those circumstances there was a reasonable expectation that all the relevant permits could be issued by January of 1978. Unfortunately, that was not to be the case.

Another major milestone in the State certification of the project arose during the summer of 1977, when California officials expressed serious concern that the potential for increased supplies of natural gas from Southwest sources, including Mexico and the Algeria II LNG project, and the delivery of Alaska natural gas to California would together necessitate use of the El Paso natural gas pipeline which had been proposed for abandonment as a gas line and slated to be converted to move oil as part of the Sohio project. I also discussed this matter with California officials at the July meeting and indicated that the Administration would make every effort to resolve this issue. The Federal Coordinator participated in several subsequent meetings to facilitate a solution which would be acceptable to California.

As a result, the President included in his September 1977 Decision on the Alaska Natural Gas Transportation System, a "Western Leg" that would deliver Alaska gas directly to California. The President's decision assumed construction of the Sohio project in recommending a "Western Leg" as part of the gas pipeline. This was a critical turning point in the process. Up to this time, the attitude of California officials was not favorable to the project. After the President's Alaska gas decision, however, California's position on the project improved.

Since that time, the primary frustration has been working out the exact details of the air-quality trade-off package. Deliberations over the several components of this package involved long and difficult negotiations between Sohio, the Southern California Edison Company, California officials, myself and the Federal Coordinator. After long and difficult deliberations in which I repeatedly intervened, agreement was finally reached in August of 1978 on an $80-million package that involved installation of a flue gas scrubber and other control equipment on an Edison powerplant. Final approval of this package now awaits action by the local air quality agency in California, the South Coast Air Quality Management District.

On November 7, 1978, a referendum was held in Long Beach, California, to determine the public support for, or opposition to, construction of the project. I went to Long Beach prior to the referendum in order to support the project and underscore its national significance. The voters of Long Beach approved the project by over 60 percent.

Notwithstanding this slow but steady progress, Sohio informed us in December of 1978 and again earlier this month that the delays in the permitting process, plus the threat of long and protracted litigation even after the permits were issued, threatened the economic viability of the project. If approval was not forthcoming by the summer of 1979 so that construction could begin in 1980 and the pipeline could be opened in 1982, many of the most prolific years of Prudhoe Bay production would have passed, as would much of the opportunity for the transportation savings resulting from the pipeline.

Sohio and California officials and the Federal Coordinator met in Sacramento early in January of this year to develop yet another course of expedited action. The objective was to bring a rapid close to the permitting process. Much more troublesome was the prospect of protracted litigation which was threatened on both the permits and the Environmental Impact Reports required by State law. Key Members of the California legislature and Governor Brown agreed to support legislation to help limit potentially frivolous litigation and expedite nonfrivolous suits, but they declined to meet Sohio's request that all litigation on the project be expedited. It is my understanding that this inability to avoid

dilatory litigation was Sohio's principal reason for announcing its withdrawal from the project on March 13, 1979.

After Sohio's announcement, I called a meeting in my office on March 20 to explore the possibilities of reviving the project. Those in attendance were Senator Alan Cranston, Chairman John Dingell, Chairman Morris Udall, Congressman Glenn Anderson, officials representing the Governor of California, the Chairman of the appropriate local air quality district in Southern California, Alton Whitehouse, Chairman of the Board of Sohio and representatives from the Senate Committee on Energy and Natural Resources.

As a consequence of that meeting, we have developed a three-pronged approach: First, Sohio has agreed to reactivate its application before the South Coast Air Quality Management District (SCAQMD) on the pledge of Federal and State officials that every effort would be made to remove the remaining obstacles within six months. The Board Chairman has agreed to proceed with consideration and completion of the application in a timely manner. Sohio has, in fact, resubmitted their application and it is my understanding that the SCAQMD Board convened hearings on the permitting this past weekend. Secondly, there will be an effort spearheaded by Senator Cranston and aided by California officials to pass legislation in the State legislature to limit the time for filing lawsuits and require their expeditious handling. As an important and perhaps critical final step to dealing with the litigation issue, Chairmen Dingell and Udall drafted and have recently introduced Federal legislation to ensure that the project moves forward. Several approaches are being explored to ensure that the environmental and other concerns of the California permitting agencies are satisfied while eliminating dilatory litigation.

Let me emphasize again that we consider the Sohio project to be a critical element in the long-term solution of the West Coast crude oil surplus and are therefore prepared to work with the Congress and the State of California to do what is necessary to move the project forward. It is a matter of the highest national priority that adequate West to East transportation systems for oil be put in place. At this juncture the Sohio project represents a critical test of the nation's ability to overcome the maze of well-intentioned requirements that taken together have paralyzed projects which are essential to the Nation's future.

It is now five years since the effort to build Pactex began. Repeatedly in recent years expectations that the necessary permits would be issued shortly have been raised, only to go unrealized. From the perspective of the Department of Energy, we vigorously shall continue to do everything within our power to bring this project to completion. We look forward to continuing to work with you toward this end.

Thank you Mr. Chairmen for this opportunity to appear before your respective Committees. I would be pleased to answer any questions.

Mr. DINGELL. Mr. Secretary, the two committees thank you for your very helpful testimony. The Chair will now recognize my colleagues. Before I do, the Chair does wish it known that Mr. Hance of Texas, who as one of our colleagues introduced the original legislation relating to this matter, has been present with us today. We thank him for his leadership in this matter and are grateful he is with us today.

The Chair now will recognize his colleagues in order of appearance. The Chair recognizes the gentleman from Connecticut, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman and thank you, Mr. Secretary, for being here on this important matter.

One of the things that strikes me, which I have been trying to get a handle on, and it is difficult, as you and I know, under the 5-minute rule, but when you first hear the horror of 700 permits, it paints a certain kind of picture. That 700-plus permit figure was thrown out in the Sohio press release of March 13 and subsequently by many other people, including people in government. It really does not offer an accurate picture.

Mr. Fischer of the coastal commission in California today indicated that they had, in fact, bent over backward on many occasions to compromise more than they would have liked with regard to air qual-

ity, and so forth. In addition, Sohio itself sought amendments which had caused delay.

I understand the Center for Public Interest also contended that they can document Sohio's responsibility for at least 15 months of delay by constantly changing signals. Have you considered that argument?

Secretary SCHLESINGER. Yes; I think there have been many sources of frustration. We have worked for some time with the State in order to solve the problem of the impact on air quality caused by this project in California, and especially southern California.

In the negotiations between Southern California Edison, which, I think, was not eager to put the scrubber on its powerplant, and Sohio, the question arose concerning the distribution of costs in order to reduce the impact on air quality of the pipeline and the terminal.

Of course, that was an extended business negotiation. We were engaged in prodding one party and then the other. But it did take time.

As to the 700 permits, there are a half dozen or so that are important, if not critical, and many of the remainder consist of rights-of-way and that sort of thing, which are important under the heading of routine actions.

Mr. MOFFETT. I was really anxious to see these 700 permits that were holding everything up, but from the testimony that was given, the vast majority were said to be very minor.

My next question was: Do these minor permits hold things up? When you talk to people who administer those things, the answer is apparently not. Isn't it possible that the kinds of uncertainties that Sohio cites—and they use that word quite frequently in their testimony today—go well beyond bureaucratic redtape to include things like El Paso pipelines, which are now increasingly utilized to transport gas?

Don't the uncertainties go to the question of whether production from the North Slope will sufficiently justify a pipeline, again somewhat unanswered at this point? Don't they go to the uncertainty of whether Mexican gas supplies to the United States will materialize in large amounts, requiring the movement of gas to California in pipelines which Sohio hopes to convert to oil lines, and so forth?

Don't these other tremendous uncertainties involved here also contribute to delaying movement of the company, as opposed to on the part of the Government?

Secretary SCHLESINGER. There are many uncertainties. All of them have to be resolved. Some of the uncertainties fall, as you indicate, under the heading of production potential on the Alaskan North Slope, how long maximum production would last, and consequently, how long such a pipeline might be required.

To the extent that those uncertainties exist, they impel more rapid decisions from the standpoint of the company rather than slowing down decisions. They are a background item.

As to the question of El Paso, Sohio has a firm contract with El Paso with regard to the abandonment of the pipeline. So, unless someone were to overrule the agreement between the two companies, that pipeline should be available for the transportation of crude oil.

Mr. MOFFETT. From the Sohio testimony, that is not entirely clear. Be that as it may, I think the point needs to be made that there are other sizable factors. First was the permit problem cited by Sohio. Then, when you, rightly I think, tried to bring the parties together to deal with the problem, it became the question of litigation.

Mr. Chairman, if I might have one more 10-second question, because I think it is important, with regard to an emergency measure for this individual pipeline. You are obviously interested in bringing some clarity and predictability to the process with respect to DOE's policy.

We are seeing examples now with nuclear power where there have been a lot of conflicting signals. Do you anticipate that the President will back off on support of the nuclear siting bill you have proposed?

No. 2, regarding the swap that this issue touches upon, doesn't the nuclear problem make the swap less likely?

Secretary SCHLESINGER. Let me deal with the issue of swaps first. One of the reasons that we were interested in exploring swaps was that the wellhead price for crude oil from the North Slope of Alaska tended to be so low that the producers were not vigorously exploring and developing the North Slope, which is in the national interest. To the extent that one alleviated the congestion in the crude oil market on the west coast, the wellhead price on the North Slope would have increased and presumably lead to more vigorous exploration and development. As all of us are painfully aware, in recent weeks, indeed in recent months, there has been a substantial increase in world oil prices, the effect of which has been to raise the North Slope wellhead price at least as much as would have swaps. So, the motivation for swaps has diminished.

With regard to the issue of nuclear power, I do not wish to speak for the President. He certainly will be contemplating his decisions in the light of this recent incident. I should emphasize that there will be a total technical review of what did take place and, until that technical review has been completed, we should be very careful in drawing conclusions either way with regard to the implications.

I myself continue to believe that nuclear power should be a part of the energy mix unless we are to become evermore dependent on foreign sources of crude.

Mr. MOFFETT. Mr. Chairman, I ask unanimous consent for an additional one-half minute.

Mr. CLAUSEN. We have no objection.

Mr. MOFFETT. Is it correct to assume that the bill to speed up nuclear licensing will not be emphasized in the near future, certainly in the President's speech, and will not be recommended by you?

Secretary SCHLESINGER. Let me observe once again that the President will decide the issues discussed in the speech. Nonetheless, it is my judgment that the nuclear licensing bill will be resubmitted. Let me emphasize that the purpose of this bill is to cut back on paper work, just exactly what we are dealing with here, by separation of the issues concerned with environmental siting from those concerning the safety provisions of each nuclear plant.

The licensing bill is not intended to reduce any consideration by the NRC regarding safety features. What it attempts to do is to shorten the decision processes. Once again, I believe we must shorten these

decision processes. Ultimately, it is the consumer who pays for these delays.

Mr. MOFFETT. Thank you, Mr. Chairman. I thank my colleagues for their patience.

Mr. DINGELL. The Chair recognizes the gentleman from California, Mr. Clausen.

Mr. CLAUSEN. First of all, Mr. Schlesinger, I want to publicly compliment you for your efforts to try to bring together all the people on this Sohio project and in effect your efforts to try to bring them back on track. Like you, of the hearings we held, the oversight hearings with regard to the disposition of the Alaskan oil, I am firmly convinced that it is in the public interest and national interest as well as our security interests to have this West to East pipeline in the distribution system, that this would be a part of.

Now, I am troubled by these indeterminant delays that are going on. You indicated we ought to come up with a one-stop provision at the Federal level and one at the State level. It strikes me we ought to be focusing possibly on something in the way of requirement that there has to be a positive action response by someone who is in a position to make a decision. Is this what you are thinking about?

Secretary SCHLESINGER. Yes; what I am thinking about is some procedure that will establish a date certain for permitting decisions for a company such as Sohio.

Mr. CLAUSEN. Or regulatory agency.

Secretary SCHLESINGER. It would include the regulatory agencies, and a procedure could be established. Now, this does not mean that any company such as Sohio would be guaranteed of an affirmative decision, but at least the uncertainties and continued delays that seem to do so much to thwart the development of such projects would be eliminated.

Mr. CLAUSEN. Now, we have pending before this committee, and this was the purpose of this hearing, to have Federal preemption legislation; on the basis of what you understand to be the situation, are you prepared to state a position whether or not you are in favor of this Federal preemption legislation, and have we reached that point, or are you withholding any position at this time?

Secretary SCHLESINGER. I prefer not to endorse the specific bill at this time, although I will be prepared to deal with that later on behalf of the administration. I would like to see any legislation deal expeditiously with the question of rapid judiciary review.

I am not sure whether this legislation deals sufficiently rapidly with that question of expediting judicial review.

Mr. CLAUSEN. I would hope that we would have a departmental response to this legislation before the committee.

Secretary SCHLESINGER. Yes.

Mr. CLAUSEN. Now, with the inhibiting factors that Sohio, and this could be anyone, has faced or could face, knowing what you know about the situation, would you commit $1 billion of hard-to-come-by investment capital to this particular project?

Secretary SCHLESINGER. I am sorry you raised that question since I am engaged in trying to persuade Sohio that, indeed, it is a wise investment.

On the basis of the experiences to date, I personally would have great hesitation about making such an investment. If Sohio has a clear track with regard to the decisions, if the threat of litigation has

been eased, and if we can get the necessary permits in place in the months immediately ahead, then yes, I would so advise them.

Mr. CLAUSEN. You state the case for this legislation?

Secretary SCHLESINGER. Yes; I believe that everyone recognizes without this kind of legislation, despite its investment of over $50 million, is just going to stop playing in this game.

Mr. CLAUSEN. I have two more questions. Have the owners of the trans-Alaskan pipeline system voted to increase the throughput capacity to 1.6 million barrels per day?

Secretary SCHLESINGER. No, sir, they have not. They are engaged in negotiations among themselves at this time. In general, I would say that the majority of operators on the North Slope of Alaska favor such a development, but that the majority stockholders in TAPS do not favor it or would prefer to readjust the ownership rights within the company.

However, they have agreed to go up to 1.35 million barrels a day, an increase of 150,000 barrels above current production.

Mr. CLAUSEN. What would be required from an engineering point of view to increase the TAPS throughput up to 2 million barrels a day?

Secretary SCHLESINGER. Mainly, additional pumping stations are required. That requires an agreement among the owners.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes his colleague, Mr. Williams.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. Secretary, a hundred years or so ago we had a resident in my home State of Montana named Sitting Bull. Sitting Bull observed about his new American friends that they were geniuses at production but they obviously did not know anything about distribution; and things do not seem to have changed much since then. Sitting Bull knew about last stands.

It seems to me with regard to energy, America is exactly in that position. With regard to this pipeline it seems to me that we are in that position because we are trying to come up against a tradeoff, on the one hand, of the public demanding regulatory procedures which would protect the air and protect against oil spills and all the rest, and the company is demanding a certain profit, Sohio and British Petroleum.

I do not know if there is a way out of that. Given the desperateness and the last stand nature of the energy crisis, I wonder if you would expand and tell us if the Department of Energy has considered public pipelines, public works projects and the public owning the pipelines?

Secretary SCHLESINGER. We have looked at this issue of publicy financed/owned pipelines. Generally speaking, however, we must recognize that the Federal budget is under severe constraint. There is no reason that private capital cannot be made available to build such a pipeline if we do our job well in Government.

When the pipeline ran into trouble 2 or 3 weeks ago, Governor Brown suggested that its construction be undertaken as a Federal project, which led to my inquiry whether this would be before or after the constitutional convention to limit Government expenditures.

We have many objectives and it seems to me that in order to limit Federal expenditures and recognize the limitations of Federal capacity, we should not overload the system.

Here we have a case in which a commercial organization was prepared to build a pipeline. However, after 5 years, as the maximum production from Prudhoe Bay continues to diminish, we still have not been able to make a yea or nay decision, something we ought to be able to do.

Mr. WILLIAMS. I have great respect for Sitting Bull. This committee meeting seems to go into a discussion of regulatory delays from the age of Catalin to the age of Sitting Bull and beyond.

One other question, Mr. Chairman.

I appreciate, Mr. Schlesinger, the dichotomy that you have pointed out which exists between wanting a balanced budget and wanting a pipeline. I would draw your attention to the fact that Montana has been pushing for some years for the northern tier pipeline and last Thursday our State senate defeated the call for a constitutional convention.

Thank you very much.

Secretary SCHLESINGER. Let me say in response to that, Mr. Williams, that the administration has long supported the construction of two West to East pipelines, both a northern and southern route. There is no conflict between the two pipelines. The northern tier pipeline project itself has delays associated with it although they are not as yet as interminable and frustrating as they have been for the Sohio pipeline. Let us make every effort to avoid that taking place.

If I may add one other aspect to the question of delays. Much of the delay that we have been discussing here revolves around the issue of air quality in California. The fact of the matter is that the delays have actually contributed to a decline in air quality in California.

All the time that we have been debating the issue of air quality, tankers coming out of Valdez have been stopping at Long Beach. The amount of air pollution that they contribute as they bunker at Long Beach is greater than would have been the case if they were delivering the oil directly to Long Beach and operating the emission controls that Sohio has promised to provide.

Therefore, delays in this case are frustrating attainment of the objectives not only of this pipeline project but also air quality regulations.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. DINGELL. The Chair thanks the gentleman.

The Chair recognizes now our colleague, Mr. Moorhead.

Mr. MOORHEAD. Dr. Schlesinger, in the discussions that you have alluded to about the potential swap between Mexican oil, Alaskan oil, and Japan back and forth, isn't it true that with the decline of our oil coming from the Middle East or at least potential decline, that we may very well need all the oil that comes from Alaska and all the oil that comes from Mexico too?

Secretary SCHLESINGER. Our preference is to take advantage of oil that is close at hand. Nothing has been suggested about a swap arrangement. Indeed, one of the reasons that we have opposed going into a swap arrangement to this date is that we would remove the incentive to construct the West to East pipelines so that Alaskan oil could be absorbed in the interior of the country.

There is nothing pending concerning a swap arrangement. It is a long-term option only, so that we do not remove the incentive to build the West to East pipelines.

Mr. MOORHEAD. Once any of that oil from Alaska starts to be shipped out some place else you do reduce the economic benefit to the company for having the pipeline, do you not?

Secretary SCHLESINGER. That is correct. For that reason we have from the first indicated that we ought not make such a decision until we have commitments with regard to the West to East pipeline. At the March 20 meeting Chairman Dingell said, in his most bland style, that he could promise the Sohio Co. that he would fight to the death any swap arrangement until such time as there were commitments made to construct that West to East pipeline.

So, we have all felt the necessity of getting those pipelines constructed. In the absence of such a pipeline, you would build in an incentive to go on with these swap arrangements as a permanent matter.

Mr. MOORHEAD. We heard earlier testimony from representatives of two California agencies that had to approve the building of the project. They testified that their part of the review process had already been completed and basically the only thing that stood in the way were legal actions that were being brought and perhaps if the thing were turned back another environmental report on the scrubber.

Because that has been done, do you know any other way that we can solve this problem without having a Federal preemption or must we do that?

Secretary SCHLESINGER. I do not think we need to have Federal preemption. In the discussion the other day, a three-pronged solution was suggested, one of which was that Sohio reconsider what had been its earlier decision to abandon the line.

The second element was legislation to be introduced in the State of California Legislature to mitigate the litigation risk and ensure that all permits were in place promptly; and, third, Federal legislation that would expedite any judicial review so that Sohio would know within 6 months, "Yes, you have a clear track and go ahead," or "No, you do not have a clear track," and therefore would be reasonably free from these risks.

Mr. MOORHEAD. We have been told that the projections now, considering the lawsuit that Sohio was facing and the time that it took to build the project, that a substantial portion of the Alaskan field might well already have been shipped by the time the project was completed, making it less economically desirable.

Secretary SCHLESINGER. That is true, sir.

Mr. MOORHEAD. In other words, unless we act and act fairly rapidly in cutting this redtape, we are not going to have a project at all; you are not going to be able to convince Sohio to come back in.

Secretary SCHLESINGER. That is correct. I think Sohio would have lost 3 years of the 8 years prospective maximum production from the Prudhoe Bay field.

Mr. MOORHEAD. What timeframe are we dealing with?

Secretary SCHLESINGER. It seems to me that the California Legislature should act and we should act here in the Federal Government to assure the judicial review is completed within 6 months.

Mr. MOORHEAD. Is it required that you have both an act of Congress and an act of the legislature or can it be done by an act of Congress?

Secretary SCHLESINGER. It can be done on the basis of an act of Congress but that would require what you have just indicated you would prefer to avoid, which is Federal preemption.

Of course, if Federal preemption takes place, action by the State legislature would be unnecessary.

Mr. MOORHEAD. Thank you, very much.

Secretary SCHLESINGER. Might I take another moment, Mr. Moorhead, in response to your initial question.

While the various State boards have indicated that they would process these decisions, I make two comments. First, those decisions have not been made yet. For 2 years now we have been waiting. We were told that next week or next month, those decisions would be forthcoming.

I think that on this occasion we will have a decision by each of the appropriate agencies within a matter of weeks. But the decisions of various State bodies are different. For example, the South Coast Air Quality Management District Board has been talking of a different tradeoff package from the one that is acceptable to the California Air Resources Board.

Quite obviously, a firm like Sohio must know firmly what is required of it rather than being in a position where the South Coast Air Quality Management District Board is talking about requiring the purchase of low-sulfur residual fuel oil when the State air resources board has approved a tradeoff package with Southern California Edison. Sohio must have a firm and clear decision as to what they must do concerning air quality.

Mr. MOORHEAD. While the agencies both say they have done their work and they have solved their problem, they have done it in a different way so that it is useless as far as the project is concerned until they come together?

Secretary SCHLESINGER. Each agency, I think, can fairly say it has tried to do its best to respond to the requirements incumbent upon that particular agency. The composite of all of these decisions has resulted in this regulatory quagmire.

Mr. DINGELL. The time of the gentleman from California has expired.

The Chair recognizes the gentleman from California, Mr. Pashayan.

Mr. PASHAYAN. Mr. Secretary, I think this is an interesting situation, not only because of the particular problem that we are involved with but because at least in my view it represents much really of what is wrong with the entire Federal approach to your problem.

Perhaps much can be gained by studying some aspects of it. In your opinion, as you gaze at this chart, is it possible to trace the Federal legislation that has required much of the State and local actions to be taken? In other words, to what extent are some of these requirements and obstacles incurred by Sohio traceable to Federal legislation?

Secretary SCHLESINGER. I think that the requirements for the most part are traceable directly to Federal legislation. Both the requirements, what to do on the coastal shelf and with regard to the Clean Air Act, represent areas in which the State of California has been given authority, indeed has been required to react.

Now, there has been some complexity in the State's reaction to those Federal mandates. But they are both attributable to Federal mandates.

Mr. PASHAYAN. Would it be worthwhile to actually study to what extent, and in some detail, the Federal requirements have gone to

set up this myriad of obstacles that Sohio had to face? Would it be a worthwhile study?

Secretary SCHLESINGER. I think indeed it would. Once again, Congress passes legislation with laudable goals in mind and when it passes that legislation piecemeal the cumulative effects are very great. I think that as it passes this legislation the procedures are left unclear. It is the procedures that have followed from the Clean Air Act that have been particularly devastating in this case.

Mr. PASHAYAN. So, we have a confluence then of what may be more or less piecemeal legislation bearing on this particular problem and creating what has been depicted here on the chart. Would you think it would be worthwhile, to the extent you would be willing, to have some people in your Department make a study in some considerable detail of the Federal legislation and regulations as we can trace them through the State and even local mechanisms so that we can focus on this problem and see the enormous extent to which Federal legislation reaches down to the local level?

Secretary SCHLESINGER. We would be happy to do that if you or other Members of the Congress should wish us to do so.

Mr. PASHAYAN. Mr. Chairman, I should like to make that request if that is possible. I think that would be a very worthwhile study.

Mr. DINGELL. If the gentleman will permit, I think it would be. I think it would be. I think the best thing would be to have the staff of the two committees work with the gentleman and with the Department with regard to setting that up. Does that meet with your approval?

Secretary SCHLESINGER. Yes; it is an immense undertaking. As long as you are referencing classical allusions, it is an Augean labor, I must say.

Mr. DINGELL. We take it you are more than equal to the task.

Mr. MOFFETT. What are we asking for here? I am sorry if I missed it.

Secretary SCHLESINGER. What is being requested by the gentleman from California is that we review all of the legislation that has impacted on energy projects of this sort and how the legislation affects State procedures. It is, as I say, an immense undertaking. It is designed simply to bring to bear all of those elements of Federal legislation that do impact a decision of this sort.

Mr. PASHAYAN. And regulations too.

Mr. MOFFETT. Is the gentleman seeking to find out what particular act, for example, caused what part of the delay on this project?

Mr. PASHAYAN. Yes; but more than that, to determine what acts of Congress and the regulations have caused the State agencies to adopt their requirements and thereby how all that together came to bear on this particular unfortunate incident.

Mr. MOFFETT. Would the State laws and State interpretations be included?

Mr. PASHAYAN. Yes; if they were in response to Federal legislation. That is what we wanted to find out, to what extent has Federal regulation caused, throughout the mechanisms of the State and local government, directly and indirectly, this unhappy situation we find ourselves in.

I think that would be worthwhile, Mr. Secretary, and I thank you for being willing to undertake what you describe as an Augean labor.

Mr. DINGELL. The Chair recognizes the gentleman from California, Mr. Lagomarsino.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Secretary, 2 weeks ago someone from your Department testified before the International Economic and Trade Subcommittee of the Foreign Affairs Committee in opposition to extension of the so-called McKinney amendment which deals with the right of Congress to veto plans to ship Alaskan oil other than to the United States.

First, from what you did say earlier and from what you say in response to questions, perhaps your view of that particular option has changed somewhat. Would you go into that in a little more detail than you did earlier?

Secretary SCHLESINGER. I think that the Export amendments are extremely restrictive. Under that legislation the President has to make findings in regard to swap arrangements that are virtually impossible to achieve. He has to demonstrate, for example, that the swap arrangements will increase the quantity of crude oil available to the United States.

I think, therefore, those amendments are more restrictive than is wise from the standpoint of public policy. I believe in these areas, recognizing Congress' desire to see that all domestic oil is domestically utilized, that such a degree of restriction is probably unwise and that a greater degree of authority should be given to the President for dealing with this class of problems.

As you indicate, however, the necessity of raising the wellhead price on the Northern Slope as a means of inducing greater exploration and development activity, has probably been alleviated by the rise in world oil prices associated with the recent OPEC increase.

Mr. LAGOMARSINO. So your Department's opposition to that proposed amendment is not as intense perhaps as it was 2 weeks ago? Is that fair to say?

Secretary SCHLESINGER. It is perhaps less desperate, but equally intense.

Mr. LAGOMARSINO. One thing I would like to get straight in my mind, and perhaps it would be helpful to other members of the committee, could you tell us how much capacity the Panama Canal has now for the transshipment of Alaskan oil?

Secretary SCHLESINGER. 600,000 barrels of oil a day.

Mr. LAGOMARSINO. 600,000?

Secretary SCHLESINGER. Yes.

Mr. LAGOMARSINO. I understand at the present time that it is about——

Secretary SCHLESINGER. 320,000.

Mr. LAGOMARSINO. So we can raise that considerably before we have a problem then?

Secretary SCHLESINGER. Yes. This is assuming that we have ships that are adequate and recognizes that the cost of shipping the oil amounts to something between $3 and $3.50 by that route as opposed to what we had hoped would be $1.20 by the Sohio pipeline.

Mr. LAGOMARSINO. I understand that and I strongly support the Sohio pipeline. Then can you tell us how much excess capacity for the Alaskan type oil does exist in the gulf coast refineries and other refineries that are available by way of the Panama Canal?

Secretary SCHLESINGER. I do not have that number at hand. I will supply it for the record. There is considerable capacity for the use of such oil. If production were doubled on the North Slope, however, it might strain the refinery capacity to use this heavier and sour crude.

[The following information was received for the record:]

It is difficult to estimate with precision the total volume of ANS crude oil which could be processed in U.S. Gulf Coast refineries and other refineries accessible through the Panama Canal. This is because, in addition to as certaining physical processing capability of the re-refineries, numerous assumptions must be made regarding cost and availability of transportation, sulfur content limitations, demand for various grades of petroleum products and other factors. Given these uncertainties, a reasonable estimate for the volume of ANS crude which could practicably be processed in U.S. Gulf Coast refineries in 1979 would be in the range of 550–875 thousand barrels per day (MBD). Similarly, estimates for the U.S. mid-continent refineries are in the range of 375–400 MBD. Further, substantial capacity also exists in the Caribbean for processing ANS crude. However, the primary limiting factor in all instances is the high cost of transportation.

Mr. LAGOMARSINO. Earlier you said, and other witnesses have too, that if this Sohio decision is delayed much longer that there will be no oil to ship through the pipeline in the first place. From that am I to believe that there are no other potential oil fields that could make use of the Alcan pipeline?

Secretary SCHLESINGER. No, sir. That would be totally wrong. We are hopeful there will be new discoveries in the Beaufort Sea and that NPR-Alaska will also produce. There are disputes, as you know, between the Congress and the administration with regard to the wild life refuge. I think the point is very clear that there is the potential on the North Slope for producing 2 million barrels a day well beyond the Prudhoe Bay field. We do not have it in hand yet, however.

From the standpoint of a single corporation such as Sohio, however, they must be cautious about betting on the outcome until they have seen these fields develop. Quite obviously, they will be restrained.

Also, it is not clear the extent to which Sohio wants to invest in a pipeline that would move the oil produced by other companies. That is another consideration in their decision.

Mr. LAGOMARSINO. Thank you.

Mr. DINGELL. The time of the gentleman has expired. The Chair now recognizes Mr. Marlenee.

Mr. MARLENEE. According to a Treasury Department study released last week, our dependence on foreign oil has created a threat to national security that is now greater than at any time in the past. You are well aware of these figures. The projection is that we will have a 48-percent dependency in 1985, 57 percent in 1995 and compounding that threat we have the specter of disruption of our foreign supply.

In addition, because of the Three Mile Island problem, we will undoubtedly curtail and delay nuclear power development. All of this compounds our problems and our drive toward energy independence. With this background and from your comments, Mr. Secretary, I conclude you favor both northern tier pipeline and Sohio as a critical part of reaching a greater degree of energy independence; is that correct?

Secretary SCHLESINGER. Yes, we favor a northern pipeline in addition to the Sohio project. I would hesitate at this juncture to endorse any one of the several possible competitors. As we know, Northern

Tier has applied for this route. We do not know whether other applicants will stay the course.

The decision among the pipelines rests with the Interior Department.

Mr. MARLENEE. Mr. Secretary, you stated that permitting and decisions should be made within 6 months on Sohio to achieve the most beneficial results or to preclude losing the line. For the past 2 years some of us have been trying to shorten the timeframe for a final decision on a northern tier route.

Our greatest obstacle, of course, has been the Interior Department itself. Now, we have been promised a final decision by December 1, 1979. Do you see that as a feasible date or do you support that date or an earlier date?

Secretary SCHLESINGER. That certainly is a feasible date. We have been so assured by the Secretary of the Interior. That is pursuant to title V of the Public Utilities Regulatory Act. It may be possible to have that decision earlier than December 1. Of course, if the potential competitors were to drop out, one could have a decision at a much earlier date.

Mr. MARLENEE. Mr. Secretary, in regard to the energy independence, the two pipelines, the problem with the nuclear, the background that I stated, do you foresee or anticipate a greater development of western coal of the Montana-Wisconsin-Dakota coal fields? Do you see any acceleration in that regard?

Secretary SCHLESINGER. I would fervently hope so. We recognize there is some conflict between the burning of coal and the requirements of the Clean Air Act. I would hope to see a rapid development of coal both in the East and the West.

Mr. MARLENEE. One further question, Mr. Secretary. If Sohio is eliminated, does this not place a greater degree of importance on that northern tier line and will you do everything within your Department's power and the Interior Department's power to see that delays, environmental delays, are not put on the Northern Tier as they have been on Sohio?

Secretary SCHLESINGER. The answer to both questions is, yes. The completion of a northern tier pipeline system becomes even more critical if Sohio is eliminated and, therefore, delays are even less warranted.

Mr. MARLENEE. I commend you on your appearance before us today, Mr. Secretary. It has been most helpful and meaningful to me. Thank you.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio, Mr. Brown, for 3 minutes.

Mr. BROWN. I would like it to be more than 3 minutes, so I will come back and continue if you have time.

As to the allusion to Sitting Bull: I think it should be more an allusion to General Custer, of late.

A couple of minutes ago you said in response to Mr. Williams of Montana that the southern tier pipeline got into trouble 2 or 3 weeks ago. This subcommittee had hearings on this pipeline in 1977. Can you tell me what the DOE had done between 1977 and 2 or 3 weeks ago to encourage the completion of the pipeline? How many face-to-face

meetings have you had with either the Governor of California or Mr. Quinn? How many phone calls? How many letters between you and the California authorities?

Secretary SCHLESINGER. We will be happy to supply that for the record. We have had 60 meetings and 9 episodes of testimony since the winter of 1977 when we appointed the Federal project coordinator. We have been involved continuously in attempting to move this pipeline project forward.

Mr. BROWN. Would you be a little more specific on what you submit as to what the Department of Energy has suggested to them in terms of action that they take?

Secretary SCHLESINGER. Sure. We have submitted that as part of our chronology of actions which accompanies our testimony.

Mr. BROWN. Could you give me some idea about specific requests for acceleration of the State agency decisions or for different or more simplified procedures that you made to the State?

Secretary SCHLESINGER. We have made many requests with regard to speeding up decisions. With regard to the procedures, we have been quite chary in our observations as those procedures take place under State law.

[The following material was received for the record:]

SOHIO PROJECT CHRONOLOGY FEA/DOE INVOLVEMENT

The following chronology represents the major efforts of Federal Energy Administration, and later Department of Energy officials, including the Federal project coordinator, with regard to the Sohio project. We have not included reference to the numerous interdepartmental meetings or routine interagency meetings which have taken place over the last two years, and have highlighted only major milestones.

The Sohio project was identified as a potential problem soon after President Carter took office in January, 1977, and the transistion team identified construction of west-to-east pipelines as among the principal energy issues to be dealt with during the Administration.

February 22, 1977.—Tom Quinn, Chairman of the California Air Resources Board, and Richard Maullin, Chairman of the California Energy Commission, met with John F. O'Leary, Administrator of the Federal Energy Administration, to discuss the Sohio Project. Mr. O'Leary proposed that FEA act as an intermediary to attempt to resolve the impasse between California and Sohio. Messrs. Quinn and Maullin agreed. Douglas Robinson of Mr. O'Leary's staff was designated for this role.

March 4.—Mr. Robinson met with Sohio officials to make sure they, too, were amenable to this mediating between Sohio and the State of California.

March 9, 1977.—Mr. O'Leary met with representatives of all Federal agencies involved in the permitting process for the various pipeline projects and suggested that Mr. Robinson act as coordinator of their various roles in order to expedite the process as much as possible. The agencies agreed.

During March, Mr. Robinson traveled to California and met for several days with California officials whose agencies have jurisdiction over the Sohio project. Sohio officials were also present at some of these meetings. Mr. Robinson arrived just as Mr. Quinn had announced the imminent suspension of Sohio's permit application because of Sohio's failure to complete the application. As a result of this series of meetings and others which followed soon after, the suspension was averted and negotiations began in earnest.

April 6, 1977.—Mr. Robinson met with Sohio officials in Washington, D.C.

April 20, 1977.—President Carter issued his National Energy Plan which stated that construction of one or more west-to-east crude oil pipelines was a high priority, and a Federal project coordinator had been designated to facilitate expeditious approval by the numerous Federal, State and local permitting bodies.

April 20, 1977.—Mr. Robinson attended meeting in Sacramento, California between Sohio officials, Mr. Quinn and Air Resources Board (ARB) staff.

April 22, 1977.—FEA submitted a study to Congress as required in Section 18 of the Alaska Natural Gas Transportation Act entitled, "Equitable Sharing of North Slope Crude oil."

April 25, 1977.—Mr. Robinson met with Don Bright and Port of Long Beach officials in Long Beach.

April 29, 1977.—FEA Administrator John F. O'Leary testified before the Special Subcommittee on Investigations of the Committee on Interior and Insular Affairs (U.S. House of Representatives) regarding the distribution of Alaskan North Slope crude oil.

May 1, 1977.—Final Environmental Impact Report (EIR) certified by the Port of Long Beach.

May 6, 1977.—Mr. O'Leary met with Tom Quinn to discuss the status of the project negotiations. In addition, Mr. Robinson and Department of Transportation (Coast Guard) officials met with Tom Quinn regarding proposed tanker regulations.

June 1977.—Final Environmental Impact Statement (EIS) completed by the Department of the Interior and referred to the Council on Environmental Quality.

EIR certified by California Public Utilities Commission.

June 17, 1977.—Mr. Robinson met with Mr. Quinn, ARB staff, and Don Bright regarding tradeoff package and amending the EIR.

June 20 and 21, 1977.—Mr. Robinson met with Sohio and Exxon officials concerning tradeoff package and tanker regulations.

June 29, 1977.—Mr. Robinson met in Sacramento with ARB officials and Sohio.

July 1, 1977.—Mr. Robinson met with Mr. Quinn, the ARB staff, Port of Long Beach officials and Sohio in El Monte regarding tanker conditions and amending EIR.

July 12, 1977.—Mr. Robinson met with Mr. Bright.

July 15, 1977.—Mr. Robinson met with Mr. Bright. Mr. Robinson met with Mr. Quinn.

July 16, 1977.—Mr. Robinson testified before the Air Resources Board in Los Angeles regarding the national benefits of the Sohio project and the distribution of ANS crude oil in general.

July 20, 1977.—Mr. Robinson met with Mr. Quinn and the ARB staff and Mr. Bright to discuss a possible compromise on tradeoffs and potential natural gas problems.

July 26, 1977.—Mr. Robinson met with Mr. Harnett of Sohio in Cleveland.

July 27, 1977.—Mr. Robinson met with Mr. Quinn in Washington to finalize the permit conditions.

July 29, 1977.—Mr. Schlesinger met with Tom Quinn, Richard Maullin, and ARB staff members to discuss the status of the Sohio project. Mr. Schlesinger made clear that important national benefits could be derived from the Sohio project and urged expeditious action by California permitting agencies. Mr. Quinn assured Mr. Schlesinger that he would honor a tradeoff package Sohio would submit based on "bottom line" permit conditions. Mr. Schlesinger also announced his intent to make every effort to resolve the natural gas supply issue.

August 1977.—Mr. O'Leary sent a letter to the Chairman of the California Coastal Commission declaring that construction of the Sohio project is in the national interest.

August 1, 1977.—Mr. O'Leary met with Mr. Quinn to discuss the Sohio project status.

Mr. Robinson met with Mr. Bright.

August 8, 1977.—Mr. Robinson testified before the Committee on Interior and Insular Affairs, Special Investigations Subcommittee in San Francisco concerning problems related to the distribution of ANS crude oil.

August 9, 1977.—Mr. Robinson again testified before the Committee on Interior and Insular Affairs, Special Investigations Subcommittee concerning the status of the Sohio project, the air quality and natural gas issues.

August 10, 1977.—Mr. O'Leary testified before the Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power concerning the Sohio project and the Federal Government's policy and role with respect to it.

August 18, 1977.—Mr. Robinson testified before the South Coast Air Quality Management District concerning the possible impact the Sohio project could have on future natural gas supplies for California.

September 1977.—The President issued his decision on the Alaska Natural Gas Transportation System and included a "Western Leg" that would deliver Alaska gas to California.

September 7, 1977.—Mr. Robinson met with Mr. Bright and Sohio in Los Angeles, with Mr. Quinn in Sacramento.

September 8, 1977.—Mr. Robinson met with the ARB staff and Sohio officials in Sacramento.

September 14, 1977.—Mr. O'Leary testified before the Committee on Commerce, Science and Transportation concerning the ANS crude disposition problem and presented FEA's views on S. 1868, a bill to expedite the permitting process.

September 20, 1977.—Mr. Robinson met with Mr. Quinn, the ARB staff and Sohio officials. The result of this meeting was a resolution of many of the remaining air quality issues. In addition, Sohio met formally with Southern California Edison to work out details of the scrubber plan.

October 1977.—California Coastal Commission issued initial permit.

October 6, 1977.—Mr. Robinson testified before the Committee on Interior and Insular Affairs, Subcommittee on Energy and the Environment concerning distribution of ANS crude oil.

October 13, 1977.—Mr. Robinson met with Sohio officials in Washington.

October 20, 1977.—Mr. Robinson met with ARB officials in Los Angeles.

October 30, 1977.—Secretary of Transportation Adams met with Mr. Robinson, Mr. Quinn, and ARB officials regarding the tanker regulations and reached the agreement.

December 1977.—Supplement to EIR completed and certified by the Port of Long Beach.

December 2, 1977.—Secretary Schlesinger met with Mr. Quinn and others to discuss the status of the Sohio project.

December 21, 1977.—President Carter issues a statement ordering expeditious approval and construction of west-to-east pipelines, particularly the Sohio pipeline.

January 1978.—California Public Utilities Commission adopts supplement to EIR.

January 1978.—The South Coast Air Quality Management District issued a partial permit to Sohio to construct an oil terminal at Long Beach.

February 3, 1978.—Mr. Robinson met with Mr. Quinn and ARB officials and Sohio regarding the tradeoff package, and Sohio presented in detail the terms of a tradeoff package with Edison and the ARB.

February 27, 1978.—Mr. Robinson met with Mr. Quinn in Washington.

March 1978.—Lawsuit filed challenging EIR and referred to California Supreme Court.

March 1, 1978.—Mr. Robinson met in Cleveland with Sohio officials and Mr. Quinn regarding the tradeoff package.

March 6, 1978.—Mr. Robinson met with Mr. Quinn, Sohio and Edison officials in order to reach a final agreement on the tradeoff package. This was accomplished and both sides agreed to the final arrangement.

March 15, 1978.—Secretary Schlesinger met with Sohio officials regarding the final details of the tradeoff package. During this time, he also announced publicly that the project was definitely proceeding.

March 20, 1978.—Mr. Robinson met with Sohio officials.

April 10, 1978.—Mr. Robinson met with Sohio officials.

April 12, 1978.—Mr. Robinson met with ARB officials.

June 12, 1978.—Mr. Robinson met in California with ARB officials to discuss scrubber package issues.

July 1978.—DOT–BLM approved basic right-of-way permits for new pipeline construction on most Federal lands.

August 1978.—Mr. O'Leary wrote a second letter to the California Coastal Commission indicating that the Sohio project is a critical element to the long-term solution of the West Coast crude oil problem.

August 13, 1978.—Mr. Robinson met with Sohio officials.

August 18, 1978.—Sohio and Edison signed final agreement on scrubber package.

August 21, 1978.—Mr. Robinson testified before the Subcommittee on Special Investigations, Committee on Interior and Insular Affairs, U.S. House of Representatives regarding the West Coast crude oil situation.

September 1978.—Mr. O'Leary sent a letter to the Chairman of the South Coast Air Quality Management District Board requesting the opportunity for DOE to testify at the Phase II hearings regarding the Sohio project's impor-

tance as well as the SCAQMD staff's proposal that Sohio provide 0.1 percent sulphur fuel oil for the Edison powerplant when the scrubber is not operating. This proposal is in direct conflict with our goal of reducing imports of crude oil.

October 1978.—The California Coastal Commission rejected approval of an amendment to the initial permit allowing oil tankers to unload oil into three storage tanks directly on Pier J.

EPA granted a conditional air quality permit.

October 19, 1978.—Mr. Robinson met with California State Senator Alquist and Speaker of the House McCarthy regarding the possibility of amending a California statute which, in effect, delays construction of any given project during the pendancy of a law suit challenging the validity of an EIR until the validity is certified.

Mr. Robinson met with California officials to discuss the project's status.

October 21 and 22, 1978.—Secretary Schlesinger appeared in Long Beach and announced his support of the Sohio project.

November 1, 1978.—Mr. O'Leary met with Sohio officials regarding the status of the project.

January 11, 1979.—Mr. Robinson met in Sacramento with Mr. Quinn and the ARB staff, representatives from the Governor's office and Sohio officials to chart a further course of action for expediting the state permitting process. Both administrative and legislative solutions were formulated as a result of Sohio's declaration that if the permitting process (including resolution of pending litigation) was not completed by the end of the summer, 1979, the project would no longer be economically viable.

January 16, 1979.—Secretary Schlesinger met with Sohio officials regarding the status of the permits and further action necessary by DOE, California officials and Sohio to expedite the project.

March 7, 1979.—Secretary Schlesinger met with Sohio officials who informed him of the general lack of progress concerning an acceptable legislative solution. They also reiterated their intent to abandon the project at the end of the summer if construction could not begin at that time.

March 13, 1979.—Sohio announced its withdrawal from the project.

March 20, 1979.—As a result of Sohio's announcement, Secretary Schlesinger called a meeting with Senator Cranston, Representatives Dingell, Udall and Anderson, Mr. Quinn, Mr. Maullin, Mr. McCandless and other California officials, and the Chairman of the Board and other Sohio officials to explore possible revival of the project. A three-part solution was formulated and implementation has already begun.

AUGUST 15, 1977.

Mr. JOSEPH E. BODOVITZ,
Executive Director, California Coastal Commission,
San Francisco, Calif.

Re Permit Application No. 185–77.

DEAR MR. BODOVITZ: This is in response to your letter of July 22, 1977 requesting my views on whether approval of the application of the Port of Long Beach (No. 185–77) for the construction of an oil terminal facility as part of the Sohio Oil Pipeline Project would have important national energy benefits. I understand that you consider this information necessary in order for the California Coastal Commission to make a finding under Section 30260 of the California Coastal Act as to whether denial of the application "would adversely affect the public welfare."

The Federal Government has no current legislative authorization to select crude oil pipeline and oil terminal locations. For this reason, as well as our desire not to exert undue pressure on State agencies that must approve the siting, construction and operation of particular projects, we have refrained from endorsing any of the four proposed pipeline projects—of which the Sohio Project is one—for moving Alaskan and other crude oil from the West Coast to points east of the Rocky Mountains.

The Federal Government does, however, believe that the expeditious authorization and construction of at least one, and perhaps two, such pipelines is in the national interest. This national policy was spelled out in the President's National Energy Plan, the pertinent pages of which are enclosed, and was reiterated by the President when he decided in early July not to allow the export of North Slope oil to Japan or other non-adjacent foreign countries.

We believe the construction of one or more west-to-east pipelines is in the national interest because it would provide the Nation with the transportation flexibility to utilize fully and efficiently our future domestic oil supplies. By March 1978, when the Trans-Alaska Pipeline will be in full operation, the Nation will have access to another 1.2 million barrels per day of crude oil, from the North Slope of Alaska, or about 14 percent of our total domestic supply. Much of our future oil discoveries will also likely be west of the Rocky Mountains, since both the Pacific continental shelf and Arctic Alaska hold promising potential for additional large-scale reserves.

Not all of this oil can now be refined on the West Coast. However, the surplus, which initially will be about 500,000 barrels per day and by the 1980's could grow to over a million barrels a day, can and should be processed in refineries in other areas of the country that are now 40 to 90 percent dependent on foreign sources of crude oil. A pipeline from the West Coast to these interior regions is by far a cheaper and more efficient means of transportation of this oil to refining markets that can process it than the other available alternative—transportation by tanker through the Panama Canal.

There are currently four major west-to-east pipeline proposals that would meet the foregoing requirements at least in part. In addition to the Sohio Project, there is the proposed Northern Tier Pipeline, which would serve the "northern tier" States from a terminal located at Port Angeles, Washington; the Transmountain Reversal, which would connect Cherry Point, Washington with Edmonton, Alberta, from which the oil would flow through existing pipeline systems to northern tier refiners; and the Kitimat Pipeline, which would connect an oil terminal at Kitimat, British Columbia with Edmonton.

Each of these projects would fulfill certain national needs. For example, each would help to distribute to interior refining markets at least some of the Alaskan oil surplus that would otherwise exist on the West Coast. Each would help to reduce the dependence of midwest and northern tier refineries on imports. Each would, in varying degrees, help to alleviate expected crude oil shortages in the northern tier and midwestern States.

The Sohio Project is perhaps least capable of serving the crude-short northern tier, but it does appear to us to have certain offsetting advantages over the other proposals. For example:

1. The Sohio Project would connect West Coast oil production with the Gulf Coast refining market, the Nation's largest, where each additional barrel of domestic feedstock will likely displace a barrel of imported crude oil. The Gulf Coast has more than enough refining capacity to process the relatively heavy, high-sulphur Alaska North Slope crude oil. Each of the northern pipeline projects, on the other hand, serve refineries that have limited capacity for refining North Slope oil and therefore might not be able to dispose of all of the expected West Coast surplus of that oil.

2. The Sohio Project would utilize an existing natural gas pipeline that is not likely to be needed in the future for natural gas deliveries. In part because of its utilization of this existing resource, the Sohio Project is the most cost-effective means of moving crude oil from the West Coast to certain refining markets in the Midwest. This should not only result in lower costs for crude oil deliveries, but also lower cost of service for delivery of natural gas to California consumers.

3. The Sohio Project is by far the furthest advanced in the Federal and State permitting process. The Federal Environmental Impact Statement and the State's Environmental Impact Report are both completed, and many of the Federal and State agencies that must issue permits for the project are in a position to do so within the next few months. We estimate that the environmental review and permitting process for the other proposals is at least 18 months from completion.

4. As you may know, the Secretary of the Navy (soon to be succeeded in this responsibility by the Secretary of Energy) is required by the Naval Petroleum Reserves Production Act of 1976 to complete, by April 5, 1979, the construction of a pipeline system from Elk Hills for the transportation of 350,000 barrels of oil per day. The Navy has three proposals under consideration, one of which involves tying into, and is therefore dependent upon completion of, the Sohio Project. The Sohio tie-in alternative is considered by the Navy to best serve the national interest from an operational, economic, strategic and environmental point of view. I understand the Secretary of the Navy intends to communicate with you directly on this matter.

It should also be noted that the Sohio Project appears to us to be the only proposal that is not mutually exclusive of any of the others, since it serves

different refining markets. Indeed, California's own Final Environmental Impact Report (Volume 4, Part 5) indicates that, from a cost-effectiveness standpoint, the Sohio Project combined with one of the northern projects would best serve the national interest.

Thus, in summary, while the Federal Government has not specifically endorsed the Sohio or any other proposed pipeline project, it believes that the Sohio Project would meet important national energy objectives.

If there is any additional information we can provide, please let us know.

Sincerely,

JOHN F. O'LEARY, *Administrator.*

ALASKAN OIL

By the end of 1977, the Alaska pipeline terminal in Valdez, Alaska, should be receiving approximately 1.2 million barrels of oil per day. The current capacity for absorbing additional crude oil on the West Coast is no more than 600,000 to 800,000 barrels per day, leaving another 400,000 to 600,00 barrels of Alaskan oil as surplus.

Active Federal and State involvement will be necessary to assure expedited construction of the best project or combination of projects for receiving Alaskan oil on the West Coast and moving it in an environmentally sound way to inland markets where it is needed. A Federal project coordinator has been designated to coordinate Federal involvement and to work with States in ensuring timely and thorough review of all proposals in order to expedite projects. The Administration will consult with the Canadian Government to encourage timely Canadian consideration of projects that could be constructed in that country.

As the United States reviews its options for transporting Alaskan oil, it is important that the needs of midcontinent and northern tier refiners be taken into account along with those of refiners on the West Coast. The establishment of a long-term transportation system for supplementing supplies in these regions is a matter of high priority. An assessment will also be made of all options that would enable the U.S. to benefit from Alaskan oil in the short term until permanent transportation systems are in place. The options include transshipment of surplus crude to Gulf Coast markets as well as exchanges with other nations.

The 500,000 barrels per day of imports now expected to arrive on the West Coast could also be phased out by a refinery retrofit program that, over the course of the next several years, would enable more high-sulfur Alaskan oil to be refined in California.

In order to reduce the West Coast oil surplus, legislation will also be sought to provide authority to limit production from the Elk Hills Naval Petroleum Reserve to a ready reserve level. This action could reduce the West Coast surplus until the west-to-east transportation systems for moving the West Coast crude surplus are in place or California refiners have completed a major retrofit program. In the meantime, studies will be undertaken to determine the feasibility of producing and selling natural gas from Elk Hills to supply California markets.

Without a comprehensive oil pricing approach, inclusion of Alaskan North Slope oil production in the domestic composite price would introduce a degree of unnecessary uncertainty into domestic crude oil pricing. Because the large volume of new Alaskan oil would initially be moving into the composite average at a wellhead price considerably below the current average, its inclusion could allow price increases in other tiers in the short term. Under the plan's proposed regulations, this problem would be eliminated. The $5.25, $11.28, and new oil pricing tiers would be guaranteed increases consistent with inflation. Alaskan oil from already developed fields would be subject to an $11.28 wellhead ceiling price, would be exempt from the equalization tax, and would be treated like uncontrolled oil for purposes of the entitlements program until that program is terminated. New Alaskan discoveries would be subject to the new oil wellhead price.

This program grants maximum and certain wellhead price incentives for Alaskan oil production.

OUTER CONTINENTAL SHELF

Oil and gas under Federal ownership on the Outer Continental Shelf (OCS) are important national assets. It is essential that they be developed in an orderly manner, consistent with national energy and environmental policies. The Congress is now considering amendments to the OCS Lands Act, which would provide additional authorities to ensure that OCS development proceeds with full consideration of environmental effects and in consultation with States and communities.

These amendments would require a flexible leasing program, using bidding systems that will enhance competition, ensure a fair return to the public, and promote full resource recovery. The administration strongly supports passage of this legislation.

The President has also directed the Secretary of the Interior to undertake a review of OCS leasing procedures. This review will establish a sound basis for the leasing program and assure adequate production from the OCS, consistent with sound environmental safeguards.

Shale Oil

Billions of barrels of oil may some day be recovered from shale deposits in Western States if environmental and economic problems can be overcome. Several private firms have announced that they believe they can solve these problems, and that they are prepared to proceed with shale oil development. These commercial ventures should provide valuable information about the viability of a shale oil industry.

Due to the high risks and costs involved in shale oil development, the Government should establish a pricing policy that provides adequate incentives to producers. Accordingly, shale oil will be entitled to the world price of oil.

Department of Energy,
Washington, D.C., August 2, 1978.

Michael Fischer,
Executive Director, California Coastal Commission,
San Francisco, Calif.

Re Permit Application No. 185–77.

Dear Mr. Fischer: On August 15, 1977, at the request of your predecessor, Mr. Bodovitz, I wrote to the Coastal Commission expressing the views of the Federal Government on whether approval of the application for the Sohio Pipeline Project (No. 185–77) is in the national interest. For your reference, I have enclosed a copy of my earlier letter. In light of numerous developments regarding the surplus of crude oil on the West Coast that have occurred since then, I am taking this opportunity to provide you with an update of the Department of Energy's position on the Sohio Pipeline.

Since last August, the conditions on the West Coast described in my letter as indicating a need for such a pipeline project have worsened. In particular, two of the four possible projects for the transportation of Alaskan crude oil from the West Coast to inland regions by pipeline have not progressed since that time. The Transmountain Reversal proposal I described may be precluded by recent amendments to the Marine Mammals Protection Act that prohibit increased tanker traffic in Puget Sound, and the Kitimat project has been disapproved by the Canadian Government.

Both of these terminated projects had time schedules somewhat similar to Sohio's and were, therefore, viable alternatives for the early 1980's. The one project in addition to Sohio that now remains, the proposed Northern Tier Pipeline from Port Angeles, Washington to Clearbrook, Minnesota, is only in the very early stages of the permitting process, and this fact, coupled with the long construction time due to its size and length, means it could not become operational until at least three years after the Sohio project, assuming it is approved at all.

Even more serious are the changes that have occurred in the crude oil supply situation in California. Both California and Alaskan North Slope crude oil production is relatively heavy and high in sulphur content. The availability of North Slope crude oil in California, coupled with recent increases in the availability of hydroelectric power and natural gas for utility use, has caused prices for California crude oil production to be depressed to the point where as much as 30,000 barrels per day has been shut in, and several times that amount is in economic jeopardy.

On June 15, 1978, the Department of Energy issued amendments to its entitlements program designed to arrest this alarming trend in California production. However, even with these amendments, it is apparent that the problem of providing a sufficient stimulus for increased California production will be a chronic problem unless additional measures are taken.

In light of these developments, we have come to the conclusion that the Sohio Pipeline is a critical element to the long-term solution of the West Coast crude

oil production problem. The pipeline would provide a relatively inexpensive and expeditious means of moving Alaskan North Slope crude oil to interior markets, thus relieving much of its adverse influence on California production. Moreover, approval of the Sohio line is a critical first step to expanding the Trans-Alaskan Pipeline, which eventually will be necessary if the North Slope is to realize its production potential of two million barrels per day.

Despite the current West Coast crude oil surplus, enhanced crude oil production from both Alaska and California, which have the Nation's largest untapped oil reserves, is essential if we are to reduce our Nation's growing dependence on imported oil and alleviate our chronic balance of payments problem. This production can be refined in California if appropriate refinery modifications are undertaken and in other regions of the country if efficient transportation systems are constructed. The importance of enhancing West Coast oil production and expediting west-to-east oil transportation systems was emphasized in the President's December 21, 1977 statement on balance of payments, a copy of which is enclosed.

Thus, while we recognize that the Coastal Commission must exercise its independent judgment in assuring that the Sohio project is consistent with the requirements of the California Coastal Act, the Department of Energy urges that the Coastal Commission act expeditiously in its deliberations on this matter and that it make every possible effort to resolve the remaining issues in a way that will best accommodate the Nation's energy needs.

Sincerely yours,

JOHN F. O'LEARY,
Deputy Secretary.

Enclosures.

DEPARTMENT OF ENERGY,
Washington, D.C. Sept. 21, 1978.

Hon. A. A. MCCANDLESS,
Chairman, South Coast Air Quality Management District,
El Monte, Calif.

DEAR CHAIRMAN MCCANDLESS: This is to request the opportunity for the Department of Energy to participate in the South Coast Air Quality Management District's (SCAQMD's) hearings regarding Phase II of the application of Standard Oil Company of Ohio (Sohio) to construct and operate an oil terminal facility at Long Beach. Mr. Douglas G. Robinson, Assistant Administrator for Regulations and Emergency Planning of DOE's Economic Regulatory Administration, would present the Department's testimony at the hearings.

The Department of Energy believes the Sohio project is an important element in an overall policy to stimulate crude oil production in California and Alaska, to reduce our dangerous dependence on foreign sources of crude oil, and to help alleviate our chronic balance of payments deficit. To the extent the Sohio project's relationship to an overall West Coast crude oil production and utilization strategy is relevant to the Board's deliberations, Mr. Robinson will be available to provide testimony on this general subject.

More specifically at issue in the Phase II proceedings, however, are two other matters in which the Department of Energy has an immediate and direct interest, and on which evidence would be provided by Mr. Robinson. First, we understand that the staff of the District has taken the position that the State of California's New Source Review rule and he Board's Phase I findings require that the SO_2 emission tradeoffs provided by Sohio exceed, by a ratio of 1.2 to 1, the SO_2 emissions from the terminal project on *each and every day* the terminal is in operation. We understand that whether such a rigid tradeoff standard must be met in order for the Board to find a demonstrable air quality benefit from the project is a major issue in Phase II. The Department of Energy believes, and would like to present testimony to the effect, that such a rigid standard is unrealistic for the Sohio project and would set a dangerous precedent for future energy projects necessary for the implementation of a national energy policy, in that it would greatly reduce the universe of tradeoff sources that would be available for such projects.

Second, we understand the staff of the SCAQMD has also proposed that—as a "backup" to the flue gas scrubber on a Southern California Edison powerplant that Sohio has offered as an SO_2 and particulate tradeoff—Sohio also agree to provide 0.1 percent sulphur fuel oil for use in Edison powerplant at those times when the scrubber is not operating. The Department of Energy believes for reasons Mr. Robinson would detail in his testimony, that the required use of such low sulphur fuel as an SO_2 tradeoff for this or similar proj-

ects would conflict with the policies of both the Federal Government and the State of California in attempting to reduce imports of low sulphur crude oil into the West Coast.

Although the Department of Energy is neither a party nor a petitioner in the proceedings before the Board on the Sohio permit application, we do have a direct and important interest from a policy standpoint in the Board's action on the application, and we therefore respectfully request the opportunity to make this interest known to the Board at the Phase II hearing.

Sincerely,

JOHN F. O'LEARY,
Deputy Secretary.

Mr. BROWN. You mentioned the hope for increase of north slope production or exploration by Sohio and others who are now in that area. How will that be done? By exceeding the maximum efficient rate of existing wells? By increasing the number of wells in known fields? Or by new discoveries?

Secretary SCHLESINGER. The latter two. As you know, in Prudhoe itself we can produce up to about 1.5 million barrels a day. If Alaskan the natural gas pipeline built there will be 100,000 barrels per day of natural gas liquids.

Mr. BROWN. Wait a minute. Do you think the gas pipeline will be completed and operating within the next couple of weeks?

Secretary SCHLESINGER. No; I do not think so, Mr. Brown.

Mr. BROWN. In a decade?

Secretary SCHLESINGER. The anticipated date is 1984.

Mr. BROWN. It will be completed?

Secretary SCHLESINGER. The anticipated completion date is 1984.

Mr. BROWN. Are we talking about the Alaskan gas pipeline?

Secretary SCHLESINGER. Yes.

Mr. BROWN. It is already to go except for just construction?

Secretary SCHLESINGER. No, sir.

Mr. BROWN. You think it will be finished by 1984?

Secretary SCHLESINGER. That is the present schedule.

Mr. BROWN. Are you waiting to put some money behind that in the way of a little side bet?

Secretary SCHLESINGER. At the moment I am too much of a participant in the process to make side bets.

Mr. BROWN. Can I pursue another couple of questions.

Secretary SCHLESINGER. Let me assure your first question. There will be 100,000 barrels a day of natural gas liquids at the time that the Alaskan natural gas pipeline comes on. In addition, we would hope to see development of other fields that would bring the trans-Alaskan pipeline throughput up to the 2 million barrels a day. But the Prudhoe field itself at this juncture can only support 1.5 million barrels per day.

Mr. BROWN. What incentives do you hope to offer for that increase in production?

Secretary SCHLESINGER. The incentive has been the same all along, or at least since the decision in the spring of 1977, which is a world price for production delivered from the North Slope. The incentive has been inhibited by the high transportation costs which are deducted from the delivered price to determine the wellhead price.

As the pipeline is paid off or as inflation reduces the weight of the cost of transportation, the wellhead price on the North Slope increases and as a consequence the incentive to greater exploration and development is enhanced.

Mr. BROWN. I guess my final question, Mr. Secretary, in view of all this haste that is being made to get this job completed, is this: It has been 97 days since the oil was cut off from Iran. That is 10 percent of the free world oil supply and a good part of ours. The President has slipped the date that he is going to announce to us what the resolution of all those problems is. Is that date yet firmly set?

Secretary SCHLESINGER. The announcement will come sometime in the latter part of this week.

Mr. BROWN. This week or this month?

Secretary SCHLESINGER. This week. You should not believe, Mr. Brown, that action is not occurring. For example——

Mr. BROWN. Could you list for me what actions he has taken in the last 97 days to increase the production of oil in this country?

Secretary SCHLESINGER. We will be happy to make out that list. I want to point out, however, that there are some items that are already underway, such as the wheeling of power, and due to the effective work of the Congress in passing the Natural Gas Policy Act——

Mr. BROWN. Which has a chart which looks a lot like that Sohio pipeline regulatory chart. A convoluted, bureaucratic mess.

Secretary SCHLESINGER. There is gas moving into the interstate market which is backing out foreign crude. We thank the Congress for passing that act in the nick of time.

Mr. BROWN. But not oil, Mr. Secretary. If you could give us that list, I rather imagine it will be a short list of what the President has done in the last 97 days to increase the production of domestic oil.

Secretary SCHLESINGER. We have worked very carefully with the State of Alaska to increase the production on the North Slope to 1.35 million barrels a day. That is an increase of 150,000 barrels a day above current production. We have been working very closely with Chevron and with the Department of Justice in an attempt to resolve the pending litigation so that we can increase production from Elk Hills by 40,000 barrels a day.

Mr. BROWN. I will look forward to this general list, Mr. Secretary.

[The following information was received for the record:]

ACTIONS TAKEN BY THE ADMINISTRATION TO INCREASE CRUDE OIL PRODUCTION

In December 1977, the President issued an energy directive, instructing the Department of Energy to take appropriate action to increase domestic crude oil production. Since that time, domestic production has been or will shortly be augmented as a result of the following measures:

Expansion of the Trans-Alaska Pipeline and associated North Slope production to 1.35 million barrels per day;

Increased production of almost 100 thousand barrels per day at the Elk Hills Naval Petroleum Reserve;

Further negotiations between several federal agencies and Chevron to resolve pending litigation so Elk Hills production can be increased by an additional 30–40 thousand barrels per day;

Involvement in negotiations affecting the disposition of the Sohio pipeline proposal, the completion of which would provide an incentive for West Coast producers to increase crude oil exploration and production;

Modification of the DOE Entitlements Regulations to encourage the production of heavy California crude oil. This action has resulted in increased California crude oil production on the order of 60 thousand barrels per day;

The development of the President's crude oil pricing program, announced to the Nation on April 5, 1979. Regulatory changes outlined in the President's Energy Message, including incentive pricing provisions for newly discovered oil and tertiary production, could account for an additional 700 thousand barrels per day of domestic production by 1985.

Mr. DINGELL. Mr. Secretary, there are several questions that the Chair wishes to have answered. I will try to summarize them briefly. If you can make the appropriate submissions in response, it will be appreciated.

The Chair would like to know what the situation is as regards potential supply of petroleum on the west coast and the amount which is actually coming both from Alaskan production and from west coast production. I refer specifically to shut-ins of production, not only throughout southern California but also the shut-ins of oil from Elk Hills and other sources on the west coast. If you can make that submission to us, it would be of much help to the committee.

Secretary SCHLESINGER. Yes.

Mr. DINGELL. The staff will be happy to work with your people in regard to that.

[The following information was received for the record:]

Total crude oil production on the West Coast averaged just over 2.3 million barrels per day (MMBD) in the fourth quarter of 1978. Of this total, about 1.2 MMBD was Alaskan North Slope crude. Estimates for the potential that West Coast production could reach are difficult to make because of uncertainties about the resource base, future demand, the existence of environmental, legal and other constraints, and numerous other factors. However, recent estimates indicated that under an optimistic set of assumptions, and assuming no major constraints, total West Coast production could be as high as 4 MMBD by 1995. Of this total, as much as 2 MMBD could be supplied by ANS crude.

Regarding shut-in crude production, the Department does not maintain in its data systems any specific data on shut-in production. This would be a difficult figure to obtain in any event. However, we understand from reliable West Coast sources that there is little or no actual shut-in production at this time.

Current production from Elk Hills is about 130 MBD; this number is expected to grow to 145 MBD by the end of the year. Another 30 MBD will be added when the U.S. District Court ordered stay on production from Section 7R is lifted or a favorable decision is rendered by the 9th Circuit Court of Appeals.

Mr. BROWN. You mentioned the hope for increased North Slope production, or exploration by Sohio and others who are now in that area. How will that be done? By exceeding the maximum efficient rate of existing wells? By increasing the number of wells in known fields? Or by new discoveries?

Mr. DINGELL. Mr. Secretary, we thank you for your assistance to us. We have kept you overly long. We are grateful to you for your presence. You are excused.

Secretary SCHLESINGER. Thank you, Mr. Chairman.

Mr. DINGELL. The Chair has essentially a housekeeping announcement. We have a quorum call on the floor which indicates to the Chair that there will be a sequence of votes on the debt ceiling. It is the intention of the Chair to reconvene here at the hour of 2:30.

We thank our panel members. We announce that our first witnesses in the afternoon will be either Mr. Whitehouse, chairman of the board of Sohio, or our colleagues, Mr. Hance, and Mr. Mack Wallace, a commissioner of the Texas Railroad Commission, and that matter will have to be discussed by the staff with respect to potential witnesses.

The Chair announces the recess until the hour of 2:30.

[Whereupon, at 1:30 p.m., the subcommittees recessed, to reconvene at 2:30 p.m. the same day.]

AFTER RECESS

[The subcommittees reconvened at 2:40 p.m., Hon. John D. Dingell presiding.]

Mr. DINGELL. The subcommittee convened jointly with our sister subcommittee, a subcommittee of the Interior Committee, will come to order. The first witnesses this afternoon are our colleagues, the Honorable Kent Hance of Texas, and the Honorable Mack Wallace, commissioner of the Texas Railroad Commission.

Gentlemen, we are delighted to have you with us, and we recognize you for such statements and comments that you wish to make.

STATEMENT OF HON. KENT HANCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. HANCE. Thank you, Mr. Chairman and members of the subcommittees. I think the failure to resolve the complex problems involved with the California to Texas pipeline prompted me to introduce legislation which is before these subcommittees today. Without this action we have no recourse. California officials, whom we have heard this morning, say that the permit process is just about complete. I think you would hear them say that in another couple of years. If past performance by these California agencies is any indication, then I would say that we will be back here next spring without any progress being made. Two years ago these same people said the same thing and we still are no closer to completion of the pipeline. Also, permits for the pipeline are currently tied up in the California courts.

In my opinion, the problems of local politics which have kept this project from completion are inexcusable, considering that this pipeline would save the American consumers more than $500 million per year in energy costs. It is beyond my comprehension that this project has been stalled for so long by California's refusal to contribute its fair share to solving a critical national energy problem.

I think all of us know how serious the energy problem is at this point, and so does the public. The public has become very sensitive to the waste of money, particularly their own money, and I do believe that this project is a waste of money unless it is completed.

Like several of my colleagues, I wish Governor Brown could have been here today because I feel he is the one person who could eliminate much of the clouded testimony that we have had.

Governor Brown is definitely an opportunist. Eighteen months ago you couldn't have made me believe Jerry Brown would have been in favor of an amendment to balance the Federal budget. I wouldn't have believed it, you wouldn't have believed it, and most of all, before proposition 13, Jerry Brown wouldn't have believed it. However, it now is in the best interest of Jerry Brown to be in favor of a balanced budget and a tax cut; therefore, he is in favor of it.

The same can be said of this project. If it would have been in Jerry Brown's best interest to be here today, he would have been here and would have testified. But he knew that it would be a detriment for him to be here today, so instead he is off running for President rather than running his own State. His absence today points out that he has absolutely no explanation for the holdup of this project, and that he did, in fact, aid in the holdup of this project to hold the Nation hostage, as my colleague put it earlier.

I guarantee you that if Jerry Brown had approved this project and seen how it helps consumers, he would be waving it in front of all our

faces instead of hiding in New Hampshire. I cannot let him hide behind his failure. His silence here today thunders his irresponsibility in this matter. He knows he is at fault, otherwise you can bet he would be here today defending himself and his bureaucratic agencies which have held up this project.

In conclusion, Mr. Chairman, without this action, our energy problem will get worse, and this is no time for selfishness, devisiveness, or factionalism on the part of any State of this Union.

I hope I have made my feelings well known. I tried not to beat around the bush in making them known. At this time I would like to introduce a very good friend and close personal friend of mine, Mr. Mack Wallace, who is commissioner of the Railroad Commission of the State of Texas.

Mr. DINGELL. The committee thanks you for your helpful testimony. The Chair is well aware of the fact that you are the first sponsor of legislation on this subject. Your legislation is before this committee for its consideration. We commend you for your alertness on this matter and your interest, and assure you, as you have already no doubt gathered, a most sympathetic hearing.

We are also happy to welcome Mr. Mack Wallace, who is a friend of mine, and of whom I am an admirer. We are delighted you are with us.

STATEMENT OF COMMISSIONER MACK WALLACE, TEXAS RAILROAD COMMISSION

Mr. WALLACE. Thank you, Mr. Chairman. I want to express my appreciation to the committee for allowing me to give a very brief statement. It is important for many reasons that I be precise, otherwise I would summarize. But the statement will not be that long.

My name is Mack Wallace, and I am a member of the Railroad Commission of Texas. The commission is composed of three statewide elected officials whose intrastate regulatory responsibilities include conservation of oil and natural gas; safety jurisdiction for the transportation of natural gas and ratemaking authority for the consumption of natural gas; regulation of the transportation industry; supervision of surface mining and reclamation activities; and regulation of the distribution of liquefied petroleum gas.

Mr. Chairman, I do not have to tell you that this Nation is moving into an energy crisis which threatens our welfare and our security. Unless we radically change our course and adopt an effective national energy policy, our import requirements will rise from approximately 9 million barrels of oil per day to a demand level of over 13 million barrels per day by 1985. There is grave doubt such imports will be available. In the meanwhile, we could, as I shall point out later, face a crisis as dangerous and costly to our energy supply as that which occurred in Iran. The oil reserves in Alaska represent the only substantial source capable of significant expansion over a reasonably short period of time. I believe it essential that we provide the facilities necessary for its pipeline transfer.

One such facility is the Pactex line, otherwise known as the Long Beach-Midland project. As you know, this project involved nothing more than the construction of some 230 miles of pipeline along with some relatively minor engineering to reverse an existing, but unneeded

gas pipeline. The savings brought about by use of the pipeline, in lieu of transportation by tanker through the Panama Canal, is at least $1.50 per barrel. Since the line is capable of hauling about 500,000 barrels of Alaska crude oil per day at the outset, we are talking about a minimum savings to the American consumer of over $250 million per year.

More important is the matter of the Nation's security. At present, we import 42 percent of our crude oil from foreign sources. Our major energy lifeline emerges from the Strait of Hormuz between Iran and Saudi Arabia and travels past the horn of Africa and around the Cape of Good Hope enroute to U.S. ports, a distance of over 13,000 miles.

The cutoff of Iranian oil sent shockwaves through the United States, Europe, and Japan. Eight countries are at war on the African Continent around which our tankers must travel. Unrest pervades North and South Yemen; and as we all know, the Middle East is volatile and eruptive. Our foreign supplies are unstable, and our national security is threatened.

The potential of the Alaska oilfields represents, therefore, a badly needed source of insurance against the future loss of foreign oil. The Long Beach-Midland pipeline is the quickest and most efficient means of transporting Alaska crude to the fuel deficit regions of this Nation.

We must ask ourselves, what has caused the demise of the Long Beach project. The answer is twofold. First, we can look to the conference report of the Public Utilities Regulatory Policy Act of 1978 for an answer. I quote from page 109:

> Actions by the State of California have resulted in delays in the construction and operation of the Long Beach-Midland project. They expressed concern over the possibility of continuing delays on the part of the State that may adversely affect the interest of the people of California and the Nation.

I might note at this point that the conference committee, upon which some of you gentlemen sat, made this critical observation several months prior to Sohio's recent abandonment of the Pactex project.

Second, overzealous environmental concerns have buried Pactex. For Pactex, Kaiparowits, Seabrook, Dickey-Lincoln, Tellico, and the trans-Alaskan pipeline system [TAPS], the story is fundamentally the same. There appears to be no authority in government, much less the will, to resolve so-called energy-environmental conflicts. I suppose there will always be those who object to any energy development in any form in this Nation. Such is their inherent right, and rights mean process. However, what is required is due process, and implicit in due process is effective, timely resolution of differences. I contend that 700 permits and 5 years of debate on a project like Pactex do not constitute due process. In my opinion, the Pactex story has been a dramatic example of undue process. Through such well-meaning acts as the National Environmental Policy Act, the Endangered Species Act, and the Clean Air Act, we have extended to any handful of people who choose to assume it, the power to thwart the national interest and indeed the will of the popular majority. What is their weapon? Their weapon is the only thing more precious than energy itself, and that is the time in which we have to develop it. I speak of time which is running out with every day's delay in establishing a viable national energy plan.

The finger of blame can be pointed in many directions. Ultimately it points to the Congress. When well-meaning laws of the land are

abused beyond reason, as they have been repeatedly in this decade, it is time, indeed past time, that they be changed and amended so that the Nation can achieve what it so desperately needs to do.

What can be done to resurrect the Long Beach-Midland project? The Congress must effect what Congressmen Dingell, Udall, and Hance's bills propose.

The national interest requires that Americans renew their faith in projects designed for the benefit of Americans. The Pactex line is just such a project.

The Long Beach-Midland project, in my opinion, is vital to the security of this Nation's energy future, notwithstanding arguments to the contrary. Some would say that at this time the line is not economically feasible. Others note that economic logic supports the notion of swap agreements. I am convinced these arguments are unpersuasive.

Finally, I want to make it clear that philosophically I am opposed to Federal interference with State responsibilities, except in cases of extreme emergency and when State officials act irresponsibly. I can assure you, gentlemen, that an extreme emergency exists. Therefore, all obstacles to the operation of the Long Beach-Midland project should be legislated out of existence. The vital interests of this Nation demand nothing less.

I appreciate the opportunity to appear before you.

Mr. DINGELL. Mr. Wallace, the committee thanks you for a very helpful statement. We also thank our colleague, Mr. Hance, for the leadership he has provided. It is a pleasure to see you both before the subcommittees, and we express our thanks to you. The Chair recognizes my colleague, Mr. Clausen.

Mr. CLAUSEN. Very briefly, first of all, Mr. Wallace, we want to thank you and our colleague, Mr. Hance, for a very forthright statement. You have come down hard on what you say is irresponsible State action, and of course you are relating to the State of California in this instance. Can you be more specific by what you mean by an "irresponsible action," and who do you think is really responsible? You are involved in a similar regulatory procedure as far as carrying out the requirements on energy production, distribution in the State of Texas.

I would like to have you be very specific on where you feel the problem actually lies. We don't have the time to be messing around. Lay it right on the line.

Mr. WALLACE. I was under the impression that I indicated that I wasn't messing around, Mr. Clausen, that I would be forthright. First, when you passed the Natural Gas Regulatory Act—I believe that was the name of it—the recent one—I opposed the thing, but we went back and we implemented it in 30 days' time, and we have moved a great deal of gas already as a result of that act, from Texas.

Now, to be specific, I am referring to a subcommittee report in which it was embodied in the legislation that I just testified about in this committee. You yourself used these words—these are not my words, Mr. Clausen, these are your words: "Actions by the State of California have resulted in delays in the construction and operation of the Long Beach-Midland project." I assume that is you all, that—over the possibility of continuing delays on the part of the State that may adversely affect the people of California and the Nation. Your

words were rather harsh, and after I read the act I decided I would become involved in it also.

Mr. CLAUSEN. Who in the State of California do you think is specifically responsible?

Mr. WALLACE. I would assume that the Governor is, since he has made appointments to the bodies that seem to be holding the thing up. Now, I am not an expert on California regulatory law, but I do understand 5 years, 4 and 5 years, is a difficult period of time.

Mr. CLAUSEN. One further question. What is the existing refining capacity of Midland, and do you have any plans for expanding the capacity? I am assuming all of your capacity, refining capacity there, will accommodate the so-called sour crude.

Mr. WALLACE. Congressman Hance?

Mr. HANCE. Let me answer that. First of all, it would not. The pipelines from the base area that go directly to the Midwest are just a means of transporting that crude oil to other areas. We do have refining capacity, but we could not take on that 500,000 barrels in the Permian Basin area. But the pipelines that are in present use from the Permian Basin area to go to the Midwest could take that on to other areas, especially the Midwest.

Mr. CLAUSEN. Mr. Wallace, on page 2 you state that the savings brought about by use of the pipeline in lieu of transportation by tanker to the Panama Canal is at least $1.50 per barrel. What is the basis of this statement? Are you quoting from Valdez to Texas or from Long Beach to Texas?

Mr. WALLACE. I am including offloading at the Panama Canal, or laddering, I believe they call it, and I would say that I am not—I multiplied those figures based on published reports. I am not here to represent Sohio or anything like that. I think they could best testify to what their impression of the economics is. But I am using well-recognized figures of every publication I have seen.

I might add that in 1976 dollars had it been completed then, I believe it could have been transferred by pipeline at $1.07 a barrel from California to Texas.

Mr. CLAUSEN. Also on page 2, you make reference to the so-called unneeded gas pipeline. Are you sure that this is an unneeded pipeline? I am drawing on your expertise. Maybe someone might like to come up with a new negotiated arrangement and utilize that pipeline for the distribution of gas from Mexico, for instance, to California. How do you read that? Is there any speculation in that regard?

Mr. WALLACE. I think the Sohio people could better tell you about their agreement with El Paso as far as the pipeline.

Mr. CLAUSEN. This is only on a month-to-month basis.

Mr. WALLACE. I understand that. I don't see the problem that you relate to as being important at all. I think this is a very important energy-moving project. I think we ought to get on with it.

Mr. CLAUSEN. So you think the pipeline from West to East, the oil line, is substantially more in the national interest than to move Mexican gas to California, shall we say?

Mr. WALLACE. I most certainly do. I believe we must develop our method of transporting oil produced in America for Americans.

Mr. CLAUSEN. Thank you.

Mr. GRAMM [presiding]. The Chair recognizes the gentleman from California for 5 minutes.

Mr. LAGOMARSINO. Thank you, Mr. Chairman. I want to commend both of you gentlemen for your statements, and say I certainly agree with you. I think we have to get on with this. We may have a difficult time deciding on exactly how to do that. One thing occurs to me; everyone is talking here about whether or not we should preempt and it seems to me that is not really what any of the bills that we are considering would actually do. In fact, the State has declared its support of this project. Most of the regulatory agencies there have given some approval. If we are preempting anything, it would seem we are preempting the California Air Quality Control Board and not much else. It doesn't really bother me very much to preempt a bureaucracy. It does bother me to preempt the local government or perhaps even to preempt the State of California as an entity. But it certainly doesn't bother me very much to preempt, if that is a proper word, a regulatory agency that seems to be putting roadblocks in the way instead of trying to smooth them out.

I don't know if you were here this morning, but Mr. Clausen described how Governor Brown had told us last August in San Francisco that he was in support of the plan and how he was removing roadblocks from its implementation. It occurred to me then, and it reoccurs to me even more vividly now, that what he was really saying was that he had slain the dragon: he forgot to mention two things: No. 1, the dragon had been created by him, or at least by his agencies in the first place; and second, it now seems quite plain that the dragon was not slain at all. It might have been wounded a little bit. A wounded dragon is a dangerous beast.

I think it certainly can be said that the legislation that you, Mr. Hance, have introduced or the legislation that Mr. Udall and the chairman of the committee and others of us have introduced is really seeking to make some sense out of the mess that we helped create.

Mr. HANCE. I agree.

Mr. LAGOMARSINO. I yield back my time.

Mr. GRAMM. The Chair thanks the gentleman from California.

I would like to exercise my right of questioning. I am very pleased that my friend, the distinguished chairman of the railroad commission, Mr. Wallace, is with us today, and my colleague from Texas, Kent Hance. This morning we were hoping to have the opportunity to question Governor Brown, but because apparently the decision on his part that it was more important to politic in New Hampshire than to be here to talk about the building of this pipeline, he was not here to answer our questions.

Commissioner Wallace, knowing that you have followed this project with a great deal of interest and expertise, I would like, in essence, to pose to you the question that I hoped to have the opportunity to pose to Governor Brown, and in fact did submit to those who were here representing California to give them an opportunity to answer. They didn't take that opportunity.

In essence, what I tried to point out was the contradiction between what the Governor is saying today and, I note, in testimony before the Senate Energy Committee he said:

> The pattern of intracorporate indecision and delay shown in Sohio, in the Sohio project, is illustrative of the inability of American society to control its own destiny.

The clear intent of that statement was to impose the burden of nonlicensing and noncompletion on this private company, when in fact Sohio clearly opposed converting the gas pipeline of El Paso into an oil pipeline to begin with. Representatives of California stated before this committee in August of 1977, in hearings that we held to determine why we were experiencing delays in the delivery of Alaskan oil, we were promised by officials in California at that time that permitting of the pipeline would be completed by mid-October of 1977, and of course, we were assured by Mr. Quinn, chairman of the California Air Resources Board, 2½ years ago, that "we do not intend to hold the rest of the Nation hostage in return for more gas."

Basically we did not have an opportunity this morning, Commissioner Wallace, to get an answer from Governor Brown concerning these assertions. I would like to know from Texas' viewpoint, where you have observed this thing, do you believe, in fact, that the Governor has worked to expedite the building of this pipeline? Or do you believe, in fact, that he has held it hostage?

Mr. WALLACE. I have seen absolutely nothing that Governor Brown has done to expedite the construction of this pipeline. To the contrary, I have seen subtle actions and unsubtle actions as a practical matter, that have led me to believe otherwise, that, in fact, he has not supported the construction of the pipeline, not by actions.

I have a letter here that I will read a paragraph from. I will identify the letter as being from a Mr. Henry F. Lippitt II, the executive secretary of the California Gas Producers Association, dated August 1, 1978. It is addressed to Nick Franklin, the secretary of energy, State office building, Santa Fe, N. Mex. I would be glad to give this letter to you and any members of the committee that might be interested.

Mr. GRAMM. Without objection, Mr. Wallace, we will have the whole letter reprinted in the record.

[The letter referred to follows:]

CALIFORNIA GAS PRODUCERS ASSOCIATION,
Los Angeles, Calif., August 1, 1978.

Mr. NICK FRANKLIN,
Secretary of Energy,
State Office Building, Santa Fe, N. Mex.

DEAR MR. FRANKLIN: I read with interest your article, published in the Los Angeles Times, regarding the use of natural gas produced in New Mexico to heat swimming pools in southern California (July 27, 1978, copy attached).

This, however, is only "half" of the situation. The other "half" is the State of California's official unwillingness, expressed numerous times by various California governmental agencies, to drill and develop the supplies of oil and gas which California has within its own borders—preferring instead to rely on Federally controlled low priced natural gas supplies which are made available from out-of-state sources, principally Texas and New Mexico, in order to supply the large and growing California natural gas market.

First, and of principal importance, is California's "official" policy, as expressed by the California Public Utilities Commission, to "husband" California's available natural gas resources, requiring northern California dry gas wells to be "shut in" ever since February of this year, while recommendations are made to purchase additional supplies of El Paso gas from Texas and New Mexico at low Federally controlled natural gas prices. (Decision No. 86381, dated September 14, 1976, copy attached). Accordingly, while a natural gas well in New Mexico with a capability of delivering up to 1,200 Mcf per day may be permitted to deliver 80 percent of the maximum daily deliverability, or 960 Mcf per day, in New Mexico in order to satisfy the California natural gas market, that same dry gas well in northern California, with a capability of delivering up to 1,200 Mcf per day, is restricted to ⅓, or 33 percent, of that level, and is permitted to deliver only

400 Mcf per day—or less than half of the comparable wells in New Mexico—in order to satisfy the State of California's own natural gas market.

Recently, the former California State Oil and Gas Supervisor testified that between 90,000–270,000 Mcf per day of additional California gas production could be secured from natural gas fields in northern California—with the turning of a valve. This recommendation, and analysis, however, has been ignored by the natural gas regulatory agencies within the State—who continue to advocate the purchase of maximum volumes of low priced out-of-state natural gas supplies, from Texas and New Mexico, in order to supply the California natural gas market.

Second, in October 1977 the California Governor's Office of Planning and Research issued an 879-page report on "Offshore Oil and Gas Development: Southern California" recommending placing additional environmental restrictions on the drilling and development of oil and gas on both State and Federal offshore lands in southern California. As a result of this policy, it has become increasingly necessary for Californians to turn to other states, including New Mexico (and Texas) for greater and greater proportions of their required oil, gas, and other energy, supplies.

In addition, the State of California continues to take an adamant position against securing additional natural gas supplies from Federal offshore California sources outside the 3-mile offshore limit, bringing suit to stop leasing and production of natural gas from these sources rather than encouraging necessary supplemental natural gas production from these sources. (*State of California, et al.* v. *Rogers C. B. Morton, Secretary of the Interior, et al.*, CV 74–2374–DWW, Memorandum Opinion filed November 17, 1975) (6 ELR 20088).

Third, the newly formed California Coastal Commission, in February 1976, issued an order preventing the construction of a 4½-mile natural gas pipeline from Exxon's Hondo Field Santa Ynez Unit, offshore Santa Barbara, to the Santa Barbara coastline, stating that a "gas line without oil line is not allowed" (Staff Recommendation II, Conditions, paragraph (1). Appeal No. 216–75 (Exxon), dated February 27, 1976). As a result, some 77,000 Mcf per day of natural gas, enough for 250,000 homes, will have to be reinjected in the offshore formations for an indefinite time—drawing on New Mexico, and Texas, natural gas supplies instead to meet this deficiency in the State's natural gas needs.

Fourth, the California Public Utilities Commission has taken an official position in opposition to the deregulation of supplies of natural gas in interstate commerce for purchase and delivery in California (Resolution No. L168, dated August 19, 1975). The stated purpose for this position, communicated to the California Congressional delegation, is to require the other states of the Union, principally Texas and New Mexico, to be required to continue to deliver natural gas supplies to California at the lowest possible price—irrespective of need for higher natural gas prices to stimulate additional production. (Recently, the California PUC considered it had won a "victory" in the U.S. Supreme Court by requiring natural gas deliveries to be continued to California at low Federally fixed prices after the expiration of fixed lease terms).

There are a number of other similar situations, including the State's unwillingness to produce additional natural gas supplies in northern California in order to meet southern California's needs and the City of Los Angeles' action in refusing to permit production of up to 15,000 bbl of oil, and 30,000 Mcf of gas per day from known fields located within the City limits. In addition, the State has shown its interest in placing coal-fired electric generating plants out-of-state, in Kaiparowits, Utah, Page, Arizona, Clark County (near Las Vegas), Nevada, and in the Four Corners area of northwest New Mexico, rather than permit the construction of either coal-fired or nuclear generating plants (such as the Sundesert Plant) within the State of California itself.

All told, in determining New Mexico, or Texas' policy towards conserving natural gas supplies within the state for use by the State's own citizens, or committing them for deliveries in interstate commerce for ultimate consumption and use within the State of California, the State of New Mexico (and Texas) should be aware of the State of California's settled, and fixed, policy enunciated by the Governor's office and various State regulatory agencies, of deliberately withholding, and placing "roadblocks" on the development of such oil, gas, and energy, supplies within the State of California itself—preferring instead to rely on deliveries of out-of-state oil, gas, and energy, at low Federally controlled prices to meet the State of California's own needs.

Yours very truly,

HENRY F. LIPPITT, 2d,
Executive Secretary.

Mr. GRAMM. Go ahead and read the paragraph.

Mr. WALLACE [reading]:

> . . . in October 1977 the California Governor's Office of Planning and Research issued an 879-page report on "Offshore Oil and Gas Development. Southern California" recommending placing additional environmental restrictions on drilling and development of oil and gas on both State and Federal offshore lands in southern California. As a result of this policy, it has become increasingly necessary for Californians to turn to other States, including New Mexico (and Texas) for greater and greater proportions of their required oil, gas, and other energy, supplies.
>
> In addition, the State of California continues to take an adamant position against securing additional natural gas supplies from Federal offshore California sources outside the 3-mile offshore limit, bringing suit to stop leasing and production of natural gas from these sources rather than encouraging necessary supplemental natural gas production from these sources. (*State of California et al.* v. *Rogers C. B. Morton, Secretary of the Interior, et al.*)

A number of things like that indicate to me that there is no effort from the administration to do anything about the production of oil and gas or the transportation of oil and gas.

Mr. GRAMM. Thank you, Commissioner Wallace. I would like to thank you all for appearing before this committee, and providing input on this important bill.

I would like to especially thank my colleague from Texas, Kent Hance, who introduced this legislation which is greatly needed by the Nation in order to assure that we get full benefit of oil that is being produced in Alaska. Thank you, gentlemen.

Mr. WALLACE. Thank you, Mr. Chairman, and thank you, members of the subcommittees.

Mr. HANCE. Thank you very much.

Mr. GRAMM. The Chair now calls Alton W. Whitehouse, chairman of the board of Sohio, and Mr. F. E. Mosier, senior vice president of Sohio.

Mr. Whitehouse, the Chair would like to begin by apologizing for your appearance before this committee, since the State of California has so delayed your pipeline. I guess it is only in keeping with that experience that you should be delayed in making a presentation to this committee.

STATEMENT OF ALTON W. WHITEHOUSE, CHAIRMAN OF THE BOARD, THE STANDARD OIL CO. (OHIO), ACCOMPANIED BY FRANK E. MOSIER, SENIOR VICE PRESIDENT FOR SUPPLY AND TRANSPORTATION, SOHIO

Mr. WHITEHOUSE. I am very pleased with the opportunity to be here, and in the interest of the committees, of the entire problem that we have, not merely our project. I will read a short statement, and then we can go on into questions and answers.

Mr. GRAMM. Let me make it clear that your entire statement will be included in the record, and therefore we would welcome an abbreviated statement or summary to afford us the opportunity to question you.

Mr. WHITEHOUSE. OK, I will skim through it very quickly.

As you indicated, Mr. Mosier is our senior vice president for supply and transportation. On March 13 we announced the abandonment of the Pactex project. Since that time the Government at the Federal,

State, and local levels, has been considering what might be done to substantially shorten the permitting process and the inevitable litigation that led us to drop the project.

I have been asked to speak to what circumstances under which we would reconsider our decision. I will speak to all of these.

First of all, the announcement of the abandonment of the project was really based on the eroding economics of the project. The project was designed to carry to eastern markets that portion of Alaskan productions that could not be absorbed by the west coast. Once Prudhoe came on, and without Pactex, the only alternative was to take the oil through the Panama Canal. It was the total quantity of oil to be moved eastward through Pactex that led us to propose this project 5 years ago. We had hoped that it would be in operation about the time the oil first began to flow. If we could have done it in that time, it would have been very attractive.

With all of the delays during a period when the field is producing, we are now faced, or would be faced even more so at a reasonable start-up time with the reduced volume to put through the line. We have a chart up there. The right-hand chart tries to illustrate this thing very simply and diagrammatically. Basically the bottom line is a projection of west coast demand. The top line is merely a production profile of Prudhoe Bay based on the reservoir engineers' estimates of how the fields will perform in the future.

Mr. CLAUSEN. Is that the existing field?

Mr. WHITEHOUSE. This is just Prudhoe Bay.

Mr. CLAUSEN. These are proven reserves now?

Mr. WHITEHOUSE. These are proven reserves now. We have always justified this line on Prudhoe Bay. We share the thought that there is much more oil to be found up in Alaska, but the exact timing, the exact quantities, make it impossible really to intelligently factor it into this kind of analysis. The first dotted line would show the then-remaining volumes of oil that would be available with a 1982 start-up. The second line shows the volumetric impact of about a 1-year delay. The point I am trying to make with this chart is that unlike some industrial projects we are working against a finite fairly—a volumetric time background that is a good deal more precise and finite than you have. It is a lot like building a manufacturing plant when you run it as long as you are smart enough to think of new things to build in there.

This has always been not a public works project. It was a private project that we did for our own economic self-interest. I think that even Tom Quinn acknowledged to the press after a meeting with Dr. Schlesinger a couple of weeks ago that he had no trouble with the logic of orientalizing it as a project. That is exactly what we have done.

That shows that our time is running out. In fact, it virtually has run out. That is why, given our analysis of the future events and when we would be permitted to start this thing, we announced abandonment. Obviously, we have been hampered throughout this period with a great many permitting and litigation delays. We worked for over 4½ years and spent approximately $58 million seeking the more than 700 permits that would allow our project to begin construction.

Mr. MOFFETT. I will concede to you right off the bat that the vast number of those are very routine, but that does not diminish the fact that they have to be identified and they have to be coped with, which,

given that mass of numbers, implies, and in fact took, a very major effort on our part. It was a complex process overall, and I think you saw this morning, in the delineation of the differences between the CARB and the South Coast Air Quality Group, a part of the problem we have. But when you talk about the evidence of permits, let me try to put a little bit of perspective on that with the second chart.

That chart, the horizontal lines, there are three horizontal lines. The first deals with the project environmental impact report. That is the report on the terminal facility and the pipeline. That is the overall report. The second one deals with the air quality permits, which are the permits that are still working their way through the SACQMD.

The bottom line is the scrubber IR. These are the environmental impact reports that will be required for construction of the tradeoff facility. Just following that top line, that shows that we had an approval of the EIR in January 1978. In February 1978, the adequacy of that report was attacked in litigation and filed in superior court in California.

In March, that case was transferred to the supreme court on technically a procedural issue that I won't bore you with. But we tried immediately—we asked the court to broaden its consideration of the case and not deal with just the procedural issue, but deal with the full substance of whether this EIR was any good or not.

Mr. CLAUSEN. For the record, when you allude to the supreme court, you are talking about the Supreme Court of California?

Mr. WHITEHOUSE. Yes; I beg your pardon. I am talking about pretty much all of California regulatory——

Mr. CLAUSEN. The whole of the court action as far as the superior court and the Supreme Court of California. It has not gone beyond that.

Mr. WHITEHOUSE. That is true.

Mr. MOFFETT. This was on your motion in March 1978. It was removed from the superior court, was it not?

Mr. WHITEHOUSE. Yes; I think it was our motion. We were trying to accelerate the litigation process.

Mr. MOFFETT. I want to go into this more in detail with you later if I have the time. But that amount, regardless of the merits, can be safely said to have caused a 1-year delay, did it not?

Mr. WHITEHOUSE. I can't imagine why it would.

Mr. MOFFETT. We will get into that.

Mr. WHITEHOUSE. I can't explain that 1-year delay, Mr Moffett. I honestly can't. I got so sick of hitting our own lawyers on the head and saying, can't you go down there and just plead with the court to get it on the docket, but no, I can't explain that delay. I haven't been able to get an explanation from anybody.

Mr. MOFFETT. But you are not making any assertions or allegations with regard to that 1 year?

Mr. WHITEHOUSE. No, no; the facts are that it languished for a year. That is all I am saying.

Mr. GRAMM. I think we would like to go ahead and proceed. I would like to ask members of the committee to hold back their questions until we get to the question period. I think if we did that, we could expedite the presentation.

Mr. WHITEHOUSE. Right. And the details of these lines are not all that important, for reasons I will get into.

In any case, in March 1979 it was remanded to the superior court on the procedural issue only, and we are back to square one. And we have a line going out into 1980 with a question mark, not knowing when it would wind up.

On the air quality permits, we had the South Coast Air Quality—they gave a conditional approval of the Sohio project in January 1978. They began what is called phase I of their hearings in about July 1978. They reached a conclusion on the full definition of the tradeoff amounts that needed to be traded off.

I can't follow that, Harland. Is that January 1979?

Right; then that started the phase II hearings, which are the hearings that were talked about this morning and are going to lead to the issuance of presumably another permit by April 20, if that holds. That permi twill undoubtedly be litigated.

You see, a part of the inconsistency—I don't want to bore you with details—but a part of the inconsistency between the State of California Air Resources Board treatment of this project and what we believe to be the South Coast Air Quality's treatment, no matter how it is resolved, creates a superficial lawsuit for whoever wants to attack us, because one or the other has to give way. Then there is a lot of stuff in the records either way that could make somebody argue that this didn't meet the requirements of the law. I don't know how that will come out, but again, you have litigation going beyond the 1980 period.

Finally, the scrubber environmental impact report on the tradeoff facilities, for a variety of reasons, while the PUC was designated the lead agency in June 1978, the EIR expected to issue in June 1979, September 1979, and then you need an EIR approval, and then you get into another litigation.

Now, I want to forget—here is the point, and it was alluded to briefly this morning. That red vertical line depicts the point in time at which we believe that, under existing law, because of the failure or inability or for whatever reasons on the part of the State of California, to file a State compliance plan and program with the Environmental Protection Agency will lead to the declaration of a moratorium on the start of any new construction out there, and that would be ours.

Jumping over that hurdle, the yellow line is an indication of a point in time further down the line before, after we clear up all of the litigation, we feel that we would be safely in a position to go forward with construction. I want to stress the word "safely" because I am not putting any games on this.

There was some talk about being in a position, having a permit, and having an injunction against your starting under that permit. That is not enough for us. In view of the experiences we have, if there is a lawsuit pending against us, whether or not an injunction has been issued, unless our lawyers can either guarantee or give me a hard opinion that it is a frivolous lawsuit, or that it could have no economic impact on the project and on us, we aren't going to go forward until that lawsuit is disposed of.

The last line out there—I am so well versed on my chart, I have forgotten what it is—oh, that is an operating startup date at some point further down the line. The point is, we feel that, with all of

the good will that has been expressed, and I think expressed sincerely, on the part of these regulatory agencies, we are in a catch 22 situation on this project. And it is this kind of thinking that caused us to announce our abandonment.

A final factor, or one element in that, is the fact that we were very recently informed by El Paso Natural Gas that their gas supply situation has significantly improved, and they indicated that El Paso itself might need this line for continued gas service. We have an agreement with El Paso that extends our original agreement, but it is a fairly illusory, month-to-month, anybody can cancel kind of thing.

I don't know the facts on those projections of natural gas. It is not our business. I am not familiar with them. But one other bit of litigation that is pending is an attack on the California PUC decision to release those gas lines from gas service and convert them to crude oil service. Whether in fact there is a need for this line probably isn't as important as the fact that those who are against us have now been the basis for again a colorful case. As I say, I don't know what the true facts are or will be in those future times, but it does cast a doubt about the strength of the arguments that were made at the time the lines were released.

Mr. CLAUSEN. Could you expand on that a little bit? Excuse me for the interruption, because I think we are dealing with a very key point, Mr. Chairman. I think we need to pin down here what the best interest is as it relates to the possible use of this line for a gas line as contrasted with the oil line which is the subject of our proposal. I wonder, do you have any information as to what El Paso's plans are, or should we be hearing that from El Paso, Mr. Chairman?

Mr. WHITEHOUSE. I think you need to get that from El Paso. I am not qualified in substance and in general. We were told that their forecast of production declines in the Southwest was much more pessimistic in those prior years than they have in fact turned out to be. We were told that there is some prospect of the so-called Canadian gas bubble impacting—whether the gas actually works down there or not, or impacting on the flow of gas to California through their system, and very minor—and I don't think terribly important in their thinking, but obviously it has got to be in the back of thier minds, is the prospect of some Mexican gas.

We are not the guys to ask on the gas issue. If the issue of it weren't so important, if the truth weren't so important to us as the apparent additional ammunition that would be provided to those who already have the matter under litigation——

Mr. CLAUSEN. The only reason I asked the question was the reference to this point in your statement where it says, "thus indicating that El Paso might now have need for its gas line." I wanted to know what you had in mind by that statement.

Mr. WHITEHOUSE. That is what we were told. On March 27, 1979, at a hearing before the Senate Committee on Energy and Natural Resources, Representative Calvo of the California Assembly confirmed again what the legislative leadership in Sacramento had advised Sohio in January and February of this year, that the California Legislature would not be expected to declare the project EIR adequate to exempt the scrubber EIR from the requirements of State law or to eliminate lawsuits on the EIR's or on the project or scrubber permits.

Mr. Calvo did confirm the California Legislature's offer to pass the statute of limitations on any such litigation and a resolution asking the California courts to expedite any litigation.

In brief, the California Legislature was most courteous to Sohio, and we are grateful for the help that they did offer. But it was not, in our judgment, nearly enough to do the job.

In view of the past and prospective delays of the Pactex project and the eroding economics of the project, we finally decided, and announced our decision to abandon. It was not an easy decision. I might say in view of some of the comments, particularly before the Senate hearing last week, the decision was made by Sohio's management. Our principal shareholder, British Petroleum Co., was aware of our position, and had been kept up to date on our growing frustration on this, but basically they did not have a part in that decision. They were content to leave that to us. A great deal of surprise was indicated when we announced our abandonment. I am amazed at the surprise, because as far as we were concerned, we have been giving out signals for quite some time that the project was in trouble.

Now, since Sohio announced its abandonment of Pactex, officials at all levels of government have expressed their belief that the project is in the national interest, and that it should still go forward if possible and as soon as possible.

It was suggested that State administrative procedures might be accelerated and that some State and additional Federal legislation might be adopted to allow final answers within a very short period of time.

Maybe all of these things will happen, but based on our experience with this project, I am doubtful. And just so no members of this committee will be misled, I am not asking for anything from anybody. These were volunteered.

I wanted to appear to be responsive and I was responsive. But we are not seeking any particular action on either the State or Federal level. If somebody can work a miracle or make lightning strike, of course, we would have to reexamine the thing very carefully, and how favorable or unfavorable our attitude would be for reexamination depends primarily on the passage of time, although there have been a few other intervening events. My own feeling is that the only legislation that would do the trick would be the tax type legislation, which would be a preemptive thing, and we understand all the problems that Congress has with States' rights and implications of that. We are sensitive to States' rights issues ourselves. That is not a request so much as it is my best and honest assessment of what in reality could change the thing around.

That is pretty well my statement, Mr. Chairman. I appreciate your indulgence.

[Testimony resumes on p. 157.]

[Mr. Whitehouse's prepared statement and attachments follow:]

STATEMENT OF
ALTON W. WHITEHOUSE
BEFORE THE
ENERGY AND POWER SUBCOMMITTEE
AND THE
OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE
OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
APRIL 2, 1979

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I am Alton Whitehouse, Chairman of SOHIO. With me is Frank Mosier, SOHIO's Senior Vice President for Supply and Transportation.

As you know, SOHIO announced the abandonment of its PACTEX Pipeline Project on March 13th. Since then and here today, government at the federal, state and local levels have been considering what might be done to substantially shorten the permitting process and the inevitable litigation that led SOHIO to drop the Project. I have also been asked on what basis SOHIO might reconsider its decision. I'd like to speak to all of these things.

First, SOHIO's abandonment was based on the eroding economics of the project. The PACTEX Project was designed to carry to eastern markets that portion of Alaska's Prudhoe Bay crude oil which could not be absorbed by West Coast

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markets. Once Prudhoe Bay production began, oil in excess of West Coast demands had to be moved eastward, either through the Panama Canal or by a pipeline, like PACTEX.

It was that total quantity of oil to be moved eastward, over the life of the Prudhoe Bay field, that led us to propose the PACTEX Pipeline Project almost five years ago. We hoped it would be in operation about the time oil first began to flow from Prudhoe Bay. If we could have moved this total quantity of oil through the PACTEX Pipeline, it was an attractive economic alternative to the more expensive Panama Canal movement. With all the past delays we had experienced and the prospective ones we still faced, only a much reduced portion of that total quantity of oil would remain to be shipped by the pipeline if we continued to battle it out and could start construction a year or so from now. With every passing day, more of that oil is moving through the Panama Canal and less of it remains to be moved through a PACTEX Pipeline.

Let me show you a chart that graphically displays this economic problem. (Explain the first chart.) As you see, it was this quantity of Prudhoe Bay oil to be shipped that would justify and underwrite a billion dollar SOHIO investment in the PACTEX Pipeline. As that quantity diminishes,

the economic attractiveness of the Project decreases substantially.

Though we have had some differences, even Tom Quinn who represented California at the meeting in Dr. Schlesinger's office following SOHIO's abandonment of the project, recognized our economic problem. Speaking to the press afterwards, he said that our reason was "quite rational", that the project may not be "economic" to SOHIO, and that "SOHIO is a private company, and as with any private company, obviously it is going to make a decision based upon the economics".

That's exactly what SOHIO has done and there is no mystery about it. The eroding economics of this project were clear to us. No answer seemed likely to all the remaining permit and litigation delays, and we couldn't commit a billion dollars to such uncertainty.

Second, let me speak to this uncertainty, to the prospect of continuing delay. Sohio worked for over four and a half years and spent over $50 million seeking more than 700 permits which would allow our PACTEX Project to begin construction. We succeeded in many things, but a number of key matters just wouldn't get resolved. It was a very complex process overall. Attached to my testimony are summary project history and a

separate chronological development of the air quality issues which I think show the difficulties we faced in the regulatory maze.

On the air quality issues about which much has been said, the formal application process began in July 1975 and is still underway. Let me show you a second chart which illustrates the "Catch 22" problem on the air quality permits for the PACTEX Project. (Explain the second chart.)

The air quality "permit track" was just one of many permit tracks being run for the PACTEX Project, and frequently run at the same time. The problems were diverse, and yet always interrelated. Each aspect of the project required the involvement of a wide variety of Federal agencies and departments and every level of state and local government in California, Arizona, New Mexico and Texas.

New regulatory agencies were created in the midst of the permitting process. During this same period, new Federal and state laws were adopted and a wide variety of new Federal and state regulations were put into effect. This pipeline project was technologically simple and really quite conventional. But--the administrative requirements, legally and procedurally, were highly complex and showed every likelihood of going on indefinitely.

When we announced our abandonment, we noted the endless government permit procedures, pending and threatened litigation, and the prospective unavailability of two natural gas lines which SOHIO proposed to convert to the oil pipeline. If anything, this situation has worsened in the last three weeks.

In March, 1978, a lawsuit challenging the adequacy of the Project EIR was transferred from the Superior Court to the California Supreme Court. On March 22, 1979, a full year later, the Supreme Court remanded the case to the lower court without determining the key issue of the "adequacy" of the Project EIR. SOHIO had urged the Supreme Court to exercise its discretionary jurisdiction and decide this issue promptly, but the Court declined to do so. The case now rests in the Superior Court with the prospect of trial there, an appeal to the Court of Appeals, and a final appeal to the Supreme Court, if the PACTEX Project were to continue.

As you may know, El Paso Natural Gas Company had entered into a Letter Agreement with SOHIO for the conversion of an El Paso gas line to a crude oil pipeline as a part of SOHIO's PACTEX Project. On March 26, 1979, El Paso advised Sohio that El Paso's gas supply situation

had significantly improved, thus indicating that El Paso itself might now have need for its gas line. The El Paso-SOHIO Letter Agreement has now been extended from and after March 31, 1979 on a "month to month" basis, "subject to the further right of either party at any time to elect to proceed or not to proceed with their respective responsibilities for the implementation of the Project based upon an evaluation of the circumstances prevailing at that time."

On March 27, 1979, in a hearing before the Senate Committee on Energy and Natural Resources, Representative Calvo of the California Assembly confirmed again what the legislative leadership in Sacramento had advised SOHIO in January and February this year, that the California Legislature could not be expected to declare the Project EIR "adequate", to exempt the Scrubber EIR from the requirements of state law, or to eliminate lawsuits on the EIRs or on the Project or Scrubber permits which might issue. Mr. Calvo did confirm the California Legislature's offer to pass a statute of limitations on any such litigation and a resolution asking the California courts to expedite any litigation filed. In brief, the California Legislature was most courteous

to SOHIO, offered some help, but indicated that they probably could not do everything that might be needed to save the Project.

In view of the past and prospective delays of the PACTEX Project, and the eroding economics of the Project, SOHIO finally decided and announced its abandonment. It was not an easy decision. I might say in view of some of the comments by others in the past week, that the decision to terminate the PACTEX Project was made by SOHIO's management and its board of directors. BP was aware of our decision and understood the degree of futility SOHIO was facing in getting all the necessary government approvals. But the impetus of the decision came from SOHIO, and its basis was just what I have described to you here today.

I am amazed that it surprised anyone. The warning flags had been flying for several months. I had visited with Secretary Schlesinger and others here in Washington, and with Governor Brown and his staff in California. Sohio representatives had been most candid in their contacts with the leadership of the California Legislature. In the past few weeks, many have told us they were surprised that we had held on so long.

Be that as it may--since SOHIO announced its abandonment of PACTEX, officials at all levels of government have expressed their belief that the Project is in the national interest and that it should still go forward if possible and as soon as possible. It was suggested that state administrative procedures might be accelerated, and that some state and additional Federal legislation might be adopted to allow final answers within a very short period of time on the Project's remaining problems. Maybe all these things will happen, but based on our experience with this Project, I am doubtful.

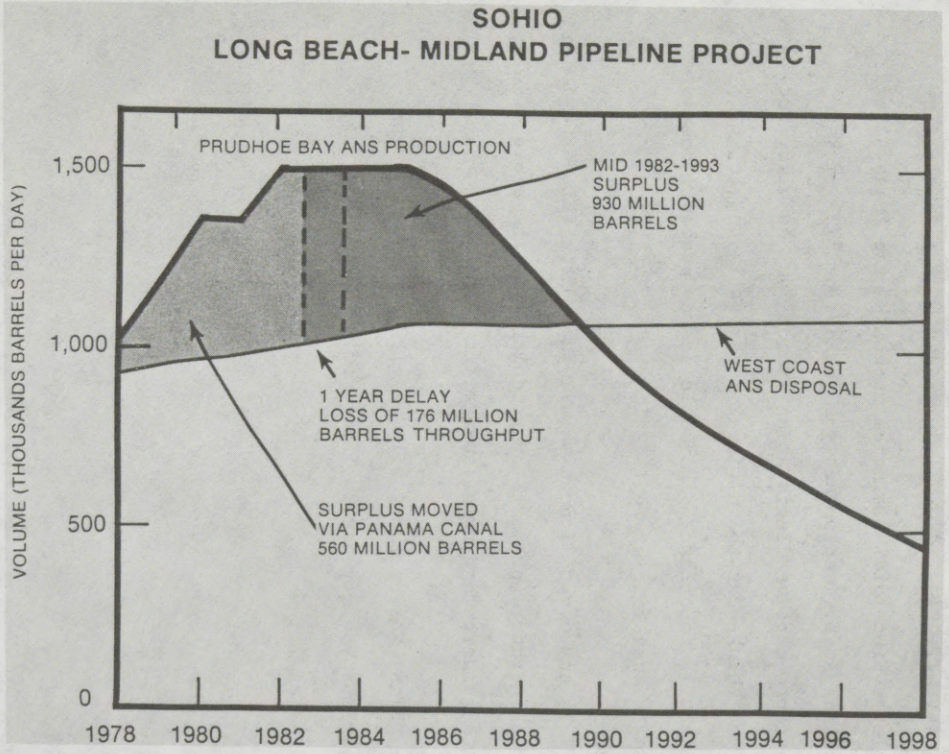
I think it is clear why SOHIO is not committed to the PACTEX Project now. If somebody works a miracle--if lightning strikes quickly--and answers the difficult problems which remain, SOHIO will re-examine the Project in all the circumstances, including the Project economics. We are willing to provide constructive assistance if Congress undertakes to do this. But time and economics are running against all of us.

I understand that several alternative legislative measures are being considered by various members of Congress. I'm not an expert on these things, but I have the feeling that

what it will take, if you wish to do it, is a fairly dispositive piece of legislation much like the Trans Alaska Pipeline Authorization Act you passed in 1973. I know that "pre-emptive" legislation is not very popular, but if you think that the national interest in the PACTEX Project is important, a workable answer probably comes down to that kind of legislation.

In any event, I hope we all learn from this experience and that future projects, particularly in the energy field, are considered and resolved earlier.

Frank Mosier and I will be glad to respond to any questions you may have. Thank you.


SOHIO
LONG BEACH- MIDLAND PIPELINE PROJECT
PRUDHOE BAY ANS PRODUCTION
MID 1982-1993
SURPLUS
930 MILLION
BARRELS
1 YEAR DELAY
LOSS OF 176 MILLION
BARRELS THROUGHPUT
WEST COAST
ANS DISPOSAL
SURPLUS MOVED
VIA PANAMA CANAL
560 MILLION BARRELS
VOLUME (THOUSANDS BARRELS PER DAY)
1,500
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1978
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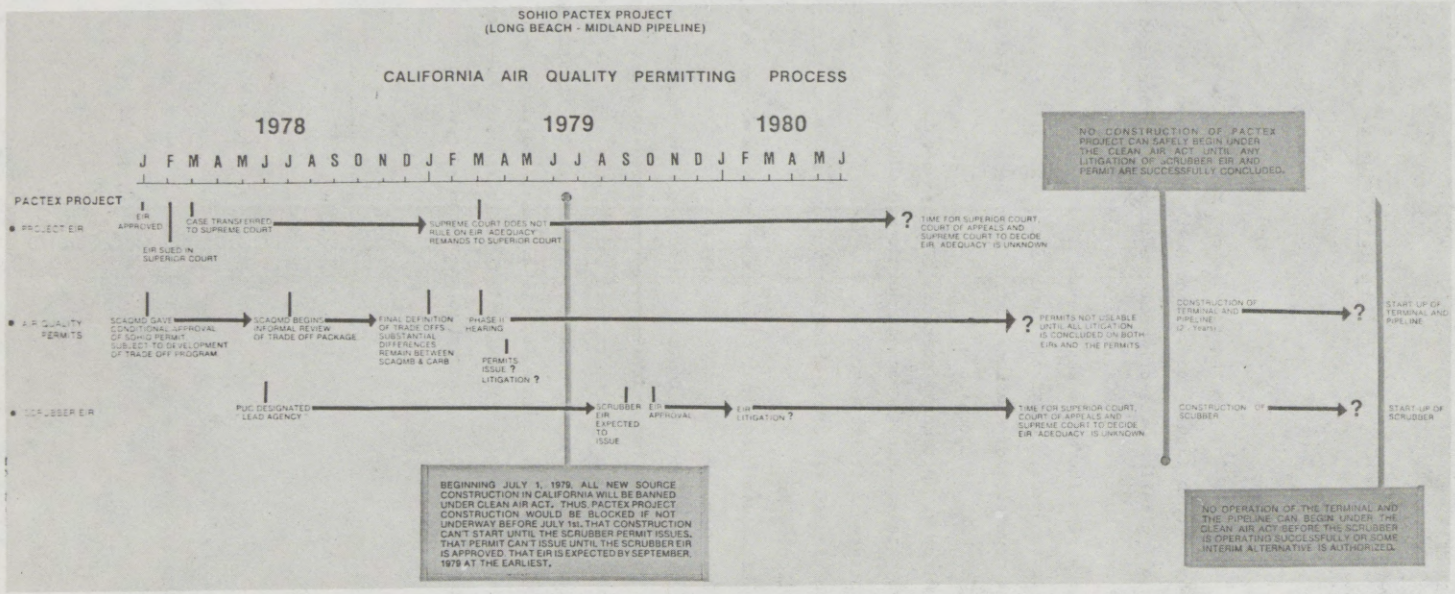
SOHIO PACTEX PROJECT
(LONG BEACH - MIDLAND PIPELINE)
CALIFORNIA AIR QUALITY PERMITTING PROCESS
1978
1979
1980
J F M A M J J A S O N D J F M A M J J A S O N D J F M A M J
PACTEX PROJECT
• PROJECT EIR
EIR APPROVED
EIR SUED IN SUPERIOR COURT
CASE TRANSFERRED TO SUPREME COURT
SUPREME COURT DOES NOT RULE ON EIR ADEQUACY REMANDS TO SUPERIOR COURT
? TIME FOR SUPERIOR COURT, COURT OF APPEALS AND SUPREME COURT TO DECIDE EIR ADEQUACY IS UNKNOWN
• A.P. QUALITY PERMITS
SCAQMD GAVE CONDITIONAL APPROVAL OF SOHIO PERMIT SUBJECT TO DEVELOPMENT OF TRADE OFF PROGRAM
SCAQMD BEGINS INFORMAL REVIEW OF TRADE OFF PACKAGE
FINAL DEFINITION OF TRADE OFFS SUBSTANTIAL DIFFERENCES REMAIN BETWEEN SCAQMB & CARB
PHASE II HEARING
PERMITS ISSUE ? LITIGATION ?
? PERMITS NOT USEABLE UNTIL ALL LITIGATION IS CONCLUDED ON BOTH EIRs AND THE PERMITS
• SCRUBBER EIR
PUC DESIGNATED LEAD AGENCY
SCRUBBER EIR EXPECTED TO ISSUE
EIR APPROVAL
EIR LITIGATION ?
TIME FOR SUPERIOR COURT, COURT OF APPEALS AND SUPREME COURT TO DECIDE EIR ADEQUACY IS UNKNOWN
NO CONSTRUCTION OF PACTEX PROJECT CAN SAFELY BEGIN UNDER THE CLEAN AIR ACT UNTIL ANY LITIGATION OF SCRUBBER EIR AND PERMIT ARE SUCCESSFULLY CONCLUDED.
CONSTRUCTION OF TERMINAL AND PIPELINE (2 Years)
? START UP OF TERMINAL AND PIPELINE
CONSTRUCTION OF SCRUBBER
? START UP OF SCRUBBER
BEGINNING JULY 1, 1979, ALL NEW SOURCE CONSTRUCTION IN CALIFORNIA WILL BE BANNED UNDER CLEAN AIR ACT. THUS PACTEX PROJECT CONSTRUCTION WOULD BE BLOCKED IF NOT UNDERWAY BEFORE JULY 1st. THAT CONSTRUCTION CAN'T START UNTIL THE SCRUBBER PERMIT ISSUES. THAT PERMIT CAN'T ISSUE UNTIL THE SCRUBBER EIR IS APPROVED. THAT EIR IS EXPECTED BY SEPTEMBER, 1979 AT THE EARLIEST.
NO OPERATION OF THE TERMINAL AND THE PIPELINE CAN BEGIN UNDER THE CLEAN AIR ACT BEFORE THE SCRUBBER IS OPERATING SUCCESSFULLY OR SOME INTERIM ALTERNATIVE IS AUTHORIZED.

SOHIO NEWS SERVICE
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03/1379 - 1

ATTACHMENT 1
PRESS RELEASES

For Immediate Release

CLEVELAND, Ohio, March 13--The chairman of The Standard Oil Company of Ohio (Sohio) today announced abandonment of the PACTEX crude oil pipeline project which the company had proposed to build from Long Beach, California to Midland, Texas.

The pipeline was meant to move Alaskan oil, surplus to west coast needs, to markets east of the Rockies. Sohio's marine movements of Alaskan crude oil to West Coast and Gulf Coast markets will continue.

Alton W. Whitehouse stated: "The project killing delays were endless government permit procedures, pending and threatened litigation, and the prospective unavailability of two natural gas lines which Sohio proposed to convert to the oil pipeline."

Whitehouse noted that the once attractive economics for this pipeline had been eroded by years of delay and the added costs brought about by inflation and regulatory requirements.

The project had initially been justified by the volume of Prudhoe Bay oil projected to move through the pipeline to Gulf Coast and Mid-Continent markets. The delays facing PACTEX are so great that the Prudhoe Bay oil available to ship through this pipeline by the time PACTEX could finally start up is not sufficient to justify continuation of the project.

Sohio's chairman also indicated that a key factor in the PACTEX plan was the utilization of two natural gas pipelines which were believed to be available. The plan was to convert them to crude oil use by PACTEX, saving construction time and minimizing environmental impact. Sohio has recently been informed of changes in estimates of availability of gas supplies by gas producing and transmission companies which raise questions about the gas pipelines availability for oil pipeline use, thus posing the prospect of more delay.

Whitehouse added that 1979 income before income taxes will be penalized by a write-off expected to be more than $50 million, including amounts expended to date and cancellation charges. The ultimate amount charged to income will be determined by the estimated recovery from the resale of land and the value, if any, of engineering and environmental studies.

Whitehouse pointed out that Sohio is terminating PACTEX after almost five years of work trying to secure more than 700 government permits, over $50 million in expenditures for engineering and environmental studies, a 61 percent voter endorsement by Long Beach where the project's main facilities were to be located, and extensive verbal support from all levels of government.

"Notwithstanding this effort," he said, "the end of the permitting process is not in sight, and PACTEX has run out of time.

"That a project like the PACTEX pipeline which has been endorsed by all levels of government should experience such difficulty when the country is facing its most serious threat in energy supply must be as astounding to the rest of the country and the world, as it has been to Sohio," Whitehouse said. "We can only hope that federal and state officials and the public will give this some sober reflection

"I'm afraid new major energy projects in the United States have little hope of success today. A quagmire of federal and state regulations now exists that can bog down any project, no matter how worthy and regardless of the national interest. The lesson of PACTEX is that no major energy project can be seriously considered in many areas of the country by industry today unless governmental processes are changed to provide answers within reasonable time periods," Whitehouse said.

He commented on the overlapping regulation of multiple government agencies, particularly in California. "Each agency in effect said, 'We want your project, but do it our way,' and no common path satisfactory to all agencies could be settled upon within Sohio's dollar and time limits.

"Recently Sohio explored the possibility of legislation in California to cut through the red tape. While most legislators were sympathetic, both they and Sohio recognized the difficulties in getting a complete legislative remedy, and the likelihood of further lawsuits and delay even if such legislation were passed.

"I wish to thank the many officials at the federal and state levels who gave Sohio a lot of encouragement, and particularly those who acted on a large number of the permits we needed," Whitehouse said. "The reality, however, is that we have no prospect of completing this project within a time which would allow it to be economically viable."

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03/2179 - 1

For Immediate Release

CLEVELAND, Ohio, March 21--Sohio Chairman Alton W. Whitehouse said today that "the Secretary of Energy and various members of Congress made it very clear in our meeting in Washington yesterday that they wanted the PACTEX pipeline project to go forward promptly in the national interest and that they will do all they can to encourage the issuance of the necessary permits and approvals.

"Sohio is willing to provide constructive assistance to these efforts for a few months to see whether government can finally clear the way for the project to begin," Whitehouse said.

"Even though all the permits may be approved, the potential for delay from litigation remains. If it comes to that, I hope we won't have a lot of lawsuits and that the federal and state courts concerned would reach their decisions promptly," he said.

Whitehouse noted that "past and prospective delays have eroded the once attractive economics of this project. Whether the potential delay of the permitting process and litigation can be substantially shortened is the question."

ATTACHMENT 2

PACTEX PIPELINE PROJECT

This is a background paper on the decision to abandon Sohio's Long Beach, California to Midland, Texas crude oil pipeline project. It describes the scope of the project, its history and current status and discusses some of the considerations leading to the decision to abandon.

In 1974, The Standard Oil Company of Ohio (Sohio) began to actively pursue a pipeline project to move crude oil from the West Coast to the Mid-Continent of the United States. This pipeline project, called the "PACTEX Project," would begin with a terminal in Long Beach, California and extend over 1,000 miles to Midland, Texas. The PACTEX Project would be the first major west-to-east crude oil pipeline in the United States and would have the purpose of moving crude oil which is surplus to the refining needs of the West Coast to refining centers in the central and eastern portions of the country. It would serve as the critical link in a system of efficient, economical and safe transportation of Alaskan crude oil to American consumers, and is clearly of strategic significance in providing a West to East transport system for crude oil. From Sohio's economic perspective, the project had to be judged primarily upon the proven reserves in Alaska's Prudhoe Bay field, the only large, assured source of supply to justify what would be about a $1 billion investment. The level of production of that field will decline from its peak after eight to ten years of production. Each day that goes by after the field's start-up means that there is less oil to be produced from the field and moved through the pipeline. So far production has gone on for a year and a half and, even if our project were to receive the necessary permits tomorrow and there were no delaying lawsuits, we would be looking at another 2-1/2 years before oil could flow

through the pipeline. In view of known and expected lawsuits, that delay will more likely be over 3-1/2 years. Therefore, the economic advantages of the project which we perceived at the time we proposed it--more than four years ago--have decreased as a result of the passage of time, and we are at the point where the economic attractiveness of the project is marginal even if construction were to start almost immediately because the projected production volumes from Prudhoe Bay and the expected West Coast demand would result in insufficient oil to ship through PACTEX to justify the project.

Since 1974, Sohio has worked to acquire the more than 700 essential licenses and permits that would be needed to allow the construction and operation of the PACTEX Project. This pipeline project may well be the most carefully planned and the most thoroughly reviewed project in recent history. Sohio has spent over $50 million preparing reports and plans, anticipating problems and formulating solutions with local, state and federal government agencies. By early 1979, most of the substantive issues relating to the PACTEX Project had been resolved. However, the project continued to be delayed by seemingly endless administrative procedures, inter-agency disagreements and open end potential for legal challenge.

SCOPE OF THE PACTEX PROJECT

Sohio has oil producing leases on the North Slope of Alaska which account for slightly over one-half of North Slope crude oil production. It took an active role in the creation of the Trans-Alaskan Pipeline. Sohio

desired to construct a transportation system for transmission and delivery of North Slope crude oil to areas in the lower 48 states which do not have adequate indigenous production. The primary objective of the PACTEX Project was to move crude oil which is surplus to West Coast needs via pipeline to Midland, Texas for further distribution to Gulf Coast and Midwest refineries.

The PACTEX Project included: a two-berth 500,000 barrel per day oil terminal in the Port of Long Beach capable of handling two 165,000 DWT tankers; storage/surge tanks on Pier J and inland of the port; and construction of a new 42-inch pipeline and utilization of unneeded converted 30-inch natural gas lines for further transmission of crude oil east through Arizona and New Mexico to Midland, Texas.

PROJECT HISTORY

Shortly after the Arab embargo of October 1973, significant changes in the forecasted demand for petroleum products caused Sohio to review the distribution plans for bringing Alaskan North Slope crude oil to lower 48 markets. Forecasts made prior to the Arab embargo had indicated that all of the Alaskan North Slope crude oil could be refined on the West Coast of the United States. Following the embargo, significant changes occurred which indicated a West to East pipeline would be needed to move Alaskan crude oil that could not be absorbed on the West Coast to Eastern markets. These included an initial drop in demand on the West Coast, the scrapping or delaying of plans to modify or enlarge West Coast refineries to handle Alaskan oil, and possible increases in West Coast domestic crude oil production.

During May of 1974, feasibility studies were initiated by Sohio to evaluate alternate transportation routes from the West Coast to the Mid-Continent of the United States. Those studies indicated a clear advantage for a pipeline commencing at San Pedro Bay and extending across the Southwestern United States to refineries and other pipelines in the Mid-Continent.

The selected Southwest pipeline route involved the use of 675 miles of unneeded, existing natural gas pipeline owned by El Paso Natural Gas Company. In May of 1975 Sohio negotiated an agreement with El Paso for the use of that pipeline. El Paso promptly filed an application in June 1975 before the Federal Power Commission for abandonment of the unneeded pipeline so that it could be converted for use to transport crude oil.

In July 1975, agreements were reached between Sohio and the Los Angeles and Long Beach Port Authorities to initiate detailed engineering studies and compilation of environmental data for the required California Environmental Impact Report. At this time discussions were also held with federal agencies to determine which would be the lead agency in development of a Federal Environmental Impact Statement. The Bureau of Land Management (BLM) was subsequently selected.

In January 1976 the Port of Long Beach, acting as a lead agency in California, began to develop the California Environmental Impact Report required under the California Environmental Quality Act (CEQA). The Port of Long Beach's role as lead agency was challenged by a number of California agencies and, as a result, Governor Brown appointed the Office of Planning and Research to determine the appropriate California lead agency. The Office of Planning

and Research designated the Port of Long Beach and the California Public Utilities Commission (CPUC) as joint lead agencies in April 1976.

The California Draft Environmental Impact Report was completed and released in October 1976. Sohio at that time filed an air quality permit application for the pipeline project with the Southern California Air Pollution Control District (APCD). Sohio also initiated a series of technical meetings with the California Air Resources Board (CARB) and the Southern California Air Pollution Control District (APCD) in an attempt to achieve agreement on the level of emissions from individual project components and their tradeoff requirements. Tradeoffs are a method by which a new facility could offset the emissions it adds to the air by cleaning up pollution from other facilities already in operation.

The Federal Draft Environmental Impact Statement was released in November 1976 by the BLM.

Agreement was reached during December 1976 between the CARB and APCD on the emission factors to be applied to each individual emission source associated with the project. Public hearings on both the Draft California Environmental Impact Report and the Draft Federal Environmental Impact Statement were completed during this same month.

Based on the air emission factors agreement reached between the CARB and APCD Sohio filed a supplement to its California air quality permit application in February of 1977. The supplement included proposed restrictions and rules pertaining to the use of the marine terminal, proposed guidelines

for selecting acceptable tradeoffs, and a tradeoff package containing tradeoffs to offset the highest operational mode emissions for each of the four types of air pollutants. Parts of this supplemental application were rejected by the CARB during the following month.

The California Environmental Impact Report was published and distributed in April 1977. The Port of Long Beach certified this report in May, followed by certification by the CPUC in June. Subsequent to its certification of the Environmental Impact Report, the Port of Long Beach filed an application with the California Coastal Commission (CCC) for port and pipeline facilities to be located in the coastal zone.

Both the CARB and South Coast Air Quality Management District (SCAQMD) initiated hearings on the project during July of 1977. Hearings before the California Coastal Commission (CCC) were begun in October 1977. Wording in the permit allowed for reapplication for the location of not more than three storage tanks on Pier J. CCC staff analysis subsequently recommended three tanks be located at the pier.

A draft supplement to the Environmental Impact Report was submitted and hearings were held with respect to this supplement. Preparation of the supplement to the Environmental Impact Report was undertaken by the Port of Long Beach and the California Public Utilities Commission to describe the impact of the changes in the project brought about by discussions with many permitting agencies. Certification of the final supplement to the Environmental Impact Report by the Port of Long Beach occurred in December 1977 and certification by the California Public Utilities Commission was adopted during January the following year. Also during January of 1978 the SCAQMD made its

preliminary findings and orders. These findings and orders came after holding fourteen full days of hearings spread out over the period July 1977 through January 1978. The elapsed time involved was due to procedural and data lead time requirements.

The California Coastal Commission began hearings during January of 1978 on the permit amendment to allow only three tanks on Pier J. In February the Commission asked for further information. In April the Commission determined that additional air quality information was needed before they could act. During May applications were filed with the Commission for a June hearing. The Commission could not act on the permit amendment in June and more information was requested. The Commission finally heard the request for amendment during September but no action was taken. In October the Commission finally voted and the amendment to permit three tanks on Pier J recommended by the CCC's staff was denied. Although the vote was 6 to 5 for approval, under the Commission rules, 7 approving votes are required.

Concurrently, during the spring and summer of 1978, Sohio continued negotiations with Southern California Edison (Edison) towards an agreement on the scrubber package to be installed on Edison facilities and paid for by Sohio. This agreement was an integral part of the tradeoff package as outlined in discussions with the CARB. These negotiations continued until a final agreement was signed on August 18, 1978. Late in the negotiations between Edison and Sohio the SCAQMD raised several issues regarding the scrubber package in a letter to Sohio. The resolution of these issues would require substantial amounts of additional research and evaluation. The District's request for more information required a postponement of

further hearings until this additional information could be gathered.

During the summer of 1978 the opponents of the PACTEX Project in Long Beach obtained enough signatures to place the Port of Long Beach-Sohio agreement on the November ballot. The Long Beach voters approved of the agreement by a 61 percent to 39 percent vote margin.

STATUS--EARLY 1979

The above discussion is only a brief outline of some of the high points in the complex history of this project. This brief recital of the difficulties faced by the project and the tremendous amount of time required to resolve those difficulties may give the impression that not much has been accomplished. In fact, substantial progress was made in designing and redesigning a project which would meet the highest standards demanded by federal, state and local authorities.

-- The United States Environmental Protection Agency (EPA) has issued almost all federal air quality approvals required by the PACTEX Project.

-- All other federal permits and approvals required to permit the project to proceed have been issued or soon would be prepared for issue.

-- The Congress of the United States recently found that "expeditious federal and state decisions for west-to-east crude oil delivery systems are of the utmost priority" and enacted expediting legislation for all federal permits and approvals for such a system.

-- The other states within which the project would operate (Arizona, New Mexico and Texas) have issued or are prepared to issue promptly all necessary approvals for the PACTEX Project in their jurisdictions.

-- The PACTEX Project has been the subject of extensive studies and extensive public hearings before all affected California state and local agencies, most substantive issues have been reviewed, a massive record has been accumulated, and many issues have been resolved.

-- With the approval of a large majority of the voters of Long Beach, the Port of Long Beach has approved a lease to Sohio for the marine terminal associated with the PACTEX Project.

-- Agreements have been reached with El Paso Natural Gas and Southern California Gas Company which would permit the project to utilize hundreds of miles of existing pipeline system which are currently unneeded.

-- Sohio has invested almost five years and over $50,000,000 in designing the project and seeking the approval of the over seven hundred licenses and permits required by the federal government, state governments of four states, and a variety of local government bodies.

-- Sohio committed itself to the California Air Resources Board to a precedent setting emission tradeoff package estimated to cost in

excess of eighty million dollars which, if constructed, would result in a net benefit to Los Angeles Basin air quality.

While much was accomplished, much still remained to be done. Essentially all of the unresolved questions involved environmental reviews and approvals by State of California agencies. Each of these unresolved issues taken in isolation might appear to be susceptible to resolution within the existing legislative, regulatory and procedural system. But they cannot be taken in isolation and time was of the essence. Numerous state and local agencies have jurisdiction over the same or related issues. The complexity of the issues, the number of agencies involved, and the procedural requirements of law, gave rise to a lurking fear that a final answer could not be achieved or, what is more important, that it would be impossible to predict how long it will take to secure a final answer. Also, there is always the potential that someone won't like the answer and the whole situation then simply shifts to extended judicial proceedings.

The problem does not necessarily derive from substantive deficiencies in the environmental standards and requirements imposed by the numerous state and local agencies. The real problem is the difficulty--perhaps the practical impossibility--of securing an answer--a timely answer--to the ultimate question of whether and under what conditions the project can be built.

A LEGISLATIVE SOLUTION SOUGHT

The PACTEX Project management continued to vigorously pursue every potential

administrative avenue to secure agency approvals of the project. In the meantime, Sohio began to explore possibilities for the passage of California legislation to expedite final administrative and judicial decisions determining the viability of the project. It was felt this might be done in a way that would leave unchanged the basic substantive requirement of California law and environmental standards, while at the same time assuring that a final decision be reached in a timely fashion.

The principal elements of the proposed legislation were as follows:

-- A legislative determination that the Environmental Impact Reports prepared and certified by CPUC and the Port of Long Beach satisfy the requirements of CEQA and that all remaining California agency decisions including the CPUC action on the emission tradeoff, shall be taken without further action under CEQA.

-- A legislative determination that the CPUC decision in favor of converting Southern California Gas Company's transmission facility for use in the PACTEX Project is in compliance with CEQA, and no further action under CEQA is required with respect to that decision.

-- A legislative determination that CARB should be vested with exclusive jurisdiction over all project air quality permits and should proceed to act on such permits within specified times, relying upon the record already made before SCAQMD, supplemented by such further testimony or evidence as CARB requires.

-- A legislative direction to CARB and all other affected agencies to make all necessary decisions within specified time limits.

-- A provision that suits challenging the validity of the legislation or challenging any agency decision on the project shall be filed in the appropriate Superior Court and that all such litigation would be given precedence over other matters to facilitate prompt decisions.

During January and February 1979, Sohio representatives met with many members of the California Assembly and Senate to discuss the feasibility of legislation containing the above elements. While most legislators gave us a sympathetic ear and some offered real assistance on parts of the legislative program, both they and Sohio recognized the difficulties in getting a complete legislative remedy. Legislators also agreed with Sohio that even if comprehensive legislation were adopted, protracted litigation could still destroy the project's economic viability.

Much has been said recently about the possibility that at the very time Sohio announced its decision to abandon the project, two major permits were about to be issued by the state. The impression may have been given that if these two permits were issued, the project could immediately proceed. This was not true and is not true. There are other problems just as vital which must also be solved before the project could go ahead. There follows a list of some of these problems.

State of California Issues

I. Pending Litigation

A. California Environmental Impact Report. A suit challenging the adequacy of the basic project EIR has been pending in the

California Supreme Court for one year. On March 22, 1979 the Court remanded the case to the trial court for hearing. Thus the appeal process starts over from the beginning. No construction can begin until the EIR is declared adequate.

B. Gasline Withdrawal. The California Public Utilities Commission has approved the withdrawal of a segment of natural gas pipeline for conversion to use in the PACTEX system. This decision is currently on appeal in the California Supreme Court.

II. Scrubber Permit. No permit can be issued for construction of the scrubber which comprises a major portion of the Sohio tradeoff package until completion and approval of an Environmental Impact Report. The draft Report is being prepared by the California Public Utilities Commission and is not expected to be issued until about September 1979. Unless existing procedures are changed or made not applicable, this permit could not issue until some later date.

III. Resolution of Final Tradeoff Description. It has been predicted that there will be early approval of an Air Quality Permit by the South Coast Air Quality Management District and that the California Air Resources Board will endorse such approval. Even if this is so, there is a potential for further delay in the implementation of this permit involving the two regulatory agencies plus Sohio and the Southern California Edison Company.

IV. Future Litigation. Virtually any yet to be issued permit or approval can be challenged administratively and through the courts. The principal party in the currently pending litigation has promised to file additional suits in the future. The following is a list of actions most likely to attract future lawsuits:

A. California Coastal Commission Permit

B. Adequacy of Sohio EIR. In addition to the pending court challenge, additional lawsuits are possible, raising the question of whether the tradeoffs were required to be analyzed in a PACTEX EIR supplement rather than in a separate EIR.

C. South Coast Air Quality Management District Permit. Challenges to the permit could be directed both at the specific tradeoffs approved and at the SCAQMD's interpretation of the New Source Review Rule. In addition, the permit could be challenged for non-compliance with the California Environmental Quality Act since no supplemental EIR on the tradeoffs was prepared.

D. Scrubber EIR. As mentioned above, a new EIR is being prepared on the scrubber by the California Public Utilities Commission. This could attract additional litigation.

E. Scrubber Permit. The permit itself could be challenged.

F. Miscellaneous Challenges. There are a variety of other identified but lower-risk litigation possibilities arising under state law, ranging from matters of eminent domain to a variety of state and local leases.

Federal Issues

The United States Environmental Protection Agency has issued almost all Federal air quality permits for the project and all other Federal permits and approvals required to permit the project to proceed have been issued or soon would be prepared for issue. There are, however, still substantial risks of litigation which could fatally delay the project.

I. Scrubber Tradeoff. There are several ways that lawsuits could be brought challenging the yet-to-be-approved scrubber under the Federal Clean Air Act.

II. New Source Construction Ban. If the PACTEX Project is not under construction by July 1, 1979, there is a risk of litigation arising out of the "New Source Construction Ban" of the Clean Air Act.

III. Other Litigation. There are several other identified but lower risk litigation possibilities arising under Federal law. Our experience suggests, however, that we are frequently unable to anticipate the nature of challenging litigation.

In view of the dependence of this project upon Prudhoe Bay production, the time of commencement of the project is extremely crucial to its economic attractiveness. It is of no use to us to have a permit issued unless that permit has cleared all legal hurdles and can be relied upon by Sohio before it commits itself to a billion dollar investment.

In early March 1979 Sohio management reviewed the project status and the results of efforts by it on the legislative and administrative fronts and assessed the prospects of timely resolution to the remaining problems. At that time they decided to abandon the PACTEX pipeline project. A press release announcing that decision was issued on March 13, 1979.

CONCLUSION

This project is the victim of the inexorable passage of time. It is the passage of time which causes the declining economic attractiveness of the

investment. The company finally and reluctantly concluded that, considering the collective effect of the substantial number of significant, unresolved problems, time has run out and the PACTEX pipeline project must be abandoned. The principal considerations in the decision can be summarized as follows:

1. Economic. As large quantities of Prudhoe Bay crude oil are moved to market by other means, as the cost of the pipeline and terminal project have escalated and as delays in start-up of the project have continued, the economic advantages of the project have decreased to the point where it is no longer economically attractive.

2. Permitting Delays. After over four years of work directed towards securing the over 700 permits required to allow this project to proceed and seeking to overcome legal challenges to the project, we are still not within sight of the end of the process, and it would be unreasonable to assume that the process could be completed within a reasonable time frame.

3. Litigation. Without preemptive California legislation, extensive time consuming litigation was assured. Three cases are already in the California courts. Even if Sohio's proposed California legislation were passed with an urgency clause, litigation challenging the legislation itself or actions of various California governmental agencies taken pursuant to that legislation had to be expected. Even if such litigation were given expedited treatment by the California courts, we had every reason to conclude that it would necessarily be so protracted that the project would be delayed for a substantial period of time.

4. Legislative Solutions.

State Legislation. Proposed California legislation was discussed with legislative leaders and members of the Administration. Urgency legislation requiring a two-thirds majority of both Houses of the California Legislature would have to include major substantive and procedural changes in or exemptions from California law. Controversial legislation raising serious questions of precedent and principle for many legislators would be extremely difficult to pass. Even the most favorable legislation theoretically possible would involve inevitable procedural delays in starting construction.

Federal Legislation. Virtually all federal permits and approvals required for the project to proceed have been issued or are prepared for issuance. Almost all remaining procedural and legislative obstacles derive from matters of California law and procedure. The prospect for federal legislation which would override the California problem and allow the project to proceed did not seem to be encouraging. Even if such legislation were politically realistic, it seemed unlikely that it could be adopted in time.

5. Gas Pipeline Availability. The PACTEX pipeline would involve the use of unneeded, existing natural gas pipelines owned by El Paso Natural Gas Company and the Southern California Gas Company. Sohio became concerned that the recent public discussion and projection of increased natural gas supplies domestically, as a result of the Natural Gas Policy Act of 1978, and from Mexico could create yet another issue which might be used to side track the timely

resolution to all barriers to the completion of the PACTEX pipeline project.

Even under the most optimistic assumptions regarding the substance of decisions yet to be made by administrative agencies and by the courts, Sohio concluded that it was impossible for those decisions to be made soon enough for the project to survive. Therefore, Sohio reluctantly terminated the PACTEX pipeline project on March 13, 1979.

THE STANDARD OIL COMPANY OF OHIO (SOHIO)
Midland Building
Cleveland, Ohio 44115
April 2, 1979

ATTACHMENT 3

PACTEX PIPELINE PROJECT
CHRONOLOGICAL DEVELOPMENT

October 1973

The Arab Oil embargo of 1973. Events and trends following the embargo altered the outlook for future crude oil distribution patterns. Key factors include lower demand resulting from higher petroleum prices and conservation measures and intensified efforts for increased domestic crude oil production.

February 1974

Sohio completes an initial examination of the probable impact of these factors on West Coast crude markets. A key conclusion is that with a flow of Alaskan North Slope crude oil, a domestic crude oil surplus will develop on the West Coast beginning about 1978. Sohio informs federal government of the problem.

NOTE: Forecasts made prior to the Arab embargo indicated that the West Coast could absorb the Alaskan crude. Post Arab embargo trends altered that outlook considerably.

June 1974

Sohio publicly announces that pipeline feasibility studies have been initiated and commences a program to advise concerned governmental bodies of the need for a pipeline.

January 1975

Sohio selects the southern pipeline route and selects Long Beach, California site for the marine terminal.

May 1975

Negotiations with El Paso Natural Gas Company are concluded. El Paso will seek abandonment of one of several westbound existing gas lines for conversion to eastbound crude oil transportation service. Use of the El Paso line will provide approximately 675 of the 1,000 mile pipeline from Southern California to Texas.

June 1975

El Paso Natural Gas Company files an application with the Federal Power Commission to allow abandonment of the idled El Paso natural gas lines from natural gas service so that they can be made available for crude oil service (FPC Docket No. BP75-362).

July 1975

Sohio files applications with both the Los Angeles and Long Beach port authorities and enters agreements to initiate detailed engineering and compile the environmental data necessary to complete the California required Environmental Impact Report (EIR).

El Paso files applications with the Bureau of Land Management to convert the gas line from natural gas to crude oil service and begins a program to convert other easements in Arizona and New Mexico (BLM applications A-#9140 and NM-#26713).

Sohio initiates discussion with involved governmental agencies regarding which federal agency will perform the "lead agency" role in preparing the EIS.

September 1975

The Sohio Transportation Company is formed as a wholly-owned subsidiary of The Standard Oil Company (Ohio) and on September 12 files an application with the Bureau of Land Management for easements across Federal lands (CA-#3242).

Sohio initiates an intensified program to brief affected governmental agencies at both the federal and state levels concerning the scope and rationale of the project.

November 1975

The first submission to the Bureau of Land Management of data which will be required for the development of a Federal Environmental Impact Statement is made.

December 1975

EPA informed Sohio by letter that NSR permit would be required.

January 1976

The Port of Long Beach, acting as lead agency in California, begins to develop the California Environmental Impact Report required under the California Environmental Quality Act.

February 1976

The Port of Long Beach's role as lead agency was challenged by a number of California agencies. As a result, the Office of Planning and Research is appointed by Governor Brown to determine the appropriate lead agency.

March 1976

Joint federal/state task force formed to provide consultation between EIR and EIS teams.

April 1976

The Office of Planning and Research designates the Port of Long Beach and the California Public Utilities Commission as joint lead agencies after consideration of other California agencies including the State Lands Commission, the California Coastal Commission, and the California Air Resources Board.

The completed Environmental Impact Assessment is submitted to the Bureau of Land Management. Sohio suggests use of a "tradeoffs" approach for handling air quality concerns.

Negotiations are concluded with the Southern California Gas Company for the 125 mile gas line segment in California. Together the two gas line segments provide approximately 800 miles of the 1,000 mile pipeline project.

July 1976

Navy announces completion of an assessment of the various alternatives for transporting Elk Hills crude oil. The construction of a pipeline south from Elk Hills to tie-in with the Long Beach to Texas pipeline near Redlands, California, is rated high relative to other alternatives on both environmental and other criteria.

August 1976

Sohio releases air quality study which defines project related air emissions in detail and which explains the relationship between the proposed project and crude oil deliveries to existing southern California port facilities. The relationship between the project and alternative methods of transporting Elk Hills crude is also explained.

September 1976

A number of California state agencies actively advocated use of an offshore port facility in a central California port as the appropriate site for the port to serve the PACTEX pipeline project. The California Office of Planning and Research is appointed to conduct a study of California port sites.

Hearings before the Senate Interior and Commerce Committees and a Subcommittee of the House Interior Committee result in publicity which highlights the importance of resolving issues relating to the distribution of Alaskan crude oil.

October 1976

The California Draft Environmental Impact Peport is completed and released. ARB adopted Resolution 76-39, NSR rule for Air Pollution Control District, requiring emission tradeoffs and ARB concurrence in major permits. Sohio files air quality permit applications for the project, and a series of technical meetings with the California Air Resources Board and the Air Pollution Control District is initiated in an attempt to achieve agreement on the level of emissions from individual project components and tradeoff requirements.

November 1976

The Federal Draft Environmental Impact Statement is completed and released. Sohio files air quality permit applications for the project with the Environmental Protection Agency.

The California Office of Planning and Research completes a study on the appropriateness of California port sites. The scope of the California Environmental Impact Report is expanded to include a study of the Guadalupe Dunes area.

December 1976

Sohio, California Air Resources Board, and the Air Pollution Control District reach agreement on emissions factors to be applied to each individual emission source associated with the project under various assumptions regarding emissions controls and their effectiveness. There remained uncertainty in a number of areas including control assumptions and enforceability as well as tradeoff guidelines.

Public hearings on both the Draft Environmental Impact Report (California) and Draft Environmental Impact Statement are completed.

EPA requested additional information from Sohio.

EPA promulgated an "Interpretive Ruling" establishing criteria for approval of new sources in non-attainment areas, including requirement that emission offsets be greater than proposed new source emissions.

February 1977

Sohio concludes a joint research program with Chicago Bridge and Iron Corporation (large crude oil storage tank manufacturer.) The studies establish the state of the art with respect to calculating emissions from floating roof tanks and demonstrate the most effective combination of tank seals with respect to limiting storage tank hydrocarbon emissions.

Sohio files a supplement to the California air application. The supplement includes proposed restrictions and rules pertaining to use of the marine terminal, proposed guidelines for selecting acceptable tradeoffs, and a tradeoff package containing tradeoffs to offset the "highest operational" mode emissions for each of four types of air pollutant.

March 1977

The California Air Resources Board rejects portions of the February 1977 tradeoffs package.

April 1977

Sohio submits a fifty-page response to questions contained in the California Air Resources Board's March letter.

Final EIR is published and distributed.

May 1977

The 3,000 page California Environmental Impact Report is certified by the Port of Long Beach. The Port of Long Beach files an application with the California Coastal Commission for port and pipeline facilities to be located in the coastal zone.

Phase I, the pre-environmental phase of the Federal Power Commission proceedings is completed. FPC Administrative Law Judge Convisser rules in favor of abandonment after considering a number of alternative future gas supply scenarios.

State CCC ruled that it would take initial jurisdiction over PACTEX project.

June 1977

The California Public Utilities Commission certifies the California Environmental Impact Report.

The 3,000 page Federal Environmental Impact Statement is completed and released to the Council on Environmental Quality.

The South Coast Air Quality Management District completes preliminary review of the Sohio application and informs Sohio of the conditions under which a permit can be granted. The SCAQMD sets a tradeoff requirement of 120% of the highest operational mode.

July 1977

The State of California files with the Federal Power Commission to reopen the Federal Power Commission Phase I proceedings due to Mexican gas considerations.

The State of California files with the Federal Power Commission Phase II (environmental proceedings) arguing that abandonment of the El Paso gas line is not in the public interest because of the availability of other pipeline alternatives which are potentially more economic and more environmentally sound and because the FPC has recommended deferring a decision on the western leg of the proposed Alaskan North Slope gas transmission system.

The South Coast Air Quality Management District initiates a series of hearings on the PACTEX project.

ARB holds the Saturday hearing on project immediately prior to start of SCAQMD hearings.

August 1977

The Federal Power Commission rejects California's motion to reopen the Phase I proceedings. Administrative Law Judge Convisser completes Phase II (environmental phase) of the FPC proceedings and rules in favor of abandonment of the El Paso natural gas line.

Congressional hearings are held by both the House Interior Subcommittee on Special Investigations and the House Interstate and Foreign Commerce Subcommittee on Energy and Power. The hearings highlight the position of the various parties and reveal the differing tradeoff requirements and standards of the three involved air agencies.

California Coastal Commission Public Hearing.

Navy completes the Draft Environmental Impact Statement and public hearings on distribution of Elk Hills crude and expresses a clear preference for the Elk Hills-Sohio tie-in on environmental and other grounds.

September 1977

SCAQMD hearings continue on air quality construction permit.

Senate Energy Committee reports out expediting legislation (H.R. 4018, S. Rpt. 95-442).

Sohio reduces size of project from 700,000 to 500,000 bbls./day and from 3 berths to 2 berths.

October 1977

California Coastal Commission approves basic coastal permit, but requests that an amendment be filed for no more than three tanks on Pier J.

SCAQMD hearings continue on air quality construction permit.

SCAQMD staff prepares a major supplement to their Staff Report - Supplement #3.

November 1977

SoCal gas line abandonment application submitted to California Public Utilities Commission on November 18.

California Department of Fish and Game stream crossing permits granted.

SCAQMD hearings continue.

Public Hearings on Draft Supplement to Final EIR.

December 1977

President Carter declares construction to be in national interest (December 21, 1977 Statement).

Hearings on abandonment of SoCal gas line before California Public Utilities Commission.

SCAQMD hearings continue.

BLM staff submitted Program Decision Options Document to DOI Secretary Andrus recommending approval of ROW grants subject to certain stipulations.

Port of Long Beach certified Final Supplement to EIR.

January 1978

California Los Angeles Region Water Quality Control Board permit granted for dredging and related port activities.

Santa Ana Regional Water Quality Control Board permit granted for stream crossings.

SCAQMD makes preliminary findings and orders after 14 full days of hearings over the period of July 1977 through January of 1978.

CPUC adopts final EIR.

California Coastal Commission hearing on Permit Amendment for 3 tanks on Pier J.

February 1978

Colorado Desert Region Water Quality Control Permit granted for Colorado River crossing.

Local project opponents file suit against project EIR.

California Coastal Commission decides more information is needed before they can act.

March 1978

Arizona State Lands Commission grants Colorado River crossing permits.

Local court sends EIR challenge to California Supreme Court.

April 1978

California Coastal Commission determines that additional air quality information is needed before acting.

May 1978

Applications filed with California Coastal Commission for June hearing.

Sohio Edison agreement work continues

- EIR for scrubber issues are raised
- IRS tax questions relative to scrubber tax treatment reviewed
- FERC's final decision on abandonment reached (4-A, May 26, 1978)
- SCAQMD files final findings, decision and order relative to the first phase of air quality hearings which were completed in January
- Agreement in principle is obtained with Port of Long Beach covering required land and water areas for project
- Filed for L.A. County Conditional Use Permit for tank farm

June 1978

Permit conditions for air quality construction permit are resolved with ARB.

Sohio/Edison agreements in final drafting stage.

Port Agreement for lease of harbor area reached and signed on June 23. Second reading for June 30 stopped by temporary restraining order obtained by project opponents.

Opponents of the project filed a lawsuit on June 29, challenging the provision in the agreement with the Port of Long Beach which says construction must begin within 90 days of the effective date of the agreement.

California Coastal Commission failed to act on permit amendment. More information requested.

ARB circulates permit conditions to DOE, EPA, SCAQMD.

July 1978

PACTEX-Edison agreement on scrubber reached.

California Public Utilities Commission agrees to be lead agency for scrubber EIR providing Edison is an applicant.

DOI-BLM approves new construction permits on most Federal lands on July 26.

Port of Long Beach/PACTEX agreement approved by Board of Harbor Commissioners on July 6.

Local project opponents begin drive to place project on November ballot.

Sohio submits a tradeoff package to SCAQMD which includes a SO_2 scrubber.

Sohio signs an amended lease agreement with El Paso to conform El Paso's financial position to FERC ruling 4-A issued May 26, 1978.

August 1978

SCAQMD raises several issues regarding scrubber (in a letter to Sohio) which will require substantial amounts of additional research and evaluation.

As a result, Phase II air quality hearings are postponed into early 1979.

EPA Region X (Texas) PSD permit application filed.

PACTEX-Edison agreement signed on August 18.

Local opponents successful in obtaining enough signatures to place Port/PACTEX agreement on November ballot.

EPA issues draft of proposed project air permit.

El Paso files request for reclarification with FERC on August 24.

Edison and Sohio notify California Public Utilities Commission they will be co-applicants before California Public Utilities Commission for an EIR on the scrubber.

Pactex Pipeline Company files a petition for declaratory order with FERC concerning the regulatory accounting treatment of pollution control "trade-off" investments.

PACTEX and SoCal Edison file a ruling request with IRS covering the tax treatment of those facilities to be installed on Edison's power plant as part of any tradeoff package.

September 1978

California Coastal Commission heard request for amendment to permit three tanks on Pier J. (Straw vote showed 5 yes and 3 no votes. Six yes votes required.) No action taken by Commission.

Responded to SCAQMD's request for more information by indicating a need for postponement of hearings until additional required information could be gathered.

Edison applies to SCQAMD for construction permits for scrubber and de-nox unit.

October 1978

California Public Utilities Commission approves abandonment of SoCal gas line - October 17, effective November 16, 1978.

L.A. County grants conditional use permit for tank farm.

EPA grants a conditional air permit on October 13.

Senate and House agree to Conference Report expediting PACTEX project. (Senate October 9, 1978, House October 15, 1978; Title V, Public Utilities Regulatory Policies Act of 1978 portion of NEP.)

California Coastal Commission denies the amendment for three tanks on Pier J by a vote of 6 to 5 for approval; 7 approving votes required for passage.

November 1978

Long Beach voters approve PACTEX-Port of Long Beach Agreement by a 61% to 39% margin.

Corps of Engineers approve Colorado River crossing permit.

President signs NEP November 9, 1978. All federal agencies required to issue all federal permits necessary for construction and operation of PACTEX by December 9, 1978.

EPA formally approves the New Source Review Rule of the State of California which effectively delegates the Federal new source review function to the State.

Opponents of the project filed a petition for rehearing with the CPUC covering the SoCal abandonment ruling. This petition was effectively filed on November 15, one day before the end of the 30 day challenge period. There is a 60 day period for CPUC to respond to this rehearing petition.

December 1978

CARB publishes a Model New Source Review Rule which may impact on the acceptability of the Sohio tradeoff package.

The lease agreement between Sohio and the City of Long Beach Harbor Department is officially signed on December 22.

January 1979

The Port of Long Beach sends a copy of the lease agreement with Sohio to the Federal Maritime Commission for approval pursuant to Section 15 of the Shipping Act of 1916.

The 60 day period within which the CPUC is to respond to project opponents' petition for rehearing on the SoCal gas abandonment issue expires January 15.

No action has been taken by CPUC and as of January 17, 1979 this five member Commission had only two seated members.

It was during January 1979 that Sohio officials began meeting with executive department officials of the State of California and representatives of the California legislative leadership. These meetings were to explore the legal and political feasibility of passing California legislation which would expedite the decision-making process on the remaining permits and the pending and expected lawsuits which could be expected to delay the project commencement at least until 1980.

February 1979

Work continued to process the remaining permits and to prepare for scheduled administrative hearings. Sohio presented a draft of the PACTEX pipeline expediting legislation to key California legislators and discussed plans for introduction of the legislation.

March 1979

Work continued to complete the permitting process in California. Hearings began before the SCAQMD on the Phase II air quality issues. The California Coastal Commission set a hearing for March 19 on the Sohio application for an amendment to the Coastal Permit. On March 13, 1979, Sohio announced its intention to abandon the PACTEX project.

ATTACHMENT 4

PACTEX PIPELINE PROJECT
CHRONOLOGICAL DEVELOPMENT
AIR QUALITY ISSUES

May 1975

Following over a year of engineering studies and feasibility analyses of various pipeline routes to transport Alaskan crude oil from the West Coast to mid-continent markets, Sohio determined that the Southern route was preferable. The Ports of Long Beach and Los Angeles were both under consideration as possible locations for the marine terminal facilities. Preliminary meetings were held with California Executive Departments and legislative representatives to brief these officials on the proposed project.

July 1975

Sohio filed applications with both the Los Angeles and Long Beach Port Authorities and entered agreements to initiate detailed engineering and environmental studies required to complete the California Environmental Impact Report (EIR).

November 1975

A public meeting was held with State Executive Departments and representatives of the public to discuss the project and to consider the appropriate lead agency for the preparation of the California EIR. A preliminary agreement was reached that the Port Authority of the port selected for the terminal would be the appropriate lead agency.

December 1975

Sohio selected Long Beach as the appropriate location for the terminal facility. Previous studies completed by the port and by engineering firms retained by Sohio provided the initial basis for the proposed EIR.

February 1976

The Port of Long Beach's role as lead agency was challenged by a number of California agencies. As a result, the Governor requested the Office of Planning and Research to recommend the appropriate lead agency.

March 1976

A joint Federal/State task force was formed to facilitate consultation and coordination of the Federal and State efforts on the Federal Environmental Impact Statement and the State Environmental Impact Report.

April 1976

The Office of Planning and Research designated the Port of Long Beach and the California Public Utility Commission as joint lead agencies. The completed Environmental Impact Assessment was submitted to the Bureau of Land Management. Sohio suggested the use of a "trade-offs" approach for handling air quality concerns. (The Federal Clean Air Act required that there be no new sources of designated pollutants in non-attainment areas such as the Los Angeles Basin unless such sources would not interfere with bringing the area into attainment.) The co-lead agencies began the process of drafting the EIR which ultimately required over 200 separate meetings.

June-August 1976

Questions were raised by state agency representatives and representatives of the public regarding the feasibility of alternate terminal sites.

September 1976

A number of California state agencies advocated use of an off-shore port facility in a central California port as the appropriate site for the PACTEX pipeline project terminal. The California Office of Planning and Research was appointed to conduct a study of port sites. U.S. Senate Interior Committee and Commerce Committee hearings plus sub-committee hearings of the House Interior Committee were conducted to discuss the importance of resolving issues related to the distribution of Alaska crude oil.

Discussions proceeded between California state agencies and local agencies contesting issues of jurisdictional control over stationary sources of air pollution.

October 1976

The California Draft Environmental Impact Report was completed and released by the Port of Long Beach and the CPUC. The ARB adopted Resolution 76-39, the new source review rule (NSR) for the Air Pollution Control District, requiring emission trade-offs and ARB concurrence in major permits. Since Sohio had no existing operations in the Long Beach area, the company would be required to retire existing emissions resulting from the operations of others. This factor was to require a substantial number of negotiations with third parties not directly involved in the project.

Within two weeks of the adoption of the new rule, Sohio filed its Air Quality Permit applications for the project and a series of technical meetings with the California ARB and the local district were initiated in an attempt to achieve agreement on the level of emissions from individual project components and the trade-off requirements.

November 1976

The Federal Draft Environmental Impact Statement is completed and released. Sohio filed its Air Quality Permit applications for the project with the Federal Environmental Protection Agency.

December 1976

Sohio, the California ARB and the local district reached agreement on emission factors to be applied to each of the individual emissions sources associated with the project under various assumptions regarding emission controls and their effectiveness. There remained substantial uncertainty in a number of areas including control assumptions and enforceability as well as trade-off guidelines. Public hearings on both the Draft Environmental Impact Report (California) and the Draft Environmental Impact Statement (Federal) were completed.

In December, the Federal EPA promulgated an "interpretive ruling" establishing criteria for approval of new sources for non-attainment areas, including requirement that emission offsets be greater than proposed new sources of emissions.

January 1977

The South Coast Air Quality Management District (SCAQMD) came into being. It was a new agency operating under a new statute, adopting new regulations and functioning with new procedures.

February 1977

Throughout this period, Sohio was continually submitting to the SCAQMD and the ARB proposed offset candidates. Sohio filed a supplement to the California air application. The supplement included proposed restrictions and rules pertaining to use of the marine terminal; proposed guidelines for selecting acceptable trade-offs, and a trade-off package which would offset the emissions of each of four types of air pollutants.

March 1977

The California ARB rejected portions of the February 1977 trade-off package proposed by Sohio. Questions requiring substantial research by Sohio were raised in a letter from the ARB.

April 1977

Sohio submitted a 50-page response to questions contained in the California ARB letter of March 1977. Substantial conflicts continued to exist between the ARB and the SCAQMD regarding the trade-off package. The California EIR was published and distributed in April.

May 1977

The 3,000-page California EIR was certified by the Port of Long Beach.

June 1977

The California PUC certified the California EIR. (At the same time, the 3,000-page Federal EIS was completed and released to the Council On Environmental Quality.) It was also in June that the SCAQMD completed its preliminary review of the Sohio application and informed Sohio of the conditions under which a permit could be granted.

July 1977

The AQMD began a long series of hearings on the PACTEX project which extended through January 1978. In a staff report for the SCAQMD, it was recommended that no electrical power generation facilities should be used in a trade-off package.

September 1977

Sohio reduced project capacity from 700,000 barrels per day to 500,000 a day and made other adjustments in the project.

November 1977

Responding to questions, project changes and new information, the Port of Long Beach and California PUC prepared and held a public hearing on a draft supplement to the EIR; the first time such a supplement had been prepared in California without being specifically required by a court order.

December 1977

The Port of Long Beach certified the final supplement to the EIR; hearings continued before the SCAQMD.

January 1978

The SCAQMD made its preliminary findings and orders following 14 public hearings over the previous several months. The effect of this ruling was to give conditional approval to Sohio's NSR permit, subject to submittal of an acceptable program of emission offsets meeting specified goals. It was also in this month that the California PUC certified the final supplement to the EIR.

February 1978

Local Long Beach project opponents filed suit in the Superior Court against the project's EIR. After several months of preliminary negotiations, a framework for detailed negotiations with Southern California Edison over installation of a scrubber was agreed upon. Negotiations continued on an uninterrupted basis until an agreement was signed in August 1978.

March 1978

The Superior Court transferred the EIR challenge litigation to the California Supreme Court following the joinder of the PUC as a party to the litigation.

May 1978

Work continued on negotiation of an agreement with the Southern California Edison Company. The SCAQMD filed its final findings decision and order relative to the first phase of air quality hearings which were completed in January.

June 1978

Permit conditions for the Terminal Air Quality Construction Permit were resolved with the staffs of the ARB and the SCAQMD and were circulated by ARB to the Department of Energy and the Federal EPA. Sohio signed the lease agreement with the Port of Long Beach for the terminal site.

July 1978

The SCAQMD requested the Office of Planning and Research to designate a lead agency for the scrubber EIR. The Long Beach Board of Harbor Commissioners passed an ordinance approving the lease agreement with Sohio. Local opponents of the project began a drive to put the question of the Long Beach Port lease on the ballot for the November election. Following completion of negotiations with the Southern California Edison Company, Sohio submitted a trade-off package to SCAQMD which included a "scrubber".

August 1978

The SCAQMD responded to the Sohio trade-off proposal by raising several issues in a letter to Sohio. The Southern California Edison Company and Sohio notified the California PUC that they would be co-applicants before the PUC for a "scrubber" EIR. (The PUC was designated as the lead agency.)

September 1978

Sohio responded to the SCAQMD letter questioning the trade-off package with a request for a postponement of the Phase II hearings until results of the study under way could be received and evaluated. A substantial number of studies were under way.

November-December 1978

Preparation continued for the Phase II hearings which were then expected to be held in early February. Nearly all necessary data was submitted to the SCAQMD by the end of December. Long Beach voters approved the Port lease by a 61 percent majority.

January 1979

The SCAQMD advised all parties of Sohio's final definition of the trade-off package which would be considered by the district. A pre-hearing

conference was set for February 16, 1979. The California ARB adopted a model new source rule which has significant differences from existing Rule 213 as interpreted by SCAQMD.

Southern California Edison Company indicated that because of the scope of information being required by various state agencies for the "scrubber" EIR, some delay will occur in the completion of the Proponent's Environmental Analysis (PEA).

February 1979

The Phase II hearings before the SCAQMD were set for early March. Staff time was devoted to preparation for the hearings.

March 1979

On March 8 and 9, 1979, the first two days of the Phase II hearings before the SCAQMD were conducted. During those two days, the PACTEX project presentation was essentially completed. The hearings were scheduled to be completed on March 15 and 16. On March 13, Sohio announced its intention to abandon the project.

ATTACHMENT 5

THE STANDARD OIL COMPANY

February 26, 1979

MEMORANDUM

TO: Thomas H. Willoughby
Chief Consultant
Assembly Committee on Resources, Land Use & Energy

SUBJECT: Further Discussion of Issues Presented by Legislation Proposed to Expedite the Sohio Terminal and Pipeline Project

On January 31, we furnished you with a proposed bill which we felt represented the essential elements of legislation needed in order to obtain sufficient certainty to assure that the project could proceed. We discussed this draft in Speaker McCarthy's office the following day, again on February 14 and we had a further discussion with you right after that meeting. Even were our proposed legislation to be passed, we believed and continue to believe it is entirely possible that litigation challenging the actions of various California governmental agencies could be so protracted that the project would lose its economic viability by the passage of time.

Let us summarize what we said on February 14 relating to the matter of continuing economic viability of this project. This terminal and pipeline would have the purpose of moving crude oil which is surplus to the refining needs of the West Coast to refining centers in the central and eastern portions of the country. It would serve as the critical link in a system of efficient, economical and safe transportation of Alaskan crude oil to American consumers, and is clearly of strategic significance in providing a West to East transport

system for crude oil. However, from Sohio's economic perspective, the project must be judged primarily upon the proven reserves in Alaska's Prudhoe Bay field, the only large, assured source of supply to justify what will be about a $1 billion investment. The level of production of that field will decline from its peak after eight to ten years of production. Each day that goes by means that there is less oil to be produced from the field and moved through the pipeline. So far production has gone on for a year and a half and, even if our project were to be permitted to commence construction tomorrow, we would be looking at another 2-1/2 years before oil could flow through the pipeline. Therefore, the economic advantages of the project which we perceived at the time we proposed it -- more than four years ago -- have decreased as a result of the passage of time, and we are at the point where the economic attractiveness of the project is becoming marginal inasmuch as production from the Prudhoe Bay field is likely to equal West Coast demand only a few years after completion of this pipeline. During this period, we must amortize the cost of the project and earn some return on the investment. The economics of this project are complex and it is already questionable whether it is economically viable. If we are not in a position to make construction commitments by mid-summer 1979, it will clearly not be viable.

Our time problem and our continuing difficulties in resolving California administrative and litigation problems has brought us to conclude that there is no real alternative to a rather prompt, complete and certain legislative solution to the significant outstanding matters. If time and money were no object, we believe these matters might be successfully addressed without legislative assistance, but our time has just about run out.

In addition, we face a serious problem because of the 1979 new source construction ban under the Clean Air Act which we would not be facing had

the delays in permitting not been so extensive. Section 172 of the Clean Air Act, as amended, requires that states revise their state implementation plans ("SIP's") to prohibit construction of new sources in non-attainment areas after June 20, 1979, unless the SIP meets certain requirements set forth in the 1977 amendments to the Clean Air Act. It is clear that California will not have an approved SIP on July 1, 1979, or at any time shortly thereafter which complies with the Clean Air Act requirements. Environmental lawyers differ on what will happen to new source construction after July 1, and this difference of opinion will almost assuredly bring about litigation in California and elsewhere to determine the meaning of Section 172 of the Clean Air Act. The plaintiffs in this litigation will undoubtedly seek to enjoin any project which is not already permitted and underway. Congress could conceivably clarify this situation, but there is no indication that it will elect to do so. Thus, in our view it becomes rather critical that Sohio obtain its construction permits and commence construction of the project before June 30, 1979. We feel this time schedule can be met only with legislative support of the type we are seeking.

Commencing construction prior to June 30 is complicated not only by the necessity of the terminal obtaining a construction permit but also having construction permits issued for the tradeoff facilities. Section 129 of the Clean Air Act, which controls new source permitting prior to June 30, requires that control of tradeoff facilities be enforceable by authorized state and/or local agencies under the Clean Air Act and be accomplished by the new source's start up date. Third party tradeoffs are not considered enforceable unless the proposed facilities are subject to a new SIP requirement to ensure that their emissions will be reduced by the specified amount in a specified time.

The form of the SIP revision may be a state or local regulation, permit condition or revision, or any other mechanism available to the state. Although there is some uncertainty on this point, the statute seems to require that the SIP revision, i.e., the tradeoff permit, be in place prior to the time the new source starts construction.

When viewed in the context of our project, this means the scrubber permit must be issued prior to the time the pipeline can commence construction. For the scrubber permit to be issued promptly the scrubber EIR must either be expedited or waived. The EIR for the scrubber is currently in the process of being prepared and we are advised that it will not be ready until at least the third quarter of 1979. Even if the SCAQMD were able to issue the scrubber permit promptly upon certification, the June 30 deadline would have passed.

Finally, there is every reason to expect that, regardless of how adequate and comprehensive the EIR may be, the opposition to this project will bring a lawsuit seeking a declaration that the EIR for the scrubber is in some way inadequate. The whole litigation process in which we are involved relating to the EIR for the project (as opposed to the scrubber) would thus repeat itself in the context of the scrubber some 2 years later. Thus, in the absence of appropriate legislation, issuance of the scrubber permit will impinge upon the June 30 deadline and could be delayed beyond the point of economic attractiveness as well.

In our proposed legislation, this problem was addressed in the following way. The tradeoff facilities (e.g., the scrubber) were included within our definition of the "Sohio Project" and the ARB was directed to take action on the "Sohio Project" within a specified time period without further necessity of compliance with CEQA. This would mean that the ARB would consider the environmental impacts of the scrubber based upon a full evidentiary record, but

that no EIR would be required for the scrubber. This procedure, sometimes called "functional equivalency," is already specifically provided for in CEQA.

Frankly, when one considers that the scrubber is a substantial and costly pollution control device itself, it is somewhat ironic, to say the least, that its permitting problems can so delay (and perhaps defeat) the very project which was to give rise to its being. This doesn't seem reasonable or right and we believe it's an area where the legislature has a legitimate interest and role to play.

In any event, we don't see how the Clean Air Act requirements discussed above can be met in the absence of affirmative legislative assistance from California either along the lines suggested by us in our draft legislative proposal or in some way "exempting" the scrubber from the need for an EIR. Clearly the legislature cannot declare the adequacy of an EIR for the scrubber because the EIR is now merely in the process of being prepared and is not completed and certified by the CPUC. We are told that there is no way significantly to expedite this preparation. On the other hand, the legislature could, for example, simply declare that the scrubber is a proper and adequate tradeoff for the project and does not require an EIR. This would not only resolve the Clean Air Act problem but would also lay to rest the disagreements between the ARB and the SCAQMD regarding tradeoffs and jurisdictional matters. It could do some other things, as suggested above, which while not as far-reaching as this, would accomplish the same result. But in each case an affirmative approach by the legislature is needed.

Let us turn now to our request for a legislative determination of the adequacy of the EIR for the project. This subject was a primary focus of much of our discussion on February 14, and indeed Mr. Calvo made it clear that he

had serious doubts as to whether it was a "proper role" for the legislature to "rule on the EIR." We appreciate his concern in this area which we are sure is shared by others. As a substitute for such legislation, it was proposed that the legislature might favorably consider a resolution requesting the Supreme Court to bring the pending case on this matter to an expeditious resolution. Since our meeting, we find that on February 12 the same plaintiff has also petitioned the Supreme Court to review the CPUC decision of last October authorizing withdrawal of the SoCal Gas pipeline from natural gas service. Presumably, such a resolution would also address this proceeding.

While this way of approaching the matter is certainly consistent with the respective roles customarily assumed by the legislature and the courts, it simply provides no certainty as to the timing of the result. Again, the most critical obstacle to the project is now time. If a reasonably certain solution to all outstanding problems cannot be achieved in a short time frame, the reason to proceed will be gone. Similar considerations caused Congress to act in a very affirmative way when it passed the Trans-Alaska Pipeline Authorization Act in 1973 (which among other things declared the adequacy of the Environmental Impact Statement). Had such action not been taken, court proceedings would have delayed start-up for an indeterminate -- but no doubt extensive -- period of time. There is a similar national interest consideration to the present project, and we would hope that legislative leaders could assess their position in this light.

In our legislative proposal, authority would be given to the ARB to act upon the Sohio Project. As we pointed out, this could be any other agency with the necessary expertise in air quality matters. Our point is not to favor one agency over another, but to bring about a consolidation necessary to an expeditious conclusion to the permit procedures for both the project and the tradeoff facilities. The proposed legislation did not mandate the result but

merely the time frame for final decision. We intend to pursue these matters at the SCAQMD hearings next month, but we have every reason to be concerned that they will not result in a conclusion which is within the commitments already in place between Sohio and Southern California Edison and acceptable to the ARB, which must ultimately approve or reverse SCAQMD's action.

Finally, there are a number of other major matters which we believe could defeat the project. These include challenges to any permit which may actually be issued for the project, obtaining an appropriate permit for pier tankage from the California Coastal Commission, and CEQA requirements which may apply to relocation of tenants presently occupying the pier facilities. Essentially, our approach on these matters called for the legislature to mandate expedited administrative procedures and judicial review. This is an approach for which we have been given some encouragement and which is consistent with recent enactments of the legislature designed to cut "red tape." We may also be faced with some problems relating to right-of-way acquisition which we will discuss with you.

The amount of environmental study of our project is enormous and indeed greater than that devoted to most major projects. It is not the intention of our legislation to preempt the existing functions of administrative agencies but rather to cause the remaining administrative process (whether favorable or unfavorable) to proceed within a meaningful time frame. Insofar as the courts are concerned, we believe that an appropriate legislative record and findings in the preamble to the legislation could make it clear that determinations or exemptions with respect to EIR's are being done in this instance for reasons that are in the national interest and should not be viewed as establishing a precedent.

We are beyond the point where "half-way" measures can really be of any meaningful significance. The odds against everything falling into place within an acceptable time frame, in the absence of legislative assistance, are very high. Therefore, it appears to us that the legislative help we seek is absolutely necessary to the survival of the project.

Mr. GRAMM. The Chair thanks Mr. Whitehouse for his statement.

I would like to begin by asking if it is possible that we might have a reduction of these two charts, since they are quite helpful, to put into the record.

Mr. WHITEHOUSE. They are in these books.

Mr. GRAMM. Good. I would like to pose two questions. You are aware, I am sure, Mr. Whitehouse, that when the Governor, Mr. Brown, was before the Senate Energy Committee discussing your decision to end attempts to license the pipeline, he spoke of "the pattern of intracorporate indecision and delays illustrative of the inability of American society to control its own energy destiny."

It seems to me that the clear intent of that statement was to dump the burden of abandonment of this project on your shoulders. What would be your response to that statement?

Mr. WHITEHOUSE. I am not going to pretend that our organization is the most perfect organization in the world, but I will insist to you, sir, that we in our own limited, sometimes stupid way, have had one object only, and that is to get this thing going as fast as we can. You have got to recognize we went through a couple of years out in California before we even got into the permitting process.

The message we got pretty plainly and clearly was you are a foreigner, and they weren't talking about our British stockholders. They were talking about coming from Ohio. You are an intruder; you are causing us problems. You are not doing anything for the State of California, and why don't you go away.

Well, we didn't go away, only because we had so much at stake to try to get this thing done. And in our own inept fashion we have done the best we can. I don't know what Governor Brown is talking about.

Mr. MOSIER. Might I add a couple of comments on this?

I think to give you some indication of the situation we were faced with, early in this project about the only thing we had to celebrate was the acceptance of an application. We not only found it extremely difficult to get a permit, we found it impossible to have an application for a permit accepted. This process went on, and we can submit—it is not part of this testimony—but we can submit a chronology and details on where, time after time, our attempts to apply for a permit were thwarted, it turns out, on the basis of an incomplete permit. It took us awhile, as Mr. Whitehouse indicated, to get the message.

If we weren't prepared to deal in the appropriate way with the State government, we would never get an application accepted.

Mr. GRAMM. If there are no objections, I would like to have that chronology to submit as part of the record.

Mr. MOFFETT. Reserving the right to object, Mr. Chairman, what are we asking for?

Mr. MOSIER. The particular document I am referring to is an example of three or four points that were featured specifically by Tom Quinn as examples of rather significant time lags. This is information here that we could add to the record with regard to what was going on during those time periods.

Mr. MOFFETT. Very well. Thank you, Mr. Chairman.

Mr. GRAMM. I would like to ask an additional question of you both. I would like to simply point out that by your figures, which you presented to the Senate Energy Committee, we are talking about a poten-

tial cost differential between using the Panama Canal and using this pipeline, were it constructed, at 43 cents a barrel, which is a lot of money. I think that explains in part why this committee is concerned about the possible methods of expediting its construction.

I would like to ask you: If we enacted the bill that is authored by the chairman of the subcommittee, Mr. Dingell, would that, in your opinion, induce you to become again interested in this pipeline and reactivate your process of trying to license it?

Mr. WHITEHOUSE. It would certainly—first of all, we are very grateful for the committee's efforts on this.

I have carefully dodged making a commitment on that for a variety of reasons. No. 1, proposals never come out in the final analysis without some bells and whistles on them that nobody envisioned going in. I would want to see exactly how that proposed legislation—how we assessed its effectiveness against very imaginative and energetic opponents.

No. 2, analyzing the economics of this kind of project is not easy. There are a great many variables, most of which you have to make judgmental conclusions on or assumptions on. We would want to reserve the right to look at it in the real world as we perceive that world, at a time when the opportunity to go forward had presented itself.

And there is a third thing that I think has come to bother me more and more in light of things that have happened over the last 2 weeks. That is that we would have to judge as carefully as we can and we really don't claim to be entirely competent in this area, what political climate are we subjecting $1 billion of our assets to? I will insist that no private institution can stand up to Government institutions, Federal, State, or local, and particularly not State or Federal. So that is the kind of thing you can't ask for; you don't want to ask for any commitments on. But that will be a part of our judgmental process at that time.

Mr. GRAMM. Thank you.

The Chair yields 5 minutes to the gentleman from Connecticut.

Mr. MOFFETT. Thank you, Mr. Chairman, and thank you Mr. Whitehouse for your testimony. I would like to pick up on exactly the point you were discussing. I think the excellent question asked by the gentleman from Texas—it seems as though the Congress has been put in a bind of sorts; if it goes along with the California Legislature and provides what perhaps you are not asking for, but others, supposedly in your interest, are asking for it.

If you had legislation, these things don't seem to me that they would be so horribly difficult to assess in terms of their impact. If you had expedited judicial review and if you had preemption of State law, and if you had some eminent domain—there have been some eminent domain issues discussed, which I don't favor, you could presumably make a judgment now as to whether or not you really want to go ahead with this project.

Now, as one who would be called upon to consider at least a part of this matter, would it be unreasonable if I asked what your inclination would be? It seems to me that after pursuing this project as long as you have, if in fact the main obstacles have been the bureaucratic obstacles and delays, what more is there to do? Why can't you say yes, we would be inclined to go ahead?

Mr. WHITEHOUSE. If you can describe the package that comes out with absolute precision, and tell me exactly when we will be through with everything, including litigation, then I can probably give you an answer as to yes or no, whether we would. But I don't think you can. I think this is the nature of the process.

Mr. MOFFETT. I can understand that.

Mr. WHITEHOUSE. The thing is currently marginal.

That means it has got to be getting that much more submanagement. Now, I confess that our economic analyses are not done with all that precision. Quite frankly, if somebody had waved a magic wand next week, it is quite likely we would go forward with it. But if it is 6 months from now—you see, if I give you any kind of commitment I am going to get that commitment thrown right back in my face.

Mr. MOFFETT. I understand. Don't misunderstand me, but by the same token, there is suspicion, as I am sure you know, that there are other very important factors at work here that tend—it is suspected—to play upon your decision at least as much if not more than bureaucratic delays.

With regard to the delays, and with regard to what ultimately makes this project a marginal one in your mind, the case can be made, I think, that the company itself has contributed to delays. The Center for Law and the Public Interest and other groups have made that assertion.

There is a chart which, if you have not seen it, I would be glad to share it with the company. It is my understanding that Mr. Jones, who will testify later, will be prepared to elaborate on this. Certainly you should have access to it yourself. The red lines indicate company delays in response to requests for information.

The case that we discussed briefly a little earlier about your motion before the court seems to me to have been a gamble on your part which was designed to cut the time short. But you lost, and so a year went by.

Mr. WHITEHOUSE. I don't think there is a causal relationship there.

Mr. MOFFETT. Maybe not, but the fact of the matter is that you made the motion, for whatever reason. You took the gamble. You lost, and more time transpired. You say you don't know, and certainly I don't know. My point is, however, that we have come nearly to the end, perhaps, of this whole process, and we see that delays occurred for a variety of reasons. Apparently you were in the hearing room earlier and heard me this morning. These uncertainties you talked about in your testimony seem to me to go well beyond these bureaucratic problems.

It seems to me, that California agencies have bent over backwards in the eyes of some people who are interested in air quality and have compromised to give preferential treatment to Sohio. I know it is hard to believe, but there are those who make that case.

So what we need in terms of a straight answer from you is: Aren't there other major economic factors at work here besides the bureaucratic one?

Mr. WHITEHOUSE. We have heard these charges about our being responsible for the delay. I admit we are inept at times.

Mr. MOFFETT. I am not suggesting there are scapegoats here. I am saying that there seems to be many factors contributing to the delays. It is unfair to point a finger at one particular place.

Mr. WHITEHOUSE. All I can say is we have spent $58 million trying to follow the project. We have been spending it at the rate of $1 million a month right up until today. We went out of our way to spend $600,000 to win a referendum in Long Beach, Calif., in November. We have sent a number of people from Cleveland to work on that campaign out there. What I would like to hear is: What are our ulterior motives? I am not smart enough to think of any.

Mr. UDALL. One of the ulterior motives, Mr. Whitehouse, is that this is no longer economical for you. You want to arrange a swap of Alaskan oil for Mexican crude involving Japan.

Mr. WHITEHOUSE. We would be delighted to swap oil to Japan. There is no question that we would like to do that. But we understand political reality, and every reading we get from Washington—although I think it is irrational—is that that is not—no one is even willing to start that fight in Congress, and I would say this further, no one is going to feel compelled to start that fight until American oil is being left in the ground. And there is no American oil going to be left in the ground whether or not we get Pactex. We are going to produce all that we would produce from Prudhoe Bay at either $1.2 million, $1.35 million, or $1.5 million, and whatever we have to haul through the canal we will haul through the canal, and it will go to U.S. markets.

I don't even see the compelling—I don't think anybody is going to take up that swap issue until it is important to production. Where it is——

Mr. UDALL. If the political seismometer is reading accurately, Congressman Moffett and I were with a small group of leaders with the President the other day talking about energy issues. He asked for a show of hands of those who would be willing to support legislation involving a swap of oil. I don't recall seeing very many hands.

Mr. WHITEHOUSE. I think I would make this point.

It is really Dr. Schlesinger's point; not mine. It has very little to do with Prudhoe Bay.

The absence of a reasonable cost facility for transporting surplus oil east from the west coast over swamps is a very substantial cloud over future exploration programs in theoretically California, all of the PADD V, but in fact it is of most importance in the State of Alaska.

Mr. UDALL. It may very well be a rational thing to do, but the political system doesn't always operate on what any of us think is rational. I think if America sinks in the next 10 years, it may not be at the hands of the Soviets, but at the hands of ourselves, in self-inflicted redtape and all of the rest. We can't build coal slurry pipelines, and everyone will tell you that they make technological and economic sense. We have 30 years of nuclear waste sitting on our doorstep, and we haven't yet disposed of the first pound of that stuff. We seem to be all torn up with the group looking out for itself, unable to make decisions in the national interest.

I am really frustrated. If this pipeline goes down, and I am not very optimistic at this point, it is going to be a monument to national stupidity. I was saying the other day if you had a hypothetical country somewhere which had oil here and had a glut on one of its coasts, and needed the oil over here, and you had a fairy godmother, and the fairy

godmother said, "I will snap my fingers and give you one wish," your wish would be that you immediately create a pipeline sitting out there empty and ready to be used.

Now, our fairy godmother has done exactly that for this country, and we seem to be unable to use it. I think it is a condemnation of our whole system and the kind of national paralysis that we are involved in here now with regard to energy and other kinds of decisions.

Well, that is my sermon for the day. Before we conclude with these witnesses, are there other penetrating questions or observations?

Mr. BROWN. The rest of us haven't had a chance to offer our questions, Mr. Chairman. Maybe if this side of the aisle could get the opportunity——

Mr. UDALL. This side of the aisle is entitled to full and fair treatment, and I publicly apologize if we have ignored the minority. I recall this morning recognizing some of these faces for questions, but we will go back again.

Mr. BROWN. The same faces are still here, and I hope you will still recognize them.

Mr. UDALL. Looking hard, the Chair recognizes the distinguished gentleman from Ohio for 5 minutes for a series of penetrating questions.

Mr. BROWN. I certainly hope so.

Let me try to focus, Mr. Whitehouse, on the nature of the problems. I gather from the two charts you have shown here what you are demonstrating to us is that the situation in the regulatory sense cannot be resolved in time to make the pipeline economically viable?

Mr. WHITEHOUSE. Yes, sir.

Mr. BROWN. The regulatory approval of the pipeline system—I am trying to struggle for the name of that piece of legislation. Under the Clean Air Act, the air resources board has put a limitation of July 1 on the decisions for the construction of new facilities that would be needed to move the oil in the pipeline. Is that correct?

Mr. WHITEHOUSE. I think it is a broader prohibition.

It is not just our project. As I understand it, under the Clean Air Act, under the Federal Clean Air Act, each State must give its total State program for achieving the standard in that act. I think most States have been given a 1-year extension because they are unble to meet the original deadline. I believe the deadline is now July 1, and I believe that the logical interpretation of the act is that the authorities are indeed individual citizens. Because of the failure to meet that deadline and in effect say stop everything, stop all new projects——

Mr. BROWN. So in effect, the answer to the chairman's stream of consciousness, is that the enemy is us. The Congress put the requirement on them that all these plans had to be made by a certain time. They have a certain time. They have not been made. If you are permitted an extension beyond July 1 in getting this done, then you face a lawsuit. A lawsuit, of course, can tie you up for many years, and then we lose—I hate to use the word bulge, because it is not very popular right now—we lose the bulge of all that is available for you to move in the pipeline. And that makes the pipeline uneconomic. Is that it?

Mr. WHITEHOUSE. That is correct.

Mr. BROWN. Then the deal that the ARB has made with reference to you and the utility company, that environmental impact report and the ultimate permitting of that scrubber is not likely to occur until well after the building of the original facility. Is that correct? So you don't know whether you can meet the requirement.

Mr. WHITEHOUSE. It is not the permitting so much, under existing law. Even if it were permitted under construction we would not be allowed to start the terminal operation until the scrubbers were in place and operating.

Mr. BROWN. Yes; that is a function of permitting and also of the legislation that would follow in permitting. Is that correct?

Mr. WHITEHOUSE. Yes.

Mr. BROWN. So you have the combination of the permitting requirements and the litigation the scrubber hinges on. But to start building the thing before you know whether you are going to be able to make the scrubber deal that ARB has insisted on, makes that the implementing point. Is that correct?

Mr. WHITEHOUSE. That is exactly correct.

Mr. BROWN. The legislation that we have before us drops a limitation on the lawsuits. Do you feel, or does your legal staff feel, that the bill is adequate in terms of forcing a decision by the time you would have to have that clear track to proceed and make the project economic from the standpoint of Sohio?

Mr. WHITEHOUSE. Frankly, our most qualified lawyer got trapped in the United strike on the west coast, so I am going to have to——

Mr. BROWN. Do you have any unqualified lawyers there?

You may be lucky, because if you had two lawyers, you may wind up with three or four different opinions.

Mr. UDALL. Will the gentleman stop? We only have time for one brief opinion.

Mr. WHITEHOUSE. I am told under the present proposed budget that the time frames would be too long.

Mr. BROWN. So even the legislation which is before this committee at the moment does not meet the requirement, according to your lawyers' assessment of what the results would be for you being able to construct this and do it economically?

Mr. WHITEHOUSE. I am being Charlie McCarthy; I am talking what I am being told.

Mr. BROWN. Thank you, Mr. Chairman. I hope those were penetrating enough.

Mr. UDALL. I thought they were quite penetrating.

Mr. BROWN. Thank you, Mr. Chairman.

Mr. UDALL. Mr. Lagomarsino is recognized for 5 minutes.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Chairman, I think you were not here—I wanted to say something for your benefit as well. I don't think you were here when Mr. Schlesinger testified. It was quite interesting, because it would now appear that Mr. Schlesinger has changed his opinion about the advisability, perhaps the political advisability, of swapping Alaska oil to Japan, and although he continues to oppose the amendment to the Export Control Act that is now being considered, he has apparently given up on the idea of trying to have a swap with Japan. He feels that

only the oil can be used in this country with or without the Sohio pipeline project.

It was fairly clear from what he said that one of the reasons for that change is that should he proceed with a swap it would take considerable pressure off completion of a pipeline.

I would like to ask the gentleman from Sohio if that would make any difference, if Congress made it very plain that the overwhelming feeling here was that we do not view a swap very favorably, would that make any difference in your deliberations?

Mr. WHITEHOUSE. I tried—and I am speaking just as honestly and candidly as I can—I don't have any hope for swaps. I haven't had any hopes for swaps for 5 years. I don't think a lot of the debate about swaps is all that rational, but that is irrelevant.

Our reading of the positions down here is that it is not in the cards. The point I was trying to make is that I don't think you gentlemen will feel enough pressure to even want to address that issue until the U.S. oil is being left in the ground, and that is not going to happen, with or without this project.

Mr. LAGOMARSINO. So if it is not going to happen, there is not the pressure—I should say there will be no pressure.

Mr. WHITEHOUSE. Not out of us. We are going to deliever every barrel that we can produce.

Mr. LAGOMARSINO. Let me ask you another question.

This morning—I have forgotten who it was—somebody, in commenting on your business, and I guess you can do it better than whoever it was who was doing it—perhaps it was Mr. Schlesinger. We were talking about whether or not other oil is available in Alaska to ship through the Alcan pipeline. There was some statement made that that would not necessarily be advantageous to Sohio as an individual company because perhaps you did not have ownership in that oil. What is your reaction to that sort of a statement?

Let me just say it would seem to me to be a very rational thing. If you have a pipeline and it is not used to its fullest extent, and you want to help pay it off, you would ship anybody's oil.

Mr. WHITEHOUSE. You bet. Once you get an investment in a pipeline, your objective is to keep it full, as full as you can keep it. And whether it is your oil or not doesn't matter.

Furthermore, one thing we forget here is that we once had a partner in this project. We lost them. They were smarter than we were. We would welcome any kind of partner in this project. We would welcome buy-ins, depending on the circumstances.

Mr. LAGOMARSINO. You would welcome a partner only in the Alcan pipeline, or also in the so-called Pactex pipeline?

Mr. WHITEHOUSE. What is Alcan? The one in Alaska?

Mr. MOSIER. You mean the trans-Alaskan pipeline.

Mr. WHITEHOUSE. Oh, yes. Oh, yes.

Mr. LAGOMARSINO. It has been said, and I know it is true, there is a great amount of oil in California at the present time that is not economically feasible to produce, although it is getting closer and closer as world oil prices go up. And certainly most of that oil which is in the central valley would be available, I would think, to use the Pactex pipeline. Has that situation been taken into account?

50-586 O - 79 - 12

Mr. MOSIER. Let me respond to this situation. There seems to be a bit of confusion on the economic compulsion to proceed or not to proceed with this pipeline. If you look at that chart on the right and accept our arithmetic which is in the Senate testimony, that under the best of conditions the line might produce a dollar per barrel savings over going through the canal, I think simple arithmetic would lead you to the conclusion that you couldn't possibly pay out this line at this time without bubble of oil. There is an indicated 930 million barrels of oil at a dollar a barrel to pay out a billion dollar pipeline, without regard for interest, without regard for taxes, without regard for Canadian or Alaskan royalty. It couldn't be done.

Mr. LAGOMARSINO. That is what I am asking you.

Mr. MOSIER. Obviously for us to proceed forward at this time in history with this pipeline we would have to have oil from other sources. We would have to proceed on the basis that additional California oil and additional Alaskan oil somehow from someplace would be produced. Therein lies the economic marginality, if you will, of this project.

If we in fact go ahead with this project it would have to be on the basis that there is some romance there from additional Alaskan production, and some romance from additional California production.

As a matter of fact, to let you in on one of our economic determinations, there has to be at least 600,000 barrels a day of additional oil produced by 1990 or 1991 coming into this picture to offset two factors: (a) The decline of Alaskan oil, and (b) the decline of the California oil. And I should say, along with the increased demands for this kind of oil in California, to permit this project to be even marginally economically attractive against what most manufacturing companies would consider to be a reasonable rate of return on investment. So in fact, if we were to consider this situation over time, it definitely would have to be on the basis that we would have more oil available than would be represented by that bubble. There just isn't enough oil in that bubble to pay out the system by very simple arithmetic. That is, again, hauling the oil through the Panama Canal in ever-increasing higher cost tankers.

The question keeps repeatedly being asked about going to the swaps alternative. If the swaps alternative would be considered a practical factor in 1974, the economics of going to Japan and exchanging were no different in 1974 than they are in 1979. There has always been a significant incentive to export the oil. And I might add, gentlemen, not only to Japan but to any place on this planet where the oil can be carried in foreign flag VLCC tankers. It was a transportation issue. It isn't Japan necessarily that is the only issue at stake.

That hasn't changed. If we had felt that there was any political possibility of moving the oil to Japan, I don't believe we would have gotten involved in a project of this magnitude and gone through the 5 years of grief we have gone through to get there. But in the 5-year period the tremendous pay off on 1.5 to 2 billion barrels of oil as represented in that chart, which would have accrued at $1 a barrel is gone because we have lost the front end bulge.

Mr. LAGOMARSINO. Thank you.

Mr. MOFFETT [presiding]. The gentleman's time has expired. The Chair now recognizes Mr. Lungren for 5 minutes.

Mr. LUNGREN. Thank you, Mr. Chairman. You talked about the cost of bringing oil through the canal. Does that take into account possible increases in charges once the canal is taken over by Panama?

Mr. WHITEHOUSE. Yes, it does, Mr. Lungren.

Mr. LUNGREN. Do you think that accurately reflects——

Mr. MOSIER. We have done the best job we can on estimating that, but that is probably the least significant of the several variables involved.

Mr. LUNGREN. A second ago there were some questions about the delays on the part of Sohio. Can any of the gentlemen tell us of any intentional delays that Sohio made in terms of getting through this bureaucratic maze, if in fact you did, what economic sense such delays made?

Mr. WHITEHOUSE. Yes, there was one intentional delay, and that was—that was to ask the South Coast Air Quality to defer the beginning of phase II hearings which otherwise would have come at the time of the referendum. This was done with the knowledge and concurrence of Tom Quinn and the Governor's administration, and quite frankly, we were not eager to provide a forum for what we would regard as wildly irresponsible charges.

Mr. LUNGREN. Would it be a fair statement to say that the scrubber solution——

Mr. WHITEHOUSE. Just to finish that up, we asked for a very short delay for other reasons that became a much longer delay, longer than we wanted.

Mr. MOSIER. We expected 6 weeks, and it turned out to be almost 6 months.

Mr. LUNGREN. The scrubber solution to the pollution question was first initiated by the State, is that not correct?

Mr. WHITEHOUSE. Yes.

Mr. MOSIER. I was involved early on that. That is correct.

I might comment further, to elaborate just a little on that point. During the period of early 1977 through the full year of 1977 into 1978, Sohio advanced a great number of alternatives for tradeoffs. In fact, it got to the point where we were the kiss of death on anybody who had a pollution situation in the State or in the general area, because any time we were to advance a possible tradeoff candidate, a third-party tradeoff candidate, either the State now had identified a violator that CARB had identified, someone they could attack or cause to create a situation, or it was deemed not to be a viable alternative because it was such a situation that the State would pass legislation in the very near future to take care of that situation. We constantly kept being steered toward the scrubber, no other options being acceptable, including the low sulfur fuel oil, and in fact, it was made very clear to us that if we were not going to proceed or pursue the scrubber alternative, that we were not going to have a project.

Mr. LUNGREN. In terms of utilizing the Panama Canal route, your tankers do go down the California coast and then come back and stop at Long Beach. You do have products for bunkering, do you not?

Mr. MOSIER. That is correct. I would not think we have problems with bunkering. I would suggest that the quality of the air in Long Beach is being influenced about as much by that bunkering activity

relating to the Panama movement as it would have been with our terminal, and perhaps even more.

Mr. LUNGREN. Are there any tradeoffs involved under that system?

Mr. MOSIER. No; there are not that I am aware of, because that operation is an existing operation.

Mr. LUNGREN. So therefore it would seem that those of us living in that area are worse off environmentally.

Mr. WHITEHOUSE. You are absolutely correct. This fact of delay has contributed, given an overall volumetric increase to deterioration of the air in that area as compared to what we would have been forced to do and would have done under our proposal.

Mr. LUNDGREN. Was Sohio prepared to consider the lowest sulfur options?

Mr. MOSIER. Yes; we were.

I would like to make an additional comment on the point that you raised, Mr. Congressman, on that. One of the reasons why some people might have considered it to be an inordinately long period of time in arriving at the emissions to be traded off, quite frankly, we were flabbergasted, in our assessment of this project recognizing for a moment that what is involved here is a couple of tanks, a couple of jetties, one tank for every third day on the average, and assessing it against the real world and the Alaskan oil going by and bunkering going on in California. We took the position that there were no net emissions, and, in, fact, that kind of judgment could be developed fairly easily on this case.

In the final analysis, a rather significant level of emissions were agreed upon, the levels of tradeoff, which, in fact, are now incorporated in the tradeoff package of the scrubber, which was an accommodation reached with the State in order for us to proceed. But that required quite a bit of time to get to the point where on one day you could believe you were creating any emissions, and therefore had any responsibility. And a few weeks later people were asking to spend not $80 million but $200 million to trade off that package.

Mr. LUNGREN. What are the comparative costs between the scrubber system and the lowest sulfur fuel?

Mr. MOSIER. I am sorry, I can't give you the specific number, but I would guess that the order of magnitude is in the $50 million to $80 million range for the low sulfur fuel also. It is the same kind of order of magnitude situation, but at least you know where you are and know what you have.

Mr. LUNGREN. What is the tradeoff ratio?

Mr. MOSIER. I am sorry.

Mr. LUNGREN. One to one?

Mr. MOSIER. The tradeoff ratio that we have been asked to operate on is 1.2 times the absolute maximum possible case, which is something that occurs less than 3 days in 100. And I might add, it could have been managed so it didn't occur at all.

Mr. MOFFETT. Gentlemen, we want to thank you for your testimony, the time you have given, and the patience you have shown, particularly.

If there are no further questions, thank you.

Mr. WHITEHOUSE. Thank you.

Mr. MOFFETT. The Chair now calls on Jan Smutny-Jones, the chairman of the Citizens Task Force on Sohio.

Would you please state your name for the record?

STATEMENT OF JAN SMUTNY-JONES, CHAIRPERSON, CITIZENS TASK FORCE ON SOHIO, LONG BEACH, CALIF.

Mr. JONES. I am Jan Smutny-Jones. I am chairperson of the Citizens Task Force on Sohio, which is a Long Beach organization founded in September 1976 specifically to monitor development of the Sohio project in Long Beach.

I understand, Mr. Chairman, that there is some question of time here. I have submitted my comments in writing, and I would hope they would be incorporated in the record. I have also submitted a statement by Antonio Rossman, who is our attorney, who is based in San Francisco. Due to his schedule he could not be here. I would like that inserted in the record as well.

Mr. MOFFETT. Mr. Jones, if I might say that we know it is sometimes difficult for citizens groups to manage to come before congressional bodies, we realize you came at your own expense, and we are very appreciative of that. We don't want to in any way cut you off or diminish the importance of your testimony.

I know myself that I have had the opportunity to read it, and I know most of the other members have as well. If you care to summarize any of the points or reiterate any of the basic, major points, that will be fine. If not, I am sure we do have some questions.

Mr. JONES. Let me just quickly say that it is our position that we have played by what we see as an established set of rules, regulations, and policies. Sometimes these rules, regulations, and policies have not been used to our benefit.

When we were asked to join the PUC and move to the superior court is a case in point. We do not believe that year's delay is our responsibility, or that of the court's. It was a legal maneuver on the part of Sohio. I think it is fair to characterize it as a gamble, and it did not work.

I would have to say that the citizens of Long Beach, the Citizens Task Force, that is, has been trying to utilize the same complex matrix to have our concerns addressed as well, and we have only resorted to litigation when the agencies that are responsible for taking care of environmental quality in California and mitigating the environmental consequences have not thoroughly pursued their mandates.

I should underscore that point. We believe the process of litigation is tremendously time-consuming and expensive, and we certainly do not look with pleasure at having to do it.

Third, I would like to point out that we do believe that the natural gas issue is an issue here. We believe that El Paso may have gas available for California, and we think the committee should look into that.

Let me just summarize by saying that we believe the oil is getting to the market today at some cost to Sohio, if, in fact, this project is in the national interest—I should say if, in fact, expediting Sohio's marketing problem is in the national interest, the tools to resolve that problem exist here in Washington. I am referring to the Japanese oil swap. It may be politically inexpedient, but if we are being told to bite the bullet and face the moral equivalent of war when addressing the energy issues, we are going to have to make some hard choices.

I think irrational xenophobia and some kind of illusion about energy independence is certainly not a good basis for energy policy.

In closing, we believe the process has worked. We would like to see the process continue to work, and we would like the law of the United States and the State of California left intact. We do not see that this particular situation creates any situation where normal rules of procedure should be circumvented.

I am available for any questions.

[Mr. Smutny-Jones' prepared statement follows:]

PREPARED STATEMENT OF JAN SMUTNY-JONES, CHAIRPERSON, CITIZENS TASK FORCE ON SOHIO

Honorable Chairmen, members of Congress, my name is Jan Smutny-Jones. I am Chairperson of Citizens Task Force On Sohio, a Long Beach organization which was formed in September of 1976, in response to the proposed development of the Sohio oil terminal in Long Beach. Since that time we have participated on most levels of the regulatory review process and have acted in concert with eight other Long Beach community organizations and homeowner associations which oppose the Sohio project. We are also the organization which has challenged the legal adequacy of Sohio's Environmental Impact Report.

We thank you for the opportunity to clarify our position on this project and hope that our testimony will add a perspective which will be of value to this committee.

Attached to my remarks, is a statement from our attorney, Mr. Antonio Rossmann, of San Francisco, California. Mr. Rossmann's statement delineates the legal actions and issues surrounding the Sohio project. I will be referencing a portion of my remarks to Mr. Rossmann's statement and respectfully request that his statement be included as part of the record.

Citizens Task Force on Sohio, formally began our involvement in the Sohio regulatory permitting process in November of 1976. At that time, before the first public hearing on the project, we submitted 28 pages of comments concerning the adequacy of the environmental analysis contained within the *Environmental Impact Report for the Sohio West Coast to Mid-Continent Pipeline Project* (Sohio E.I.R.). Subsequent to the November hearing, we submitted additional testimony at two other public hearings concerning the adequacy of the E.I.R.

When the Final Environmental Impact Report for the Sohio project was released, by the Port of Long Beach, we were dismayed that a large number of our concerns had been patently ignored or had been addressed in something less than a meaningful manner.

This concern was evidently shared by others as well, for in September of 1977, under much pressure, the Port of Long Beach began work on a supplement to the Sohio E.I.R. in order to compensate for the deficient manner in which the E.I.R. had analyzed the air quality impacts of the Sohio project. The draft Supplement to the E.I.R. was released on November 15, 1977. On November 21, 1977 the public hearing was held on the Supplement. Citizens Task Force on Sohio filed five pages of comments on the Supplemental E.I.R. expressing our concerns with its adequacy. On December 19, 1977, 2½ months after initiating the Supplemental E.I.R. the Port of Long Beach certified it. Once again our legitimate and reasonable concerns were not sufficiently addressed by the authors of the E.I.R.

On or about January 12, 1978 the Port of Long Beach, over our objections, filed a Notice of Determination. This fateful decision became the catalyst for the legal battle which has since ensued.

Under the California Environmental Quality Act (CEQA), an aggrieved party has thirty days in which to respond to a Notice of Determination by filing a legal action. It might be noted that this provision of CEQA was a legislative response to the now fabled "Dow Chemical pull out". In essence such a provision is of great benefit to proponents of projects the size of Sohio and puts some rather awkward time constraints on the opponents filing the legal action.

Nevertheless, given this time constraint and our real need for judicial review, we timely filed a Writ of Mandate, in the Superior Court of Los Angeles, within this thirty day time period.

At this point, Sohio and the Port of Long Beach contended that we had erred by not including the California Public Utilities Commission. It was their claim that the Public Utilities Commission (P.U.C.) was a "co-lead agency" and therefore had to be included in our action.

It was our position that under California law there is no such thing as a "co-lead agency" and given that the Port had acted first it was in fact the only lead agency. Beyond that the P.U.C. had not taken any reviewable action.

In March of 1978 the Superior Court agreed with Sohio, and ordered us to enjoin the P.U.C. and transfer the legal action to the Supreme Court of California. Mr. Rossmann's attached statement clarifies in much greater detail the actions and issues which have arisen since that Superior Court decision.

The point is, however, the substantive issue of this case have yet to have been heard. It is fair to say, that Sohio's legal tactic which was aimed at depriving us of judicial review at the proper and most accessible trial court, in fact cost them one year of delay.

On March 22, 1979 the California Supreme Court ruled that the Superior Court had erred by enjoining the P.U.C. and remanded the action back to the Superior Court.

We believe it is Sohio, not the Task Force, the State of California nor the California Supreme Court which must bear direct responsibility for this delay.

We should make it clear that the suit challenging the adequacy of the E.I.R., is not the only action which we will be forced to pursue. The political pressure surrounding this project has become extremely intense. Commissions and agencies which had taken strong positions in concordance with their legal mandates have shown signs of weakening under this pressure. Their acquiescence has resulted in the possibility of real physical and environmental damage to the people of California.

A good example is the recent action taken by the California Coastal Commission. The Coastal Commission granted a development permit for the Sohio project on October 19, 1977. One of the conditions which was impossed on this permit was that no storage tanks were to be located on Pier J, which is the site of the oil terminal. The Commission cited four reasons for their action, the most important of which was their concern with the seismic hazards of Pier J and the public safety. Pier J is a landfill surrounded by water, in between two known and active earthquake faults. It is also in close proximity of downtown Long Beach.

The Commission also found that Sohio and the Port could apply for an amendment to this condition if "no feasible less environmentally damaging alternative could be found". The Port applied for this amendment. On October 19, 1978, one year after granting the original permit, the Commission rejected the amendment request, and found that there were other feasible alternatives to the Pier J site.

The Port reapplied for a new amendment. The Coastal Commission under extreme political pressure waived its normal waiting period and agreed to rehear Sohio's amendment request.

On March 19, 1979, (after Sohio's announced withdrawal), the Commission reversed itself and approved the construction of two massive 615,000 barrel storage tanks on Pier J.

We now find ourselves in the unfortunate position of being forced to hold the Coastal Commission accountable for what is a clear and irresponsible violation of the spirit and intent of the California Coastal Act. We will be filing legal action within the next couple of weeks seeking a judicial remedy for the Coastal Commission's error.

I should underscore the point that, the Task Force has not entered into these legal challenges for frivolous or obstructive reasons. Rather, we see it as our duty to ensure that the law, and the rules and policies established to enforce the law, are judiciously adhered to by agencies involved in granting Sohio their permits. For us to do less would be civicly irresponsible.

The bottom line is—we have played by the rules, even when they were being used against us. We expect everyone else to play by the same rules. This includes; Sohio, the State of California and the Federal Government. At this late date in the Sohio process, we consider it irresponsible and a disservice to the people of the United States, to begin tampering with the law in order to accommodate the economic convenience of a foreign owned oil company.

If Sohio has experienced any extraordinary delay within the permitting process of California, it can only be attributable to the simple fact that their pipeline project was never a very good idea. The Sohio pipeline project was in and of itself intrinsically problematic and never of much value to anyone other than Sohio and British Petroleum.

However, we do not believe that Sohio was unduly hampered by the State of California. In fact we are rather angered by the preferential treatment Sohio was given by the Governor and the State agencies involved, and are embarrassed by the antics of those in the State trying to woo Sohio back.

Sohio is gone and rightly so. There are more economically attractive and environmentally sound alternatives to relieve the West Coast surplus, without locating an oil terminal in the dirtiest air basin in the United States, and without isolating California from gas sources which are now being developed. Those alternatives should be immediately investigated.

Secondly, it would be of public interest if an investigation were initiated to investigate the real reasons for Sohio's withdrawal. Sohio's statement of withdrawal was based upon three separate yet possibly interconnected developments; permit delays, threatened litigation and "the prospective unavailability of two natural gas lines which Sohio proposed to convert to the oil pipeline".

Given that they were within a few months of gaining all of their required permits, we believe that the complaints regarding regulatory delay are nothing more than exploitation of the popular misconception that California is anti-development. Not only is this position inaccurate, but it distracts from the real issues.

While we would like to take credit for forcing Sohio to reevaluate the economics and environmental damage of their project, to do so would be pretentious and inaccurate. We have yet to be tested in court. It does not stand to reason that Sohio would abandon their project solely on the basis of our litigation. However, in that a portion of our litigation addresses issues associated with the gas transmission lines, there may be a connection to a much larger picture. That is the availability of the two El Paso Natural Gas Pipelines.

Sohio stated quite candidly in their announcement of March 13, 1979, that the availability of those gas lines entered into their decision to withdraw from the pipeline project. Furthermore, in a letter dated March 26, 1979, to Senator Henry Jackson, Chairman, Committee on Energy and Natural Resources, United States Senate, from Travis H. Petty, Chairman, El Paso Natural Gas Company, the following statement was made:

"Since the fall of 1977, a number of events have occurred affecting or potentially affecting El Paso's future gas supply situation. El Paso has experienced improved success with its own gas exploration and development activities and this success has contributed to increased gas purchase activities in El Paso's traditional supply areas. Most significantly, passage of the Natural Gas Policy Act of 1978 is enabling El Paso to compete more effectively with other interstate and intrastate purchasers for conventional gas supplies in its traditional supply areas and in new supply areas not previously accessible to El Paso. It appears that the rate of decline in projections of gas supplies available to El Paso and its markets has flattened considerably. Apart from El Paso's own supply situation, the recent determination of a gas 'bubble' in Alberta, available for export to the United States, and new exploration and development activities in the Rocky Mountain 'overthrust belt' of Wyoming and Utah have placed demands upon El Paso's system for transportation service. Further, certain other supplemental gas supply projects, while viable and much needed, have not yet received requisite approvals."

This statement raises some interesting questions. The two basic ones are: Do supplies of gas now exist that require the gas pipelines which Sohio proposed to use? And did this development predicate Sohio's withdrawal from their oil terminal project?

Unfortunately, we cannot adequately answer those questions. We suspect that there exists reasons for Sohio's pull out which have not come under public scrutiny. The gas issue is one of them that we believe this committee should investigate.

In closing, we have followed an established legal course of action which is both appropriate and fair to all parties involved. As a reaction to Sohio's withdrawal, bills are now being written in Sacramento and Washington which will radically alter the law and procedures which have been developed to implement the law. Though not perfect, environmental law and procedures do not warrant the wrath of Congress or that of the California State legislature. Certainly they do not require major surgery as a result of Sohio's strategic retreat. The Sohio project has always been and continues to be the result of a private marketing problem of a foreign owned petroleum corporation and nothing more.

This problem is a direct result of the Trans-Alaskan Pipeline system. In short, the pipeline was built to the wrong place. If the environmental review process would have been allowed to run its course, this fact would have been made abundantly clear and we may have saved ourselves from this present headache. Instead many well intentioned legislators were stampeded into a position which in essence circumvented environmental law by the hysteria surrounding the impending oil crisis.

We face a similar situation today. We are being told by some that extreme measures need to be taken in order to preserve the "national interest," even though Sohio's "national interest" contribution is at best questionable. These measures include the circumventing of law and the usurpation of California's right to impose reasonable requirements on development which will affect the health and safety of its citizens. These proposed measures are not only unnecessary and inappropriate, they establish an extremely dangerous precedent with no significant national benefit.

The oil is getting to market today. If a further resolution of Sohio/British Petroleum's marketing problem is in some manner in the "national interest", then the tools to resolve that problem exist here in Washington. The President and Congress can approve an oil exchange with Japan. This is the most immediate, cost efficient, and environmentally sound solution at hand. We should not allow illusions of energy independence, or irrational xenophobia to stand in the way of this solution. We would hope that if Congress accepts this alternative that provisions would be taken which would protect the American Maritime fleet and seamen.

Citizens Task Force on Sohio and other Long Beach residents have tried to protect ourselves from the health hazards and economic problems associated with the Sohio project. We will not allow ourselves to bear the brunt of damages from this project caused by a policy error in approving the Alaskan Pipeline. We are certain that one mistake can not compensate for another mistake and believe that the Sohio project should be allowed a peaceful and benign demise. I thank you for this opportunity to address this Committee, and that concludes my remarks.

PREPARED STATEMENT OF ANTONIO ROSSMANN, ATTORNEY FOR CITIZENS TASK FORCE ON SOHIO

Honorable Members of the Committees: As the attorney for the Long Beach Citizens Task Force on Sohio that opposes the construction of Sohio's marine terminal in their city, I am honored to submit this statement in testimony of my experiences with the Sohio project. I regret very much that pressing legal business in California, including the Sohio case itself, prevents my personal appearance before you today. I earnestly hope that this written statement will provide facts and background that will assist the Congres in its fair evaluation of Sohio's reluctance to construct the pipeline originating in Long Beach.

At the outset, let me explain that I have served for the past seven years as a California attorney practicing environmental, administrative, and constitutional law. In addition to representing the Long Beach citizens in this project, I have served as counsel to the County of Inyo in its significant and ongoing dispute with the City of Los Angeles over the groundwater of the Owens Valley, and have also served as counsel to the State of California in defending two environmentally significant decisions by our State: the successful moratorium on the logging of old growth redwood trees in Redwood Creek until your honorable body could complete its work in enlarging the Redwood National Park last year, and the conditioning of site approval for nuclear generating stations upon successful federal certification of a permanent waste disposal program. I also served as our State's first ombudsman, Public Advisor to the California Energy Commission.

Presently I serve as Chair of the San Francisco Bar Committee on the Environment, as a member of the California State Bar Committee on the Environment, and as a member of the Board of Advisors of the Harvard Environmental Law Review. Formerly. I was a lecturer in law at the University of California, and editor of the Harvard Law Review. Prior to commencing my practice, I was honored to serve as law clerk to Justice Mathew Tobriner of the California Supreme Court.

Permit me to draw upon my general experience with environmental law, and my specific experience in the Sohio case, to assure your honorable Committees of the following premises:

(1) California jurisprudence presently and at all times since Sohio's arrival in the State was remained adequate to permit fair and efficient resolution of Sohio's pipeline proposal;

(2) Sohio's delays to date in securing judicial relief are due *entirely* to Sohio's own failure to follow specific California laws enacted *for its benefit;*

(3) Our experience with this project and with the Alyeska pipeline demonstrates need for effective administrative and judicial review and not for the relaxation of existing standards of review.

CALIFORNIA LAW PROVIDES FOR EFFICIENT REVIEW OF COMPLEX PROJECTS

Let me turn first to the general provisions of California law pertaining to the State's evaluation of environmentally significant projects. Almost from the earliest days (1972) of our California Environmental Quality Act (CEQA), that law has contained the shortest statute of limitations on the law books of California: thirty days. Additionally, the law has required that actions brought under the act be given priority on the civil calendar. Moreover, even long before CEQA's enactment in 1970, California jurisprudence has contained provisions designed to eliminate frivolous and malicious litigation (for example, by motons for summary relief or for the filing of an undertaking). Our law also contains provisions permitting expedited appellate review directly to our Supreme Court; this type of expedited review applied, for example, in the landmark school financing litigation of *Serrano* v. *Priest*, and reduces delay while wisely dividing the labors of factual and constitutional adjudication between our Superior and Supreme Courts, respectively.

In the year 1976, however, the Dow Chemical Company's proposed petrochemical complex in Solano County created a significant statewide controversy over the application of CEQA to complex projects. After refusing to supply required information to various State agencies, and long before those State agencies had an opportunity to evaluate the project, the Dow Company dramatically announced withdrawal of its project, blaming the State's environmental law for its own decision. Whether or not Dow's self-effacing allegations had merit, the California Legislature nonetheless undertok a major revision of CEQA to refine its provisions dealing with significant projects. These amendments, embodied in Assembly Bill 884 of the 1977 session, were finally enacted at Chapter 1200 of the 1977 California Statutes. A record of their history through the Legislature, in response to Dow's allegations, can be obtained from the Los Angeles Times editions of January 26, January 27, May 4, May 24, August 23, and September 16, 1977.

The 1977 amendments reflected a constructive participation of and compromise by the various interests before the California Legislature. At the time of their enactment, these amendments were regarded as effecting a significant abbreviation of CEQA's administrative and judicial procedures, that nonetheless maintained the basic elements of fairness and effective judicial review. Specifically, the law required (and still requires) that any lawsuit to challenge the environmental arequacy of a project be commenced within thirty days of the first agency's action on the project; that only that first agency need be challenged; and that pending the litigation against the first agency, other State and local agencies must proceed to approve or disapprove the project on the assumption that the environmental documentation for the project is adequate.

The federal government has recognized California's leadership in providing expedited review of complex projects; many of the California provisions have now been incorporated in to the newly adopted regulations of the Council on Environmental Quality for implementing the National Environmental Policy Act.

Accordingly, as a general matter, I sincerely believe that California law adequately permits expeditious review of environmentally sensitive projects, and does so with great deference to the interests of projects proponents. Indeed, the thirty day statute of limitations, and the requirement for project opponents to attack a project even before final action on it is completed, place an extraordinarily great burden on those who would challenge project approval. These provisions do not necessarily form my first choice as to what I would like to see the law be; but they nonetheless do represent the judgment of our Legislature, and therefore the rules by which I and my clients (be they citizens groups or State defendants) resolve our legal disputes.

SOHIO'S FAILURE TO FOLLOW THESE CALIFORNIA LAWS CAUSED ITS SELF-INFLICTED DELAYS

Permit me now to turn to the specific facts of the Sohio case. In respect of its pipeline project, the environmental documentation was prepared jointly by the Port of Long Beach and our Public Utilities Commission. The Port became the first California agency to use that documentation, in January 1978, when it approved the construction of the terminal in Long Beach.

By virtue of the California law provisions described above, the Long Beach citizens who opposed the project were forced to file their law suit against the

Port within thirty days. At that time they had no lawyer, nor could they find one on the 30-day notice that the law required. Accordingly, in February 1978, the Long Beach citizens filed their complaint in the local Los Angeles Superior Court, appearing in propia persona.

At this point, Sohio took charge. Acting in total disregard of the laws enacted just a year ago for its benefit—and in response to the Dow Chemical controversy—Sohio convinced the Superior Court that the citizens should have sued the State Public Utilities Commission as well as the Port. Sohio's motivation for this tactic was clear: because only our State Supreme Court can issue writs to the Public Utilities Commission, Sohio sought to fabricate original Supreme Court jurisdiction over the potentially complex factual claim that the Long Beach citizens presented. Sohio obviously hoped to place the case literally as well as figuratively out of the reach of the Long Beach citizens, and to exploit the important constitutional calendar of our highest court, which would permit little time for assessment of factual environmental issues. May I point out that this tactic was unfair not only to the citizens, but also the Court; although like the United States Supreme Court, it generally exercise discretionary jurisdiction, the California Supreme Court's docket is much heavier, and the constitutional issues of almost equal import to those faced by our national court.

When the Long Beach citizens' case reached the California Supreme Court, that Court wisely inquired into its own jurisdiction over the matter. Less than a week before their brief was due in the Supreme Court, the Long Beach citizens contacted me with an urgent request that I take their case. Believing myself professionally bound to insure adequate representation of the Long Beach citizens' claims, I became their attorney at that time, and prepared the memorandum of law establishing Sohio's error in deliberately refusing to follow the 1977 CEQA amendments enacted for its own benefit.

On March 22nd of this year, the Supreme Court issued a two-page opinion which (as reported in the Los Angeles Daily Journal of March 27, 1979) "agreed on all points" with the citizens' claims. This order, a copy of which is appended to this written statement, held that the transfer of the case from the Los Angeles Superior Court was improper, because the Public Utilities Commission should never have been joined as a party to the case. Accordingly, the Supreme Court transferred the matter back to the Superior Court, where we at last will be able to commence our trial on the merits.

This brief history illuminates three indisputable points: (1) the citizens have properly followed the law designed for expeditious judicial review of complex projects; (2) Sohio, attempting to secure a temporary advantage, failed to follow those same laws; (3) therefore, the citizens never had the opportunity to delay or defeat Sohio in Court; by its initiatives, Sohio beat itself.

OUR EXPERIENCE SHOWS THAT WE SHOULD NOT RELAX JUDICIAL REVIEW OF SIGNIFICANT PROJECTS

In light of both the general provisions of California law and the specific history of the Sohio case just described, we find it very distressing to hear both from Washington and Sacramento calls for dramatic changes in our State's environmental laws. Those laws are adequate and more than fair to deal with a project such as Sohio's; it was Sohio that did not give them a chance to work. Given the severe constraints that California law now imposes upon citizens and their access to their courts, we do not believe that any further construction of the legal process is appropriate.

More fundamentally, we believe that further construction of environmental review of Sohio's project would constitute a failure to learn from the past. Specifically, the Nation and our State now face the dilemma posed by Sohio's need to transport Alaskan oil by sea, because a decade ago this Congress was unfortunately persuaded to abandon environmental review of the then-proposed trans-Alaska pipeline. As a consequence, lacking full judicial review, the Nation was forced to accept a pipeline terminating at Valdez—requiring marine shipment of oil—instead of the environmentally and militarily preferable alternative of an entirely land bound shipment of oil through Canada to the midwest. Can we honestly claim today that we are better off because judicial review of the trans-Alaska pipeline project was prematurely terminated? Had that review continued, and as a consequence the environmentally preferable alternative of a trans-Canadian pipeline been effectuated, the present dilemma that Sohio has created would never have arisen.

The need for careful judicial review of the Sohio project is at least as great as that for the trans-Alaskan pipeline. Unlike the Alyeska proposal, Sohio's literally changes from day to day. Moreover, unlike the Alyeska pipeline serious and legitimate questions have been raised as to the economic and environmental feasibility of the project, and by Sohio's own testimony last week before the Senate Committee on the Interior, even the desires of the project proponent remain uncertain at best. In light of the momentous risk that the Sohio pipeline and marine terminal pose—environmentally to the citizens of Long Beach, economically to the country as a whole—should we not be fortunate that a handful of citizens are asking for the wise second look that our courts have been created to provide?

So that the Congress may know of the facts and California law in necessary detail, I have taken many paragraphs to present this statement to your Committees. In contrast, one of the most respected newspapers in our State, the Sacramento Bee, has analyzed the issues far more concisely and effectively. I would like to close by also incorporating as part of my statement the editorial from the Sacramento Bee of March 23, 1979, which points out, as I have attempted to do, that we are all being asked to pay too high a price for construction of a project that even its proponents are not so sure they want.

In conclusion, therefore, I trust that upon review of this history, your honorable Committees will conclude that neither our federal nor state laws should be invoked to further constrain the careful and impartial review that a project of Sohio dimension requires.

Respectfully submitted.

NOTE.—The attachments to Mr. Rossmann's statement may be found in the subcommittee files.

Mr. MOFFETT. Thank you for your statement.

Would either of the gentlemen from California like to ask questions? Mr. Lagomarsino?

Mr. LAGOMARSINO. I have several questions I might ask. I am sorry, I was temporarily diverted. How many people do you represent?

Mr. JONES. We have 150 active members; 150 people on our active list. We work with a coalition called the Coalition of Neighborhood and Community Associations, which is composed of eight groups. That was the organization that put the referendum on the ballot in July. I would say overall, in terms of numbers of people involved, there are about 2,000 combined memberships of the various groups.

Mr. LAGOMARSINO. That is where the funds for the organization came from?

Mr. JONES. Our funds came from Long Beach people.

Mr. LAGOMARSINO. How do you account for the rather large vote against your position in the referendum?

Mr. JONES. I am glad someone asked that question, because I am more than eager to answer it. I think the actual figure Sohio spent was $850,000. All of you gentlemen are up for reelection once every 2 years, and I think you are well aware of the impact money has in a campaign. When you spend 50 to 1, which is, in fact, what was spent, I think the outcome of the election speaks very highly for our skills in trying to convince at least 40 percent of the people of Long Beach that they are being bamboozled.

Mr. LAGOMARSINO. Let me clarify in my own mind what your position is. From what you said a moment ago, I gather that your opposition is based on the failure of Sohio to comply with the regulations and procedures that are established by State and Federal law.

Mr. JONES. That has been the basis of our litigation, yes. Our opposition to the project is based upon our concern about local air quality in Long Beach and the air basin as a whole, and supplies of natural gas to California.

Mr. LAGOMARSINO. This is kind of an unfair question——

Mr. JONES. That is OK; shoot.

Mr. LAGOMARSINO. Has anybody in your organization had any second thoughts about their opposition to this project in light of what has happened in Iran?

Mr. JONES. No, not that I know of. In a sense we are looking at apples and oranges, at least from our position. We don't see that the situation in Iran has objectively changed our position.

Mr. LAGOMARSINO. Energy is energy.

Mr. JONES. Energy is energy. I think one of the points that hasn't been brought out today, and I don't want to belabor the point, because it should be the subject of another forum, is that this is a problem of consumption, not of production.

The point is, 5 years after the first energy crisis, this country is still consuming record amounts of petroleum. So I think we are approaching the problem from the wrong end here.

Mr. LAGOMARSINO. Meaning what? Meaning we could solve the whole problem with conservation?

Mr. JONES. We could probably start putting a ceiling on the amount of oil we are consuming in this country and possibly develop more rational ways of distributing the oil that is currently being produced.

Mr. LAGOMARSINO. Many of us see this pipeline as a rational way of distributing the oil.

Mr. JONES. I think from what I have been hearing today, Mr. Whitehouse and I have probably agreed for the first time. It is a historic moment; that is, for Sohio's economic reasons, they no longer believe this project is in their interest, and we certainly have never believed that their project was in our interest. We do think other alternatives do exist. There are other alternatives. I understand the northern tier is being given serious consideration. I understand their projects——

Mr. LAGOMARSINO. The northern tier, as I understand it, uses the same oil. It is going to run out.

Mr. JONES. Excuse me?

Mr. LAGOMARSINO. The northern tier would use exactly the same amount of oil.

Mr. JONES. I am not advocating that we go to northern tier or trans-Guatemalan, or anything else. I don't like to kick these projects into other people's back yards, but I do believe so long as a solution does exist—I am going to come back to the Japanese oil exchange, and if I am the only person in the room who thinks it is a good idea, that is unfortunate. But I think that is a viable and economically feasible alternative right now, which would not result in any environmental damage in California or anywhere else on the coast, and would, in fact, expedite Sohio's economic problem.

Mr. MOFFETT. The gentleman's time has expired. The gentleman is recognized for 5 minutes.

Mr. LUNGREN. Thank you, Mr. Chairman. We are both from Long Beach.

Mr. JONES. Right. You are my Congressman.

Mr. LUNGREN. Ever since I was a little kid, I have seen oil tankers in our harbor. As a matter of fact, I have seen them stack up even further now than they used to be. I think they stack up because of the fact that we don't have the newer tanker facilities that are required that we could take the oil off as we could with the Sohio project.

I guess my question is: Do you recognize that there are problems with the present system, and do you insist that we somehow restrict the oil that is brought into the Long Beach area now? Or should we just get rid of the Sohio project, and that will take care of any problems that we have?

Mr. JONES. No; I wouldn't go quite that far. I think you have hit upon a very good point. Many of the ships you see in Long Beach are there primarily, if we understand correctly, because California is a very inexpensive bunkering area, and that has become a reason why we have that many ships there.

Second, I would like to point out the fact that we have had a real problem with tankers in California. Everyone has been trying to get a handle on that. The State doesn't think they can, both in terms of safety and air quality, and they can continue to say it is up to the Federal Government, so any cooperation we can get in Washington by putting safety standards on tankers is extremely beneficial.

One other thing I should add, in terms of earlier when I was proposing the Japanese oil exchange, we would certainly hope that whoever would do that would be encouraged to use American ships.

Mr. LUNGREN. The Sohio project would encourage us to get a partial handle on the project, would it not? We would have restrictions based on ships that we don't have now, have never had. We would require certain tradeoffs for emissions that were never allowed in the district. Do you agree with that?

Mr. JONES. I agree in terms of the Sohio tankers themselves it would solve that problem. If you are asking about the much larger problem in terms of other tankers, which is what I heard, I would have to also agree with you that we would have to go one step further.

Mr. LUNGREN. The Sohio tradeoffs, as I understand them, are 1 to 1.2 with respect to the worst case, which is if they had three tankers in the area 365 days a year.

We know that is not going to happen, so actually the tradeoff is more than that, is it not? Do you disagree with those figures?

Mr. JONES. We are currently involved and have been involved in the Air Quality Management District's trade-off negotiations. One of our primary concerns with the trade-off package is the location of trade-off sources and the location of the source of pollution. As you know, being familiar with the district, the terminal is, in our point of view, upwind of the tradeoff. The people living within what is called the primary impact zone of that pollutant receive little benefit from that.

Mr. LUNGREN. There are some statements that contradict that conclusion, are there not?

Mr. JONES. Yes; it is a running debate. I think it is safe to say that no matter what aspect of the Sohio project you talk about, you are going to get at least four different points of view. We have been trying to work this issue out because there is a very real concern here, particularly with regard to sulfur dioxide pollutants, which is what we are most concerned with at the moment.

Mr. LUNGREN. Would it be a fair statement to say that your organization has, from the very beginning, had as its purpose to defeat the entire Sohio project?

Mr. JONES. No; ironically enough, we did not start out in absolute opposition to the project. The task force started out initially to analyze

the environmental impact report and go from there. It has been subsequent to that that we have coalesced our opposition to the project.

Mr. MOFFETT. The gentleman's time has expired.

Mr. Jones, one area I would like to quickly explore, isn't it true that—as I think Mr. Rossmann has pointed out in what he has submitted—California law, specifically the 1972 California Environmental Quality Act, contains even from its inception the shortest statute of limitations of a law in California? Thirty days?

Mr. JONES. That is true.

Mr. MOFFETT. Isn't it true that long before that law was enacted in 1970, California jurisprudence has contained provisions designed to eliminate frivolous litigation?

Mr. JONES. That is my understanding.

Mr. MOFFETT. When you first decided to go to court, you were forced to file your suit in the court within 30 days. Is that correct?

Mr. JONES. That is correct.

Mr. MOFFETT. Isn't it also true that the Federal Government embraced much of the California approach in this area by attempting to provide an expedited review of the complex project?

Mr. JONES. My understanding of the situation is that that is correct.

Mr. MOFFETT. Specifically the Council on Environmental Quality adopted this for NEPA. It is sort of ironic that the Federal Government in knee-jerk fashion is reacting to the Sohio pullout by suggesting that California has been almost the sole cause of the delays here.

Isn't it also true that after Dow's withdrawal of their project, the California 1972 law was resolved again? Refined its positions again? Isn't that true?

Mr. JONES. That is true.

Mr. MOFFETT. Mr. Jones, we want to thank you for your testimony and your patience in waiting to testify. I would invite you to submit comments on the testimony that you did here for the record if you are interested in doing that, because your appearance has come at a time when not many members are present. We would appreciate that if you are so inclined.

Mr. JONES. OK. We would like our statement incorporated in the record now, and we will submit additional testimony if that would be necessary. Thank you.

Mr. MOFFETT. The subcommittee stands adjourned.

[Whereupon, at 4:35 p.m., the hearing was adjourned.]

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