DEEP WATER ROYALTY RELIEF: MISMANAGEMENT AND COVER-UPS

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND RESOURCES

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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DEEP WATER ROYALTY RELIEF: MISMANAGEMENT AND COVER-UPS

WEDNESDAY, JUNE 21, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND RESOURCES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m., in room 2154, Rayburn House Office Building, Hon. Darrell E. Issa (chairman of the committee) presiding.

Present: Representatives Issa, Watson, and Maloney.

Staff present: Larry Brady, staff director; Lori Gavaghan, legislative clerk; Tom Alexander, counsel; Dave Solan, Ray Robbins, and Joe Thompson, professional staff members; Richard Butcher, minority professional staff member; and Jean Gosa, minority assistant clerk.

Mr. ISSA. I would like to call this hearing to order.

Today the question remains of whether a lease with this many signatures and counter-signatures is open to being signed without people knowing it. In other words, can you have a lease that somebody didn't know that there were inclusions or omissions with that many people signing it, saying they have read it, evaluated it and approved it?

But as I call this meeting to order, I would first like to thank the witnesses for appearing today. Your willingness to answer questions is an important step in this investigation. The subcommittee is investigating the absence of price thresholds in deep water leases entered into during the period 1998 through 1999. The results to date indicate a trail of gross mismanagement by the Department of Interior.

This irresponsibility is likely to cost taxpayers almost $10 billion. And I might note that when we started this investigation, figures escalated from $5 million to $10 million.

In 1995, Congress enacted the Deep Water Royalty Relief Act to provide financial incentives to companies to produce oil and natural gas from our deep coastal waters. This came at a time when oil and natural gas prices were low and the interest in deep water drilling was lacking.

As an incentive, the act allowed oil and gas companies to forego paying royalties to the Department of the Interior for a specific volume of oil or natural gas produced. This would allow companies to recoup their capital investment before having to pay royalties. I repeat: the purposes of the royalty suspension was to allow companies to recoup their capital investment.

To ensure that companies did not receive windfall profits, and I will repeat that again, did not receive windfall profits, the act also provided for price thresholds. In other words, a company would be allowed to operate royalty-free until either a certain volume of production was achieved or the market price of oil or natural gas reached a specific ceiling. These two provisions are known as volume suspensions and price thresholds, respectively.

The Interior Department was charged with the act's implementation. As such, it was to issue a rule devising a royalty suspension scheme that would impose volume suspensions and price thresholds. The interim rule was issued on March 25, 1996, by the Interior Department, the rule that was issued on that date was inadequate. It did not contain price thresholds. Instead, the final notice of sale contained volume suspensions and price thresholds, and leases signed in 1996 and 1997 included volume suspensions and price thresholds in the addenda to leases, meaning in the body of the lease signed by both parties. Exhibit 1 illustrates final notice of sale, and exhibit 2 has the lease addendum.

This practice continued until the final regulation was issued in January 1998. So for those two periods, both parties signed leases that included the specific language. Again, all of you, as I noted, saw the earlier amounts of counter-signatures. As we reviewed the leases, those counter-signatures, in 1996, 1997, 1998, 1999, and through today, are typical amount of people who either signed or initialed leases.

For leases issued in 1998 and 1999, the price thresholds disappeared from the final notice of sale and individual leases. Instead, these documents referred to a Final Rule, 30 CFR Part 260, regarding the royalty relief program. The Final Rule was printed in the Federal Register in January 1998. The bottom line is that this rule only contained volume suspensions and did not contain price thresholds. In other words, it was also inadequate.

Had the price thresholds been included in leases in 1998 and 1999, the threshold would have been set at $28 per barrel of oil or $3.50 per thousand cubic fee of natural gas. I don't need to do the math for you on what the prices of oil and natural gas have become.

In a previous hearing before this subcommittee, a senior career official claimed that employees thought the Final Rule contained the price thresholds and operated under that assumption, and that is why there was a lack of price thresholds in the leases themselves, and they believed that it should not and did not trigger red flags. How this could have happened is a mystery, since the Interim and Final Rules never contained price thresholds. I call your attention to exhibit 4 on the screen.

Every one of these actions survived multiple levels of legal and bureaucratic scrutiny. In fact, the lawyers who drafted and approved the interim regulations were the same lawyers who drafted and approved the final regulations and every final notice of sale. The terms and conditions in the leases were to be carbon copies of those advertised in the final notices of sale.

I heard that this was explained as a case of "the right hand did not know what the left hand was doing." But it must be unique that the right hand and left hand were in fact working on the same computer keyboards and at the same desks in the Department of Interior Office. I hope we hear a better explanation today. Exhibit 5 shows the individuals, and the Xs showing that they were in fact the same individuals involved in both aspects of this dilemma of the inadequate lease provisions.

The Department has also testified, under oath, that nobody noticed the lack of price thresholds until early 2000. In my prepared statement, it says "I am extremely skeptical," and I would say that I am beyond extremely skeptical, but in fact convinced that people did notice that.

The documents suggest that someone noticed the problem and attempted to fix it, but did it wrongly. The notices of sale were different in 1998 than they were in 1999. In 1998, sales notices made reference to 30 CFR Part 260. In 1999, somebody within the Department changed the language to refer to 30 CFR Part 203, which contains both volume suspensions and price suspensions. However, Part 203 applies to pre-1995 leases. Thus, the change had no effect.

The leases were operationally no different than before the change of notice of sale. And I would call to your attention to exhibit 6 on Part 203, where it clearly shows it was pre-November 1995 leases that it had affected. I would ask you to also see exhibit 7, the surname sheet. This is the one that I had up earlier, and for those who are members on the panel, take note. I have actually never seen anything other than our founding documents that had quite this many signatures on it. I would trust that John Hancock read before signing. [Laughter.]

I was hoping to get at least a little reaction from that.

I am well aware that for every decision made by an agency, there is a corresponding decision memorandum. We have asked for the decision memoranda concerning the Department's decision regarding the drafting of regulations, lease sales and lease approvals. We have not received any memoranda specifically referencing the exclusion of price thresholds in the regulations, nor have we received any memoranda regarding the decision to switch the reference in the sale notice from Part 260 to Part 203.

Again, many people are involved at every step of the leasing and rulemaking process. Lawyers, experts and management, at least up to the Assistant Secretary level, are obligated to review and sign off on every phase.

The fact that nobody raised an issue with the lack of price thresholds for years leads to one of two conclusions: nobody reviewed the leases on either side at the Department of Interior and these many multi-billion dollar oil companies; or everyone reviewed and knowingly approved of faulty leases and regulations. Either scenario is unacceptable. Exhibit 8 shows the number of people involved in the rulemaking and approval process. Now, if I have ever seen a bureaucratic checklist of how many people have to look at something, this is a good example. I wish we had a larger screen, so you could read the individual names.

Our first panel of witnesses includes current and former attorneys for the Department of Interior who will help us get to the bottom of the missing price threshold. Our second panel represents the oil and natural gas producers who have the most leases from

1998 to 1999. And I might note, at least one of the oil companies doesn't have any leases in that period, but has current leases.

I realize that the companies are expected to maximize shareholder value. At the same time, shareholders expect companies to operate on the up and up to avoid surprises that may affect earnings. I might repeat that as a board member for a public company. At the same time, shareholders expect companies to operate on the up and up to avoid surprises that may affect earnings.

I am sure that at least some oil and natural gas producers noticed that price thresholds were missing from the final notice of sale and the first leases executed in 1998. They must have known that the missing price thresholds would eventually cast doubt on the validity of the leases. It is difficult to believe that no one brought this to the attention of the Government.

My question to the oil companies will be this: If there is a bank error in your favor, which you immediately notice, do you bring it to the bank's attention or do you take the funds and hope no one finds the error, and instead, assemble a legal team to later claim that the gains are yours to keep? Bear in mind that the sum we are dealing with here has now risen to at least $10 billion, and is in fact trust money from the people of the United States. These royalties are collected on resources that belong to the American people. The American people are not getting the return that Congress promised them that they would get.

I might also mention that just 2 days ago, I was watching Fox News in the morning. They were talking about a veteran who received a $100,000 check and didn't return it. They were talking about him because he was in court being criminally prosecuted for accepting and depositing a check. Even though it had his name on it, he was knowingly accepting an amount of money that he wasn't entitled to. At least that is what the prosecutor said. And that happens every day in America. As a matter of fact, it is a very common problem for veterans, that they receive an unacceptable amount, and when it is discovered, they stop getting any payments until they are completely made back up.

The Interior Department's Inspector General's office has conducted a parallel investigation surrounding the same issues. They have conducted 27 interviews thus far of attorneys in the Solicitor's office and present and former MMS officials in the D.C. area and in New Orleans. They have reviewed thousands of documents, including 5,000 e-mails and expect to conduct additional interviews. The IG's office expects to issue a report in 6 to 8 weeks.

I ask unanimous consent that the letter from the IG providing the status of their investigation be inserted into the record, and that the briefing memo prepared by the subcommittee staff be inserted into the record as well as all other relevant materials. Without objection, so ordered.

[The information referred to follows:]

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

JUN 20 2006

The Honorable Darrell Issa
House of Representatives
Committee on Government Reform
Washington, D.C. 20515-6143

Dear Chairman Issa:

This is in response to your June 12, 2006 letter inviting me to testify before the House of Representatives Government Reform Subcommittee on Energy and Resources. Following discussions between our respective staffs, I am submitting this letter in lieu of testimony to update you on the efforts of the Office of Inspector General (OIG) for the Department of the Interior (DOI) concerning the royalties issues attendant to deepwater leases awarded by the Minerals Management Service (MMS), and particularly the failure to include royalty thresholds in leases awarded in 1998 and 1999.

The *New York Times* reported on January 23, 2006 that companies producing natural gas may have avoided paying DOI MMS the full amount of royalties owed under the law. The OIG received a letter dated January 23 from Senator Charles Schumer asking for a report on the issue to Congress, and on January 24 Comptroller General David M. Walker, Government Accountability Office (GAO), received a letter signed by 22 senators requesting a review and report on the processes of royalty accounting and collection.

The OIG and GAO subsequently met with staff of the Senate Committee on Energy and Natural Resources, as well as personal staff of the 22 Senators. The OIG and GAO negotiated a division of labor between the two oversight organizations, and established priorities agreeable to the Senate staff. In summary, the OIG agreed to review the audit and compliance review capacity of MMS, while GAO undertook to verify the accuracy of MMS' response to the *New York Times* article concerning royalty numbers.

Contemporaneous with the OIG's and GAO's efforts, MMS officials testified before the Senate Committee on Energy and Natural Resources. Among the issues of concern was the failure to include royalty thresholds in leases sold by MMS in 1998 and 1999. Following MMS' testimony, and a discussion between the MMS Director and Deputy Inspector General, the OIG initiated an investigation on January 25 to determine the circumstances surrounding this failure.

Since initiating the investigation, OIG Special Agents have conducted 27 interviews, thus far, of attorneys in the Office of the Solicitor and present and former MMS officials, in the Washington, D.C. area and in New Orleans, Louisiana. They have obtained more than a thousand pages of documents and are in the process of reviewing and analyzing that information. They will be conducting additional interviews to follow up on information obtained though previous interviews and relevant documentation. They have also reviewed 5,000 emails. If appropriate, the results of the investigation may be presented to the Department of Justice for a prosecutorial determination. If prosecution is declined, a Report of Investigation will be issued by the OIG to the Secretary of the Interior for whatever administrative or other corrective action he deems appropriate.

It is the practice of the OIG when prosecution is declined, upon receipt of a request from the Chair of a cognizant committee or subcommittee, to provide a copy of its Report of Investigation to the committee or subcommittee Chair in its entirety. This typically includes personal privacy, confidential or otherwise privileged information which would be exempt from release to the public pursuant to provisions of the Freedom of Information and Privacy Acts. In high profile cases, or significant cases of national importance, the OIG also prepares a redacted copy of its Report of Investigation that protects the personal privacy interests and confidential or privileged information contained in the report, but reveals to the greatest extent possible the substance of the Report of Investigation. In this matter, the OIG would likely prepare such a redacted version of its Report for public consumption.

Although it is always difficult to predict when the Report of Investigation will be finalized, the OIG anticipates that a Report might issue within six to eight weeks of today's date.

If, in the meantime, you have additional questions or concerns, please do not hesitate to contact me at (202) 208-5745, or your staff may contact my Deputy, Mary Kendall, or Kris Kolesnik, Associate Inspector General.

Sincerely,

Earl E. Devaney
Inspector General

COMMITTEE ON GOVERNMENT REFORM

Subcommittee on Energy and Resources

DARRELL ISSA, CHAIRMAN

Oversight Hearing:

Deep Water Royalty Relief: Mismanagement and Cover-Ups

June 21, 2006, 9:00am
Rayburn House Office Building
Room 2154

BRIEFING MEMORANDUM

SUMMARY

This Subcommittee is investigating the absence of price thresholds in deepwater leases entered into between the Department of the Interior and various oil and gas companies during 1998 and 1999. The Government Accountability Office estimates that the lack of price thresholds will cost the U.S. Government upwards of approximately $10 billion in lost revenue. Over the past few months, the Subcommittee staff has reviewed the documentation surrounding nearly every aspect of the lease creation process. This includes an examination of the regulations, leases, lease sale documentation, decision memoranda, and bureaucratic processes. Moreover, the Subcommittee staff has interviewed individuals intimately familiar with all levels of the lease sale process. What has surfaced is a trail of irresponsibility and gross mismanagement.

This investigation has revealed that the problem began in 1995 when the Interior Department promulgated inadequate regulations. These regulations, which delineate the lease sale process and royalty relief scheme, did not include price thresholds. Instead of correcting those regulations, the Department applied a series of "bandaids" that never stopped the bleeding. This irresponsible behavior may have culminated in a cover-up that only perpetuated the problem. The purpose of this hearing is to ascertain how these egregious errors occurred and who is responsible for them.

BACKGROUND

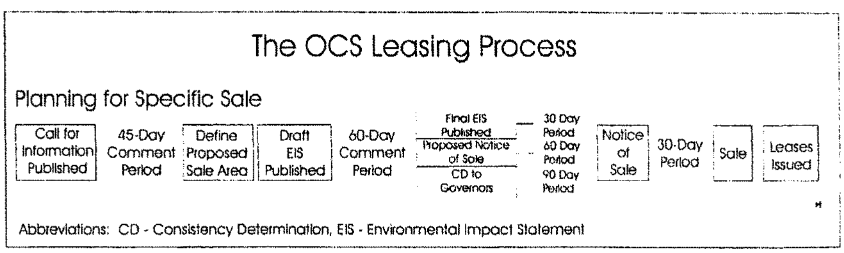
The Deep Water Royalty Relief Act

To appreciate the magnitude of this blunder, it is useful to understand the policy behind the Deep Water Royalty Relief Act and what it sought to accomplish. In 1995, Congress enacted the Deep Water Royalty Relief Act[1] (the "Act") to provide financial incentives to oil and gas companies to explore and extract oil and natural gas from our deep coastal waters. This came at a time when oil and natural gas prices were low and the interest in deepwater drilling was lacking. The Act – tirelessly lobbied for by Democratic Senator J. Bennett Johnston of Louisiana and enacted by a Republican Congress – provided a mechanism by which the Secretary of the Interior and oil and gas companies were to enter into leases of federal waters. Moreover, the Act provided the indispensable terms these leases were to include.

Effective November 28, 1995, companies with eligible leases would be allowed to operate royalty-free until either a certain volume of production was achieved ("volume suspension"), or the market price for oil or gas reached a specified ceiling ("price threshold")[2]. Upon the occurrence of either event, companies would begin paying royalties to the U.S. government at an agreed-upon percentage rate. These lease terms, also known as volume suspensions and price thresholds, became critical components of thousands of leases entered into between 1995 and 2005. To begin leasing property under the Act, however, it was first necessary for the Department to promulgate a rule delineating the process by which the Department would award leases and grant royalty relief.

Given the immediacy of the effective period, the Department published an interim rule on March 25, 1996. This interim rule contained, among other things, a bidding system and a royalty relief scheme under which eligible leases would operate. Throughout 1996 and 1997, hundreds of leases were entered into pursuant to the guidelines set forth by this interim rule. It was not until January 16, 1998 that the Department issued a final rule. For the remainder of the effective period (1998 through 2000), leases were then entered into pursuant to the final rule.

The OCS Leasing Process



[1] 43 U.S.C. 1337 (1995)

[2] The implementation of volume suspensions was mandatory, whereas price thresholds were discretionary.

The leasing process is quite involved and occurs over a period of approximately one year[3]. After a lengthy planning stage that includes multiple studies and numerous reviews, the Department advertises in the Federal Register a particular area that it intends to lease. This advertisement, otherwise known as a "final notice of sale," includes the terms and conditions of the lease sale. (These terms include, among other things, a description of the land and royalty relief provisions applicable to qualifying leases.) The Department then enters a bidding phase, wherein multiple companies compete for the right to lease and drill on the land described in the notice. Successful bids are awarded leases. These leases include the terms and conditions described in the final notice of sale and are governed by statute and Departmental regulations. This process, which appears remarkably simple on its face, requires a tremendous amount of legal and bureaucratic oversight within the Department.

At nearly every turn, there are decision memoranda passed among multiple levels of management for their review and approval. This is true not only for the leasing process, but also for the drafting and promulgation of the regulations. All told, there are nearly thirty surnames required for every lease sale, including those of every supervising and reviewing attorney in the Solicitor's Office[4]. Incidentally, most of the attorneys who reviewed and signed off on the interim and final regulations, the final notices of sale, and numerous decision memoranda, are employed by the Department's Solicitor's Office to this day.

THE PROBLEM

The United States Government faces an enormous problem at the hands of the Interior Department. For some reason, neither the regulations promulgated by the Department, nor the leases entered into during 1998 and 1999, contained the critical price threshold provisions contained in leases signed in 1996, 1997, and 2000. Consequently, companies with eligible leases are able to sell their products at fair market value until they produce the amount of oil or gas allowable under the volume suspension scheme. In 1998 and 1999, fair market value of a barrel of oil was well under $20. Today, it is nearly $70. For natural gas, in 1998 and 1999, the price per thousand cubic feet was about $2. Last year it averaged $7.51. This means that in a field greater than 800 meters depth, lessees are producing and selling millions of barrels of oil and trillions of cubic feet of natural gas at today's market price royalty-free until volume suspensions expire.

The question before this Subcommittee is very simply this: why did price thresholds appear in leases entered into during 1996, 1997, and 2000, but not in 1998 and 1999?

[3] This process is described more fully in the attached narrative, Attachment 1, furnished to this Subcommittee by the Interior Department.
[4] A "surname" is a signature that indicates an approval of the contents of the document on which it appears. See Attachment 2, a spreadsheet furnished by the Interior Department which contains a list of every name and title of those individuals involved in the lease sale review and approval.

HISTORY OF THE INVESTIGATION

The Subcommittee became aware of this problem by way of a *New York Times* article published in late January of 2006. The Subcommittee engaged in a full oversight investigation into the allegations brought forth by that article. The investigation began with a hearing on March 1, 2006, and has thus far culminated in witness interviews, an intense document review, and the hearing for which this memorandum is supplied. Though the Subcommittee staff has made considerable headway, many questions remain.

FINDINGS TO DATE

The Department purports to have no knowledge of why price thresholds were not applicable to leases signed in 1998 and 1999. One official maintains that it was a mix-up due to the change in regulations between 1996 and 1998. What follows is the Department's position on why price thresholds did not appear in leases signed in 1998 and 1999.

Says one Department Official, "The Right Hand Simply Did Not Know What The Left Hand Was Doing."

The Deep Water Royalty Relief Act took effect on November 28, 1995. To implement the royalty relief program, it was necessary to promulgate a rule outlining the parameters by which a lessee would be entitled to – and could continue to receive – relief under the Act. Such a rule would, among other things, describe the applicability of price thresholds and volume suspensions to fields of varying depth. Given the immediacy of the effective period, the Interior Department issued an interim rule on March 25, 1996. This interim rule, however, set forth only volume suspensions. As such, the Department maintains that it was necessary to include volume suspensions *and* price thresholds as addenda to leases since the regulation, as drafted, was incomplete. [*See* Attachment 3.] (It is interesting that the volume suspensions were reiterated in the addenda when they were already outlined in the regulation. Moreover, why these terms were not written into the leases themselves remains a mystery.)

Once the Interior Department published a final rule in the Federal Register on January 16, 1998 (30 CFR part 260 (January 16, 1998)), leases during 1998 and 1999 incorporated by reference the royalty relief provisions included in this rule. [*See* Attachment 4.] Thus, instead of detailing the provisions in addenda, as was done in 1996 and 1997, the leases merely referenced 30 CFR part 260. This is where the purported mix-up occurred.

According to one official, everyone incorrectly assumed that the 1998 rule set forth price thresholds and volume suspensions. Accordingly, leases in 1998 and 1999 made reference to a regulation that was effectively no different than the 1996 regulation. This allowed for the "disappearance" of price thresholds from leases entered into during these two years. The Department testified, under oath, that nobody noticed the lack of price thresholds until early 2000. The Subcommittee staff believes that this is inaccurate.

An Apparent Cover-Up

The documents suggest that someone noticed the problem and unsuccessfully attempted to fix it. The final sale notices were different in 1998 than they were in 1999. In 1998, the sale notices made reference to 30 CFR part 260. In 1999, this reference changed to 30 CFR part 203, which contains both volume suspensions and price thresholds. Part 203, however, only applies to pre-1995 leases. Thus, the change had no effect. It is clear that someone within the Department realized that 30 CFR part 260 did not contain price thresholds and attempted to fix it by referencing a regulation that did. Sadly, part 203 did not contain price thresholds. The result was that the leases were operationally no different than before the change in the sale notice.

It is not entirely clear what decisions were made with regard to the interim and final regulations, and why the leases themselves ceased to contain price thresholds. Moreover, why anyone attempted to fix the reference in the final sale notices apparently without doing it properly remains a mystery. This Subcommittee has inquired, but has yet to receive a sensible answer.

Many people are involved at every step of the leasing and rulemaking process. Department lawyers, experts, and senior level career and political management are obligated to review and sign off on every phase. The fact that nobody raised an issue with the lack of price thresholds forces one of two conclusions: nobody reviewed the leases and regulations, or everyone reviewed and knowingly approved the faulty leases and regulations. Either scenario is unacceptable.

The private sector's actions during this time also must not escape inquiry. Assuredly, the oil and gas companies realized what kind of a deal they were getting. What was their interaction with the Department during the lease sale process? Did they ever raise the issue of missing price thresholds with the Department? What kind of legal review and approval processes were in place throughout the corporate structure? There are many facts arising from the private sector that remain invisible to this Subcommittee.

CONCLUSION

At best, the Interior Department suffers from a poor management culture. At worst, there is a persisting cover-up with regard to the missing price thresholds. Either way, the U.S. Government will be precluded from collecting upwards of approximately $10 billion. This hearing will attempt to ascertain how these egregious errors occurred and who is responsible for them.

WITNESSES

Panel 1:

- Milo Mason, Attorney, Department of the Interior;
- Geoffrey Heath, Attorney, Department of the Interior;

- Peter Schaumberg, Attorney, formally with the Department of the Interior, now in private practice with Beveridge Diamond PC;

Panel 2:

- Shell Oil Corporation: Subpoena served for John Hofmeister, President of U.S. Operations;
- ConocoPhillips Company: Randy Lindbacher, Executive Vice President, Exploration and Productions of the Americas;
- ExxonMobil Corporation: A. Tim Cejka, President of Exxon Exploration Company;
- Kerr-McGee Oil Corporation: Greg Pilcher, Senior Vice President, General Counsel, and Secretary; and
- Chevron Corporation: Paul Siegele, Vice President for Deepwater Development, Gulf of Mexico.

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SUBCOMMITTEE ON ENERGY AND RESOURCES

Will Hold an Oversight Hearing on:

"Deep Water Royalty Relief: Mismanagement and Cover-ups"

9:00 AM, Wednesday, June 21, 2006
Room 2154, Rayburn House Office Building

WITNESSES

Panel 1:
- Geoffrey Heath, Attorney, Department of the Interior;
- Peter Schaumberg, Attorney, formally with the Department of the Interior, now in private practice with Beveridge Diamond PC; and
- Milo Mason, Attorney, Department of the Interior

Panel 2:
- Shell Oil Corporation: Subpoena served for John Hofmeister, President of U.S. Operations;
- ConocoPhillips Company: Randy Lindbacher, Executive Vice President, Exploration and Production - Americas;
- ExxonMobil Corporation: A. Tim Cejka, President of Exxon Exploration Company;
- Kerr-McGee Oil Corporation: Greg Pilcher, Senior Vice President, General Counsel, and Secretary; and
- Chevron Corporation: Paul Siegele, Vice President for Deepwater Development, Gulf of Mexico.

Mr. ISSA. I have one last comment before I introduce the first panel of witnesses. It is really a public request. I would ask everyone watching or listening today, and for those reading this in print who have any additional information regarding the missing price thresholds in 1998 and 1999, to please contact the Government Reform Subcommittee on Energy and Resources, or its staff. I hope that people being aware of this will help shed additional light beyond that which we will receive today.

Today our first panel consists of current and former Interior Department attorneys. They were responsible for review of the leases and regulations, so they should be helpful in shedding light on how these errors occurred.

[The prepared statement of Hon. Darrell E. Issa follows:]

COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON ENERGY AND RESOURCES

OPENING STATEMENT OF
CHAIRMAN DARRELL ISSA

Oversight Hearing:

"Deep Water Royalty Relief: Mismanagement and Cover-ups"

June 21, 2006

First I would like to thank the witnesses for appearing today. Your willingness to answer questions is an important step in this investigation.

This Subcommittee is investigating the absence of price thresholds in deepwater leases entered into during 1998 and 1999. The results to date indicate a trail of gross mismanagement by the Department of Interior.

This irresponsibility will cost the taxpayers almost $10 billion.
In 1995, Congress enacted the Deep Water Royalty Relief Act to provide financial incentives to companies to produce oil and natural gas from our deep coastal waters. This came at a time when oil and natural gas prices were low and the interest in deepwater drilling was lacking.

As an incentive, the Act allowed oil and gas companies to forego paying royalties to the Department of Interior for a specific volume of oil or gas produced. This would allow companies to recoup their capital investment before having to pay royalties. I repeat: the purpose of the royalty suspensions was to allow companies <u>to recoup their capital investment</u>!

To ensure that companies <u>did not receive windfall profits</u>, the Act also provided for price thresholds. In other words, a company would be allowed to operate royalty-free until either a certain volume of production was achieved, or the market price for oil or gas reached a specified ceiling. These two provisions are known as volume suspensions and price thresholds, respectively.

The Interior Department was charged with the Act's implementation. As such, it was to issue a rule devising a royalty suspension scheme that would impose volume suspensions and price thresholds.
The interim rule issued on March 25, 1996 by the Interior Department was inadequate. It did not contain price thresholds. Instead, the final notices of sale contained volume suspensions and price thresholds, and leases signed in 1996 and 1997 included volume suspensions and price thresholds in addenda to leases. *[These are illustrated on the screens in Exhibit 1, the Final Notice of Sale, and Exhibit 2, a lease addendum]*

This practice continued until the final regulation was issued in January of 1998.

For leases issued in 1998 and 1999, the price thresholds disappeared from the Final Notices of Sale and individual leases.

Instead, these documents referred to a Final Rule—30 CFR Part 260—regarding the royalty relief program. The Final Rule was printed in the Federal Register in January 1998. The bottom line is that this rule only contained volume suspensions and did not contain price thresholds. *[See Exhibit 3 on the screens]*

Had the price thresholds been included in leases in 1998 and 1999, the threshold would have been set at about $28 per barrel of oil, and $3.50 per thousand cubic feet of natural gas. I don't need to do the math for you.

In a previous hearing before this Subcommittee, a senior career official claimed that employees thought the Final Rule contained price thresholds and operated under that assumption, and that is why the lack of price thresholds in the leases themselves did not trigger red flags. How this could have happened is a mystery since both the Interim and Final Rules never contained price thresholds. *[See Exhibit 4 on the screens]*

Every one of these actions survived multiple levels of legal and bureaucratic scrutiny. In fact, the lawyers who drafted and approved the interim regulation were the same lawyers who drafted and approved the final regulation and every final notice of sale.

The terms and conditions in the leases were to be a carbon copy of those advertised in the final notices of sale.

I heard that this was explained as a case of "the right hand did not know what the left hand was doing." But it must be unique in that the right and left hand were, in fact, working on the same computer keyboards and at the same desks in the Interior Solicitors' Office. I hope to hear a better explanation today. *[See Exhibit 5 showing the witnesses roles in rule-making and lease sales]*

The Department has also testified, under oath, that nobody noticed the lack of price thresholds until early 2000. I am extremely skeptical for the following reason.

The documents suggest that someone noticed the problem and attempted to fix it, but did it wrongly. The sale notices were different in 1998 than they were in 1999. In 1998, the sale notices make reference to 30 CFR Part 260.

In 1999, somebody within the Department changed the language to reference 30 CFR Part 203, which contains both volume suspensions and price thresholds. However, Part 203 only applies to pre-1995 leases. Thus, the change had no effect. The leases were operationally no different than before the change in the sale notice. *[See Exhibit 6 on Part 203, which clearly shows it was for pre-November 1995 leases. See Exhibit 7 for the "Surname" Sheet for the same sale. Note that besides our witnesses signatures, in the red box, there are at least 9 others who reviewed the document]*

I am well aware that for every decision made by an agency, there is a corresponding decision memorandum. We have asked for decision memoranda concerning all the Department's decisions regarding the drafting of the regulations, lease sales, and lease approvals.

We have not received any memoranda specifically referencing the exclusion of price thresholds in the regulations, nor have we received any memoranda regarding the decision to switch the reference in the sale notices from Parts 260 to 203.

Again, many people are involved at every step of the leasing and rulemaking process. Lawyers, experts, and management, at least up to the Assistant Secretary level, are obligated to review and sign off on every phase.

The fact that nobody raised an issue with the lack of price thresholds for years leads to one of two conclusions: nobody reviewed the leases and regulations, or everyone reviewed and knowingly approved the faulty leases and regulations. Either scenario is unacceptable. *[See Exhibit 8 that shows the number of people involved in the rulemaking and approval process]*

Our first panel of witnesses includes current and former attorneys for the Department of Interior who will help us get to the bottom of the missing price thresholds. Our second panel represents the oil and gas producers who have the most leases from the 1998 and 1999 period.

I realize that companies are expected to maximize shareholder value. At the same time, shareholders expect companies to operate on the "up and up" and to avoid surprises that may affect earnings.

I am sure that at least some oil and gas producers noticed that price thresholds were missing in the Final Notices of Sale and the first leases executed in 1998. They must have known that the missing price thresholds would eventually cast doubt on the validity of the leases. It is difficult to believe that no one brought this to the attention of the government.

My question to these companies is this: *"If there is a bank error in your favor—which you immediately notice—do you bring it to the bank's attention, or do you hope no one finds the error and instead assemble a legal team to later claim these gains are yours to keep?"* Bear in mind that this sum is about $10 billion and is, in fact, the people's money. These royalties are collected on resources that belong to the American people. The American people are not getting the return that Congress promised them they would get.

The Interior Department's Inspector General's Office has been conducting a parallel investigation surrounding the same issues. They have conducted 27 interviews thus far, of attorneys in the Solicitor's Office and present and former MMS officials in the DC area and New Orleans. They have reviewed thousands of documents, including 5,000 e-mails, and expect to conduct additional interviews. The IG's Office expects to issue a report within six to eight weeks.

I ask for unanimous consent that a letter from the IG providing the status of their investigation be inserted into the record, and the briefing memo prepared by the Subcommittee staff be inserted into the record, as well as other relevant materials.

I have one last comment before I introduce the first panel of witnesses. It is really a public request. I would ask that anyone watching or listening to this hearing, and who may have additional information regarding the missing price thresholds in 1998 and 1999, please contact the Subcommittee and its staff.

Today our first panel consists of current and former Interior Department attorneys. They were responsible for review of the leases and regulations, so they should be very helpful in shedding light on how these errors occurred.

Mr. ISSA. We are pleased to have here today Mr. Peter Schaumberg, now in private practice with Beveridge Diamond, PC. He is a graduate of George Washington University Law School, and we appreciate your being here today. Mr. Geoffrey Heath, a graduate of the University of Michigan and George Washington University of Law, and Mr. Milo Mason, a graduate of Harvard Law School.

Again, I would like to thank you very much for testifying here today. I will introduce the second panel after the first panel is dismissed, and I would now yield to the ranking member, Ms. Watson, for her opening statement.

Ms. WATSON. Thank you so much, Mr. Chairman, for today's hearing.

I understand that today is the second in a series of hearings on this topic. I want to thank the past and present employees at the Department of Interior and the oil company executives who are attending what should be an educational question and answer session. I hope we can move forward in finding positive solutions to the oil and gas royalty programs.

The thirst for oil has placed oil and gas companies in a powerful position. Oil and natural gas are almost like food and water to Americans. They keep us warm in the below zero temperatures of winter and they get us to and from work, they cook our meals and light our homes. In short, we need it to survive. It has become one of those commodities that we almost take for granted, until we have to pay exorbitant sums of money for it.

The American consumer is suffering while the oil and gas industry is recording the largest profits in America's history. This is an unacceptable situation. I know that there is an accounting controversy surrounding the years of 1998 and 1999 that could yield the Government an estimated $20 billion within the next 25 years due to very expensive omissions in drafting the leases. This should not be happening, especially in this bureaucracy.

From our last hearing on this topic, the Department of the Interior's witness could not establish why, how or at whose direction the language was removed from the leases. Why is there an unwillingness to allow fair and accurate exchange of numbers between oil and gas industry and the Government? Hasn't the manipulation at Enron taught us anything?

Congress has a duty, we have a trust placed in us by the American people, the American taxpayer. One of those jobs is to not allow companies to exploit, let me repeat this, this goes to the core of my statement. One of those jobs or duties is not to allow companies to exploit public assets. The alleged theft that has occurred during 1998 and 1999 is unacceptable and will be corrected.

With oil and natural gas prices at all time highs, companies are expected to earn more than $65 billion royalty-free. Leases without any royalty mechanism are driving very large revenue losses. Americans deserve an answer to the currently inexplicable leases issued in 1998 and 1999 that do not contain price thresholds at all. Good public policy demands that Congress conduct real oversight, and Mr. Chairman, that is something that the Congress has not done in the last few years, good and effective oversight, and protect the taxpayers' interests.

Now, Representative Markey introduced legislation, H.R. 4749, to prevent any future royalty holidays for the sake of oil companies. This legislation is designed to ensure that taxpayers receive the billions of dollars in future royalty payment they are owed by major oil companies as payment to drill on public lands. The bill states that if companies refuse to renegotiate such leases, they are barred from any new oil or gas leases on Federal lands. I am interested in hearing the Department of Interior's and the oil and gas industry officials' comments on this, and to make steps in the right direction.

So, Mr. Chairman, I again want to thank you for your diligence and your leadership in bringing this issue before our subcommittee once again. It is critical that we investigate the royalty relief mystery, particularly in 1998 and 1999, and report back to our constituents as to why this occurred. We should all, both public and the private sector, work to provide strong leadership and advocacy to our consumers and governmental agencies.

Thank you so much, and I will yield back my time.

[The prepared statement of Hon. Diane E. Watson follows:]

Opening Statement
Congresswoman Diane E. Watson
Government Reform Subcommittee on Energy and Natural Resources-Ranking Member
Hearing: "Deep Water Royalty Relief; Mismanagement and Cover-ups"
June 21, 2006

Mr. Chairman, thank you for convening today's hearing. I understand that today is the second of a series of hearings on this topic. I want to thank the past and present employees at the Department of the Interior and the oil company executives for attending what should be an educational question and answer session. I hope we can move forward in finding positive solutions to the oil and gas royalty programs.

The thirst for oil has placed oil and gas companies in a powerful position. Oil and natural gas are almost like food and water to Americans. They keep us warm in the below zero temperatures of winter, get us to and

from work, cook our meals, and light out homes. In short, we need it to survive. It has become one of those commodities that we almost take for granted --- until we have to pay exorbitant sums of money for it.

The American consumer is suffering while the oil and gas industry is recording the largest profits in America's history. This is an unacceptable situation. I know that there is an accounting controversy surrounding the years of 1998 and 1999 that could yield the government an estimated $20 billion within the next 25 years due to very expensive omissions in drafting the leases. This should not be happening, especially in our bureaucracy.

From our last hearing on this topic, the Department of the Interior's witness could not establish why, how, or at whose direction the language was

remove from the leases. Why is there an unwillingness to allow fair and accurate exchange of numbers between the oil and gas industry and the government? Hasn't the manipulation at Enron taught us a great lesson?

Congress has a duty to the American taxpayer. One of those jobs is to not allow companies to exploit public assets. The alleged theft that has occurred during 1998 and 1999 is unacceptable and will be corrected. With oil and natural gas prices at all time highs, companies are expected to earn more than $65 billion royalty-free. Leases without any royalty mechanism are driving very large revenue losses. Americans deserve an answer to the currently inexplicable leases issued in 1998 and 1999 that do not contain price thresholds at all. Good public policy demands that Congress conduct real oversight and protect the taxpayer's interests.

Representative Markey introduced legislation (H.R. 4749) to prevent any future royalty holidays for the sake of oil companies. This legislation is designed to ensure that taxpayers receive the billions of dollars in future royalty payment they are owed by major oil companies as payment to drill on public land. The bill states that if companies refuse to renegotiate such leases, they are barred from any new oil or gas leases on federal land. I am interested in hearing the Department of Interior's and the oil and gas industry official's comments on if this is a step in the right direction.

Mr. Chairman, I again want to thank you for your leadership in bringing this issue before our subcommittee once again. It is critical that we investigate the royalty relief mystery in 1998 and 1999 and report back to our constituents why this occurred.

We should all, both public and private sector, work to provide strong leadership and advocacy to our consumers and governmental agencies.

Mr. ISSA. I thank the ranking member. I would now ask unanimous consent that Mrs. Maloney of New York, who is on the full committee but not on the subcommittee, be allowed to sit in, make an opening statement and remain for any questions. Without objection, so ordered.

With that, Mrs. Maloney.

Mrs. MALONEY. Thank you very much to the ranking member and chairman for holding this important hearing on deep water leases entered into between the Department of Interior and various oil and gas companies. It is absolutely indisputable that the American taxpayer is losing billions of dollars from oil and gas extracted from federally owned land—land that is owned by the citizens of this country. I think by all accounts, it is terribly, terribly unfair.

The Government Accountability Office estimates that because the price thresholds were not included in the deep water leases from 1998 to 1999, the Government will lose approximately $10 billion in revenue. The GAO further estimates that the Government could lose as much as $60 billion over the next 25 years if the Kerr-McGee Corp. wins its lawsuit challenging the price threshold set on its leases from 1996, 1997, and 2000.

I hope we will learn today how those contracts entered into in 1998 and 1999 failed to include price thresholds. What we have before us today is the Interior Department's Enron. How could you make such an incredibly large mistake? And even though the chairman pointed out that numerous people signed the contract, the lease, obviously the system is broken.

In Enron, we changed the law so that the CEO of the company has to sign and say, "yes, I understand the financial obligations of my company." Maybe we need to change the law so that the Secretary of the Interior has to sign and say, "I understand that these leases are fair." Maybe we have to move it to OMB. Maybe we have to have a private contractor come in and look at it. But we cannot tolerate this type of, I would say abuse, to the American taxpayer on oil and gas that is owned by the American people.

And I would say that Director Burton has written a letter and asked companies to renegotiate voluntarily the leases that do not include price thresholds. I think that is a good direction to go into, that is, it is clearly unfair. I would like to join my colleagues here on the panel in a bipartisan letter, which we hope every Member of Congress would sign, asking the oil companies to renegotiate this unfair lease. I just happened to look at the testimony today of Shell Corp.

In any event, it is obvious that this is an unfair lease, given the commodities market for oil now. And if both parties would renegotiate, and they say they are willing to do so, they say that they are willing to make a change in our 1998 and 1999 leases by considering the addition of price thresholds, I think that is the right direction to go in. I think we should advertise to the American people which oil companies are being fair to the American people. Maybe we can take out public service announcements.

But I truly believe that every oil company should stand up and do what's right and renegotiate their leases. I join my colleague, Ms. Watson, in being a co-sponsor of H.R. 4749, the Royalty Relief for Americans Consumer Act, which would force MMS to renegotiate and bar companies who would not renegotiate from any further leases.

I would also like to hear today from the Department of the Interior on another point, what plans they have to ensure that States have the necessary funding to conduct audits on leases. An amendment that I passed on the Interior Appropriations bill recently directed $1 million of the overall appropriation for the MMS to States and tribes for auditing purposes. For several years, the total funding that the MMS has provided for audit funds was held static at about $9 million, with no increase for inflation.

In fiscal year 2005, MMS began cutting allocations to some States and tribes, while reallocating funds. The Department of Interior should be working to improve its auditing programs and I hope to hear what steps are being taken in that direction and also to make sure that you understand what is in your leases.

I would also be very interested in hearing from energy companies. I hope that we will hear today that all of them are willing to go and renegotiate their leases. But I also would like to hear why they are reporting one price per barrel to their shareholders, while reporting a separate price to the Federal Government, from the oil they pay to the Federal Government in royalties to what they trade with other companies and report to their shareholders. And I would like for them to explain why they did not use the same set of numbers in both cases.

I just want to end that, in a time when the average price of gas is $3, in some places it is higher, and we are regrettably and painfully having to cut student aid for college loans, senior aid, and programs for the poor. We need to really handle the management of Government better. And to lose $10 billion, because the lease was not appropriately signed and reviewed, is a national disgrace. It is a scandal, it is a scandal, it is an absolute scandal. I would call it the Department of Interior's Enron. And we need to understand how this happened and how we can make sure it does not happen in the future.

Thank you.

[The prepared statement of Hon. Carolyn B. Maloney follows:]

Representative Carolyn B. Maloney (NY-14)
"Deep Water Royalty Relief: Mismanagement and Cover-ups"
Subcommittee on Energy and Resources
June 21, 2006

Thank you Chairman Issa and Ranking Member Watson for holding this very important hearing today.

It is indisputable that the American taxpayers are losing billions of dollars in royalties due to them by the oil and gas companies who are taking valuable resources out of federal lands. The Government Accountability Office estimates that because price thresholds were not included in deepwater leases from 1998 and 1999, the government will lose approximately $10 billion in revenue. The GAO further estimates that the government could lose as much as $60 billion over the next twenty-five years if the Kerr-McGee Corporation wins its lawsuit challenging the price thresholds set on its leases from 1996, 1997, and 2000.

I hope that we will learn today how those contracts entered into in 1998 and 1999 failed to include price thresholds. I hope that we will learn how the many, many people responsible for promulgating regulations, approving the leases, and reviewing the leases, just seemed to miss these important provisions. I also hope that the witnesses from the oil and gas companies will tell us if they knew they were getting a sweet deal and remained silent.

Director Burton, of the Minerals Management Service, has said that the Administration will ask companies to renegotiate voluntarily the leases that do not include price thresholds, but will not force them to do so. Why would the companies renegotiate leases when they are pocketing those billions of dollars instead of the U.S. taxpayers?

Last month I joined with Representatives Hinchey, Markey, George Miller, and others in passing an amendment to the FY07 Interior Appropriations bill that would prohibit any funding in the bill from being used to carry out the deepwater royalty relief provisions already in statute. While this was an important first step, we must do more. We must pass H.R. 4749, the "Royalty Relief for American Consumers Act" which would ***force*** the MMS to renegotiate those leases that lack price thresholds.

I also would like to hear from the Department of the Interior what it plans to do to ensure that the states have the necessary funding to conduct audits. An amendment that I attached to the Interior Appropriations bill directed $1,000,000 of the overall appropriation for the MMS to States and Tribes for auditing purposes. For several years, the total funding that the MMS has provided for audit funds was held static at about $9 million with no increases for inflation. In FY2005, the MMS began cutting allocations to some States and Tribes while reallocating funds. The Department of the Interior should be working to improve its auditing programs, and I hope to hear what steps are being taken in that direction.

I would also be interested in hearing from the energy companies why they are reporting one price per a barrel to their shareholders, while reporting a separate price to the federal government. I would like for them to explain why they do not use the same set of numbers.

In a time when the average price of a gallon of gas nationwide is almost three dollars and the funding for valuable programs to aid the poor, seniors, and students is being cut, the American people are demanding that the free ride for the oil and gas companies comes to an end.

Thank you.

Mr. ISSA. Thank you. I would now ask unanimous consent that all opening statements be placed in the record. Without objection, so ordered.

Before I swear in the first panel, I would like to set a tone for today, and that is that we deliberately had our Department of Interior panel first, so we could establish contract activities. Obviously, when we get to the oil companies, we may very well be getting into contract sanctity versus intent of Congress. But on the first panel, the primary concern is intended to be, although Members are free to ask any questions they want, how did we make so many different changes in a contract, how did we have defective contracts, at least from this position, with so many people signing off on them.

With that, I would ask the first panel to rise, and as is a requirement of this committee, to take the oath.

[Witnesses sworn.]

Mr. ISSA. The clerk will take note that all witnesses affirmed. Please have a seat.

Did you bring any people with you that may be consulting or providing you additional information during your testimony and question and answer period? If there is anyone that is going to be providing assistance to those testifying, I apologize, but would you please rise and also please take the oath. Now I see none. So it will be just the three.

We have previously introduced the panel, so we will begin with Mr. Schaumberg and Mr. Heath and then Mr. Mason. Again, your statements are in the record, so you may use your 5 minutes over and above your opening statements.

STATEMENTS OF PETER J. SCHAUMBERG, ATTORNEY, BEVERIDGE AND DIAMOND, PC; GEOFFREY HEATH, ATTORNEY, U.S. DEPARTMENT OF INTERIOR; AND MILO C. MASON, ATTORNEY, U.S. DEPARTMENT OF INTERIOR

STATEMENT OF PETER SCHAUMBERG

Mr. SCHAUMBERG. Thank you, Mr. Chairman. I did provide my biography in my opening statement, but if I may just briefly summarize, as you correctly noted, I am currently of counsel with the law firm here in Washington of Beveridge and Diamond, PC. I retired from the Office of the Solicitor on May 30th of this year, after almost 31 years of Government service, the last 25 of which were with the Office of the Solicitor.

With respect to the time period that we are dealing with here, I held two positions. I was the Assistant Solicitor for onshore minerals, responsible for managing a branch of approximately nine attorneys that provided legal advice to the Bureau of Land Management on its onshore minerals issues involving oil and gas, coal, other solid minerals under the Mining Law of 1872.

Since 1997, approximately October, November 1997, I also was the Deputy Associate Solicitor for the Division of Mineral Resources, which included my branch of onshore minerals, as well as the branches of Royalty and Offshore Minerals, and the Branch of Surface Mining. So I held a dual responsibility.

Between 1995 and 1997, in that 2 year period, in 1995 the Solicitor's Office was reorganized, to create a new Division of Mineral Resources. At the time I was appointed as the Acting Deputy Associate Solicitor, and in the 4-years before that, I had been the Assistant Solicitor for Royalty, where I dealt with royalty determination and collection issues, not with leasing issues. But from 1995 to 1997, the branches of Royalty and Offshore Minerals were consolidated into one branch under my supervision.

And then as I said, prior to 1995, for that 14 years, I worked almost exclusively with the Royalty Collection Program in the Minerals Management Service.

I would be happy to answer any questions that you or any of the other Members may have today.

[The prepared statement of Mr. Schaumberg follows:]

STATEMENT OF PETER J SCHAUMBERG

Before the Subcommittee on Energy and Resources
Committee on Government Reform
United States House of Representatives
June 21, 2006

My name is Peter J. Schaumberg. I am currently Of Counsel with the law firm of Beveridge & Diamond, P.C., in Washington, D.C. I received my undergraduate degree from Tulane University in 1972 and my Juris Doctor degree from the George Washington University National Law Center in 1975.

After law school I joined the Honors Program in the Office of Chief Counsel at the Internal Revenue Service. In 1977 I joined the General Counsel's Office of the Federal Energy Administration, which later became the Department of Energy. In 1981 I moved to the Office of the Solicitor, Department of the Interior, Division of Surface Mining. In 1982 I transferred to what was then the Division of Energy and Resources as the Special Assistant to the Associate Solicitor for Royalty Management. From 1982 to 1995, I provided legal representation almost exclusively to the Royalty Management Program of the Minerals Management Service (MMS), the last four years as Assistant Solicitor for Royalty Management. During that time I managed a staff of two to three attorneys and a secretary.

In approximately October 1995 the Office of the Solicitor reorganized and a new Division of Mineral Resources was created. As part of that reorganization the former Branches of Royalty Management and Offshore Minerals and International Law were consolidated into a single Branch of Royalty and Offshore Minerals under my supervision as Assistant Solicitor. At the same time I was named as the Acting Deputy Associate Solicitor for the new Division of Mineral Resources. Thus, in addition to my duties as Assistant Solicitor, I had management responsibility for a Division of approximately 25 attorneys and paralegals including the Branch of Onshore Minerals, which provided legal advice to the minerals programs of the Bureau of Land Management (BLM), and the Branch of Surface Mining, which provided legal advice to the Office of Surface Mining. As the Acting Deputy Associate Solicitor I also was responsible for the administrative management of the Division, including managing the budget, travel and personnel matters.

I was selected permanently for the position of Deputy Associate Solicitor for the Division of Mineral Resources in October/November 1997. At approximately the same time, then Solicitor Leshy asked if I was interested in changing my Assistant Solicitor responsibilities to the Branch of Onshore Minerals, a position that I accepted. Therefore, my first line supervisory responsibilities as Assistant Solicitor for Onshore Minerals focused on managing a Branch of approximately nine attorneys responsible for providing legal advice to the BLM on the full range of its onshore minerals program including oil and gas, coal, solid leasable minerals and hardrock mining under the Mining Law of 1872. As Deputy Associate Solicitor for the Division of Mineral Resources I continued to have supervisory responsibility over the Branches of Royalty and Offshore Minerals and Surface Mining , both managed by an Assistant Solicitor.

I retired from DOI on May 30, 2006 after almost 31 years of federal service.

This concludes my statement. I would be pleased to answer any questions from the members of the subcommittee.

Mr. ISSA. Thank you. Mr. Heath.

STATEMENT OF GEOFFREY HEATH

Mr. HEATH. Thank you, Mr. Chairman.

I had joined the Solicitor's Office in what was then the Division of Energy and Resources in November 1983. Since that time, as a staff and then later in supervisory positions, I have represented the Minerals Management Services Royalty Management Program, as it was called most of the time, now known as the Minerals Revenue Management. The Minerals Revenue Management was responsible for the collecting, accounting for a disbursing of the royalties, rentals, bonus payments and other revenues derived from more than 26,000 oil and gas and other mineral leases on Federal and Indian lands, including the outer continental shelf, and enforcing the lessees' royalty obligations.

In October 1997, in connection with changes in the management assignments with in the Division of Mineral Resources, I became the Acting Assistant Solicitor for Royalty and Offshore Minerals. As supervisor of the branch of Royalty and Offshore Minerals, I gained my first responsibility for and involvement in the offshore leasing process. Before that time, I had not done significant work with the Offshore Minerals Management Program, and that was not part of my responsibility.

As the Acting Assistant Solicitor and then later the Assistant Solicitor, since July 1998, I represented both the Royalty Management Program and the Offshore Minerals Management Program, and supervised the other staff attorneys within the branch representing those programs. On May 15th of this year, in connection with a reorganization of the Division, I was designated as Assistant Solicitor for Federal and Indian Royalty, and consequently do not any longer have responsibilities with respect to the Offshore Minerals Management Program, except for matters involving financial related issues.

I have no substantive prepared statement, and would be happy to answer any questions that the members of the committee may have.

[The prepared statement of Mr. Heath follows:]

STATEMENT OF GEOFFREY HEATH

Before the Subcommittee on Energy and Resources
Committee on Government Reform
United States House of Representatives
June 21, 2006

My name is Geoffrey Heath. I am the Assistant Solicitor for Federal and Indian Royalty in the Office of the Solicitor at the Department of the Interior. I graduated from the University of Michigan Law School in May 1978, and subsequently received an LL.M. degree from the George Washington University in February 1987.

After graduating from law school, I was in private law practice as an associate with two firms in Salt Lake City, Utah, for the next approximately 5 1/2 years. I joined the Solicitor's Office as a staff attorney in what was then the Division of Energy and Resources in November 1983. I have represented the Minerals Management Service's Royalty Management Program – now known as the Minerals Revenue Management – since that time. The Minerals Revenue Management is responsible for collecting, accounting for, and disbursing the royalties, rentals, bonus payments, and other revenues derived from more than 26,000 oil and gas and other mineral leases on Federal and Indian lands and the Outer Continental Shelf, and enforcing lessees' royalty obligations.

In October 1997, in connection with changes in the management assignments within the Division of Mineral Resources, I became the Acting Assistant Solicitor for Royalty and Offshore Minerals. I was selected as the Assistant Solicitor for Royalty and Offshore Minerals in July 1998. In that capacity, I have represented both the Royalty Management Program and MMS' Offshore Minerals Management Program, and have supervised the other staff attorneys representing both of those MMS programs. On May 15 of this year, in connection with a reorganization of the Division of Mineral Resources, I was designated as Assistant Solicitor for Federal and Indian Royalty. Consequently, I no longer have responsibilities with respect to the Offshore Minerals Management Program, except for matters involving financially-related issues.

I have no substantive prepared statement, and would be happy to answer any questions that the members of the subcommittee may have.

Mr. ISSA. Thank you. Mr. Mason.

STATEMENT OF MILO C. MASON

Mr. MASON. Thank you, Mr. Chairman.

I don't have anything to add to my biographical statement, really, other than I was a senior career staff attorney working on these matters at the time.

[The prepared statement of Mr. Mason follows:]

STATEMENT OF MILO C. MASON
Before the Subcommittee on Energy and Resources
Committee on Government Reform
United States House of Representatives
June 21, 2006

My name is Milo Mason. I serve as an attorney-advisor in the Branch of Petroleum Resources, Division of Mineral Resources, Office of the Solicitor at the Department of the Interior. I grew up in Robinson, Illinois. I graduated from Robinson High School, Class of 1969. I have a Bachelor's degree in government and philosophy (college scholar) from Cornell University, a Master's degree in English from Stanford University, and a J.D. degree from Harvard Law School.

I joined the Solicitor's Office as a law clerk in the Solicitor's Northeast Regional Office during my second year of law school. After graduating from law school in 1979, I came to the Washington, D.C., Solicitor's Office in October of 1979 as an Honors Program staff attorney. I rotated and worked in every Division of the Solicitor's Office before joining what was then the Division of Energy and Resources in April of 1981 as an attorney in the Branch of Offshore Minerals and International Law. In around May of 1983, I was asked to join the Division of Surface Mining's Litigation Branch to lead the defense of the Department's permanent surface coal mining regulations and state program delegations. In June of 1990, I returned to the Division of Energy and Resources as the Assistant Solicitor for Offshore Minerals. I served in that capacity until August of 1995, at which time a reorganization of the Office occurred combining the Division of Surface Mining with portions of the Division of Energy and Resources. In the newly created Division of Mineral Resources, I was asked by management to apply for the position of Assistant Solicitor for Royalty and Offshore Minerals but I chose not to apply, choosing instead to return to lawyering as a staff attorney for the Minerals Management Service with an alternative work schedule. In May of this year, in connection with another reorganization, I began serving in the position I currently hold.

I have no substantive prepared statement, and would be glad to answer any questions that the members of the Subcommittee may have.

Mr. ISSA. OK, then we will begin a round of questioning. And I will note on exhibit 5, Mr. Schaumberg and Mr. Mason, both are listed as being involved in both the sale of documents and in the rulemaking involved before us today. Mr. Heath, I show you as involved only in the sales, in other words, signing off on them. My opening question really is to all three of you, but particularly to the two that were involved in both sides.

Were you aware of the ambiguity, and if so when, between what the rules were saying and what the contract was saying in these various periods of time in which you signed the leases?

Mr. MASON. May I go first on this?

Mr. ISSA. I think they'll let you go first on each one if you would like. [Laughter.]

Mr. MASON. Thank you, Mr. Chairman. Maybe I shouldn't.

I did not sign the leases. I did not sign off on the actual lease document. I did review and sign off as legally sufficient were the proposed and final regulations on royalty relief during that time, and also on what we call the proposed notice of sale, which is basically, a lease sale announcement. The final notice of sale, which is again the final announcement of the auction or lease that we would hold in New Orleans, 30 days after, has to be 30 days before the actual bid opening and auction.

The leases were issued, and I always assumed they were more of a clerical duty for the regional director's office to issue after the lease bids were reviewed for adequacy, and then the lease documents themselves would be sent to the winning, highest bidder on the block where the highest bidder would sign and return the lease to the regional director because they would want it, and they had to present it in an adequate bid, which under the statute requires fair value for that tract. Then the regional director would sign off on that.

I never saw those leases until having to review them before we presented them to the committee upon your request. It was brought to my attention some time in 1999 that the lease addendum that I had thought had been a part of those standard lease forms that were sent out, I would say clerically, had been sent out without the lease addendum for the years 1998 and 1999. I was not aware of that until a telephone call, and I racked my brain from whom it came, but I was surprised.

Mr. ISSA. OK. Following up on that, so it is your understanding that a lease document, the actual, signed document by the regional director, is pro forma, that in fact it is to mirror the sales document and notice of final sale, such that in fact everybody understands that when they get that lease, that is just something that comes in later on that says, oh, by the way, we are done with this, go out and drill, and that in fact, what the lease is going to mean is already determined before that document goes out, that is why you are calling it clerical, as I understand it?

Mr. MASON. Yes.

Mr. ISSA. OK, and last question, then I will ask the others to answer substantially the same three questions—go ahead.

Mr. MASON. I am sorry, Mr. Chairman, I guess I should qualify that yes. Not every aspect of the standard lease form needs to be in the notice of sale. They become the standard lease form. They have been reviewed at some point. I think I did review the earlier language that had been the addendum and the lease form that were the new deep water royalty lease forms in 1996, when they were first issued. I don't think I needed to sign off on them, I just read them and they looked fine and they reflected the policy choices of my client. And my signature, or surname, was for their legal sufficiency.

Mr. ISSA. Thank you for that. Then what you are saying, though, is that ultimately the regional director doesn't have the authority to make up new terms and conditions, that the lease has to be substantially the same as the terms and conditions that were part of the bidding process notice of sale?

Mr. MASON. Yes. I don't think the lease terms and conditions were delegated to the regional director. They are signed off on in the lease announcement. What was understood to be the conditions and terms of the leases were signed off on at I think the Assistant Secretary's level.

Mr. ISSA. OK, so assuming for a moment that the lease, although in most people's minds it is a binding contract, it is the deal, but in the business of Government contracting or Government bidding, in this case, realistically, the parties often don't rely on that, because they rely on all the terms and conditions in the bidding process, all the information there. And this document is to reflect that.

If that is the case, then from the documents sans the lease agreement, did you believe that there were thresholds in the notice of sale and the documents that were under your control, that during the entire period from the time Congress acted, that there would be a threshold, both for price and volume in leases that were signed?

Mr. MASON. That is a very good question and a very complicated question. I would like to answer in a couple of sections.

Mr. ISSA. Absolutely.

Mr. MASON. Certainly, Congress in the Deep Water Royalty Relief Act mandated the volume suspensions, for a period of 5 years. While we had issued regulations limiting that volume to the fields or development projects, those regulations were struck down in a case usually referred to as the Santa Fe Snyder case. The Fifth Circuit decided that "the leases" meant each and every lease, and it was mandated.

Those regulations, I am at this point, 10 years later, I am not exactly sure whether they, in the interim final rules, contained price thresholds or not. I was at the time asked about the authority to put price thresholds into new leases. I am authorized by Interior to waive some of those attorney-client privileged discussions that I had back then.

Mr. ISSA. Thank you.

Mr. MASON. So I am explaining this to you now with a little bit of hesitation, because I don't reveal attorney-client privileged discussions usually.

I rendered a professional judgment that for those 5 years, the Secretary had authority to impose price thresholds, although they were not mandated by Congress. So they were not, since they were not mandated, I mentioned orally, because most of my legal advice is oral, that they didn't need to be necessarily in the regulations.

They could be in a lease sale announcement or the lease form on a case by case, lease sale by lease sale basis.

Especially if they are going to be just for 5 years, or the client had the choice of putting those price thresholds in the announced, in the lease sale announcement or the leases. They chose, I thought, to do that, as a policy choice back in 1996. And until the telephone call in 1999, when I was informed that the lease addendum didn't have those things in them, I assumed the client was putting them in.

Mr. ISSA. OK. As I go to everyone else, I will just recap what I believe I heard, one, that you believe that there was authority, both from the Congress, both for price and volume thresholds, that volume thresholds were clear and explicit from Congress, although interpreted by the Fifth Circuit, and thus that is now law that it is by lease. But that in fact price thresholds, although not mandated, were within the authority and you believed that they were in fact being put in until 1999?

Mr. MASON. Yes.

Mr. ISSA. Excellent. I guess now you know why you don't want to be first. [Laughter.]

Whoever would like to be second, it is not nearly as tough a position.

Mr. SCHAUMBERG. I would be happy to go second, Mr. Chairman.

Mr. ISSA. Mr. Schaumberg.

Mr. SCHAUMBERG. Would you be kind enough to repeat the question for me, though? It has been a while since I heard it.

Mr. ISSA. Realistically, this is the classic, what did you know and when did you know it. What was your understanding at the time that you were involved, and in your case, you were involved in both the rulemaking and in the lease, or if you will, the sale portion. So you were aware of what we were telling the industry to bid on, and you were aware of the regulations.

So, very similar to Mr. Mason, what were your understandings of what Congress wanted done, and what was your belief of what was being done? I won't hold you to Mr. Mason's statements about leases being, if you will, somewhat pro forma or clerical, and in an expectation that it was in the lease and that there was nothing new in the lease that wasn't understood by the bidders earlier. But if you could comment on that along the way.

Mr. SCHAUMBERG. Well, let me first deal with the regulations. As Mr. Mason explained, the price thresholds for these lease sales was not a statutory requirement. Therefore, the decision whether to put the price thresholds in the regulations was a program decision. It was 8 or 10 years ago that we worked on these regulations.

I don't remember how extensive my involvement was in the drafting and preparation of those regulations. Because it was a program decision, I think it would be best to ask the program what their reason was as to why they decided not to put them in the regulations.

Mr. ISSA. As you are answering that, if you could clarify what a program decision means for the panel.

Mr. SCHAUMBERG. A decision of the Minerals Management Service that was not a legal decision of the Solicitor's office, as to whether to include the price thresholds as a regulatory provision.

As far as the lease sale documents, you have included as an exhibit the first page of a memorandum to the Assistant Secretary. The lease sale packages that came through for review and surname literally were close to a foot tall in terms of the documents that were included in those packages. Usually the top document was this memorandum to the Assistant Secretary that contained the director's recommendations as to what the terms of the sale ought to be.

I don't recall what level of review I provided for these various packages. I can tell you with some fair recollection that my review was pretty much an executive level review that I was reviewing, as the Deputy Associate Solicitor. I had other responsibilities in terms of my branch responsibilities, but I did have management responsibility for the division. I relied upon Mr. Mason's review and Mr. Heath's review before I looked at those packages. And Mr. Mason would have items, if there was something that he caught.

I generally would at least look through the memorandum to the Assistant Secretary, because that would highlight any changes or new terms that were being included in the leases. I don't know that I did it here, but that was more or less my practice.

So I don't recall knowing that there were not price thresholds in these leases until approximately a year and a half ago, when prices ran up and the Minerals Management Service was then looking at issuing letters or orders to the companies advising them that the price thresholds were exceeded. Therefore there was some discussion as to what form those orders ought to take. I think that was the first time I learned that there were not price thresholds in the leases for these 2 years. That is my best recollection.

Mr. ISSA. You get to do cleanup on this.

Mr. HEATH. I don't know that I have much to clean up, Mr. Chairman.

As was the case with Mr. Schaumberg, I did not know that price thresholds were not included in the 1998 to 1999 leases until some time after, or in connection with the Santa Fe Snyder court decisions. My first involvement in review of any of the lease sale packages was of the first of the sales held in 1998. Before then, I did not have either personal or management responsibility for any part of the lease sale process. My review likewise was of a quite high end, summary level.

Necessarily, my initial reliance is on someone who has a lot greater years and depth of expertise than I did. I don't recall any discussion or mention of price thresholds or existence, lack of existence or anything from that time. It isn't anything that I would have been looking for. I had not seen a lease sale package with the price thresholds in them before reviewing the 1998 and 1999 packages. It is not something that would have caught my attention, and it came to my awareness later.

Mr. ISSA. OK. I am going to do a similar recap with the second to panelists, and then because it is unfair for me to go on forever, I will allow the ranking member equal time here. If I understand now better than I did before, these signatures, and particularly the three of you on this exhibit 7, Mr. Mason, I realize it was the first part of the year, so January 28, 1998 was actually January 28, 1999, I believe, since the document is February 9, 1999 date stamped, on exhibit 7. For Mr. Heath, I noticed that you wrote 1998, but then corrected it.

I also noticed that next to your name, there are some other, smaller initials on this document. Would that indicate that maybe it was staff signed? You initialed, and then signed for you?

Mr. HEATH. No, Mr. Chairman. The other letters are SOL/ROM, meaning Solicitor/Royalty and Offshore Minerals.

Mr. ISSA. OK, so that is a title that you included. Thank you. And you apparently put 1998 and then realized it was 1999 and changed it.

Mr. HEATH. Yes, sir.

Mr. ISSA. Which we all do in January every year, I am afraid. Obviously, I am assuming, Mr. Schaumberg, you got it last, because you got 1999 right off the bat.

Mr. SCHAUMBERG. Mr. Chairman, I was not last. Kay Henry, who was the Associate Solicitor, was last. But I did get the date right.

Mr. ISSA. You are only the last in the box, but you are right. OK, so the fact that they are all signed on the same day to me begins to indicate, as you said, Mr. Schaumberg, that Mr. Mason did the functional work, went through the 2 feet of documents, and then each of you would then initial off, simply saying "it was passed before me, perhaps I flipped through the top of the memo," but in fact, you did not go through a foot of documents. This doesn't indicate that kind of check and balance. Would that be fair for each of your statements, that your level of review is not a lawyer getting ready to go to court, it is simply "yes, I understand this one is going out, and it has been checked by the primary person to check it," which would be Mr. Mason?

Mr. SCHAUMBERG. For me, that is correct, Mr. Chairman.

Mr. HEATH. Yes, that is a fair characterization, Mr. Chairman. I did not go through the foot of documents.

Mr. ISSA. Good. To be honest, that is helping us in seeing so many signatures and understanding why it might not mean anything.

Last but not least, apparently in 1999, Mr. Mason, you became aware from that phone call of the lack of price thresholds. My understanding from the second two testimonies is that was not passed on at that time in some formal way or in a memo of some sort to Mr. Schaumberg or Mr. Heath. I will include that in a question to all of you as my final, here. Was there a memo or anything tangible or anything in your recollection where you were told about this 1999 discovery, for any of you, or Mr. Mason, did you tell any of them or send them a memo?

Mr. MASON. I did not send them a memo, to my recollection. I did, I recall, mention it to Geoff. I don't know if I mentioned it to Peter. As I report to various other lawyers, and the management lawyers in the office, it may have been one of several things I discussed with them that day. Also, I said I was looking into what to do to fix it, because I know I was asked about that. I am pretty sure I said on the phone, "well, let's get the addendum back in there." I don't know what else. But that is my recollection.

Mr. ISSA. OK. I guess Mr. Heath, you remember that conversation?

Mr. HEATH. Truthfully, I don't, Your Honor, but I am not questioning that it took place. If Milo remembers it, I am sure it took place, but I don't remember it. I don't question it, either.

Mr. MASON. May I say one thing?

Mr. ISSA. Of course.

Mr. MASON. Back then, the price of oil had, I wouldn't say flatlined, but it had been pretty low for a long, long time.

Mr. ISSA. For this panel, those were the good old days.

Mr. MASON. It didn't seem like as big a deal as it is now, for sure, at that time. Because we assumed the prices would continue on that——

Mr. ISSA. You were dealing with sort of like a lease option. If you don't expect to renew the lease, it isn't a factor until you start getting to the end of the lease, so to speak.

OK, I appreciate I have taken a lot of time. Ms. Watson, your questions.

Ms. WATSON. Thank you, Mr. Chairman. Congressman Markey and several others recently introduced a bill to correct the royalty problem. The bill would suspend royalty relief when oil and natural gas prices exceeded a threshold price of $34.71 per barrel of oil, or $4.34 per 1,000 cubic feet of natural gas. With respect to existing leases, the bill would require that Mineral Management [MMS], to renegotiate the leases to include these price thresholds.

Any company that refused to renegotiate an existing lease would not be eligible for any new leases for oil or natural gas on Federal lands. Now, what would be your thoughts about this? I heard a distinction made between solicitors and programmatic personnel. Is this something that would go to the program personnel or the solicitors? And I would like each one of you to respond.

Mr. MASON. Thank you. I am the lead-off, I guess, again.

Mr. ISSA. I guess you get to be the first pitcher for the whole time. [Laughter.]

Mr. MASON. Let me take a pass at commenting on that, because I am not in a position to represent the Department on future legislation.

Ms. WATSON. Yield for a minute. Let me just get a clarification in my own mind, and for the panel. There is a difference between the program administrators, and those are the other people, and you, the solicitors, right?

Mr. MASON. Yes.

Ms. WATSON. And you are talking about the attorneys who then go over and do a perfunctory review, is that correct?

Mr. MASON. Yes, I sometimes don't want to do just a perfunctory review, but yes.

Ms. WATSON. Well, you go a little bit below the surface?

Mr. MASON. Right. My review is to render my professional judgment about what is legal and what isn't sufficiently legal.

Ms. WATSON. Exactly. That is what we are looking for.

Mr. MASON. And the program people are policy people, the Assistant Secretary or the Director of MMS. And they choose whether to put price thresholds in or not, and whether to support legislation or not. At the time, I get sometimes a review of proposed legislation, I will render a legal opinion about whether it is constitutional, what the policy implications would be. I don't usually render a personal opinion about legislation that is pending before Congress.

Ms. WATSON. All right. Mr. Schaumberg.

Mr. SCHAUMBERG. As I explained, I am no longer with the Department. At the time I was there——

Ms. WATSON. How does it sound to you? Such a piece of legislation, how would it sound to you if you were in the Department still?

Mr. SCHAUMBERG. Well, we had some discussion about that while I was at the Department. And the privilege waiver from the Solicitor does not go to those matters. So that would be a privileged communication. So I believe at this point, without having a waiver on that matter from the Solicitor, it would not be appropriate for me to answer as to what my opinion was.

Ms. WATSON. All right. Mr. Heath, what do you think?

Mr. HEATH. Congresswoman, I would like to reinforce something that Mr. Mason referred to. Our understanding is that we were being called in our personal capacity, and not as representatives of the Department. We don't have authority to speak for the Department.

Ms. WATSON. OK. Mr. Chairman, you know, there is a piece missing in all of this. We have the attorneys here, some active and participating now. And we have the companies that would be affected by policy. But we don't have the programmatic side to explain some of this.

Mr. ISSA. Will the gentlelady yield? That is the reason that undoubtedly we will have another hearing.

Ms. WATSON. Exactly. I am just pointing out, we can't get any real substantive feedback from this panel, because they are the guys that come in and see if what we propose is constitutional or not, and they advise the programmatic people. They don't come up with the ideas.

So what I would like to hear from in our next hearing are the people that devise the programs. Because I had a question here as to why MMS cut the number of auditors. Well, they can't answer that. The programmatic side can.

Mr. ISSA. Sure. I would look forward to another hearing.

Ms. WATSON. Yes.

Mr. ISSA. If the gentlelady would yield, perhaps I could take care of the impasse here.

Ms. WATSON. Sure. Let me just conclude by saying that I can't put these people on the spot, because they don't have the answers to what I really want to know: how do these things happen. They do the oversight. They do the legal interpretation of the policies that come from the administration of the program.

So I am not really blaming them for not having the information, I understand. We just don't have that piece. I look forward to our next hearing.

So I don't have any more questions, because they truly can't respond to my concerns.

Mr. ISSA. OK. Thank you. What I would ask, would all the witnesses, subject to Department of Interior waiving the specific attorney-client privilege for the question you were unable to answer, be willing to answer them once that waiver is granted in writing, so that we do not have to get you back? Would that be acceptable, rather than having you all come back, if that is granted?

Mr. HEATH. From my perspective, Mr. Chairman, that would be fine.

Mr. ISSA. All I need is a yes, and then we will submit to the Department of Interior, should they grant that, then the question could be answered in writing. We wouldn't trouble you to come back, if at all possible.

Mr. SCHAUMBERG. Well, Mr. Chairman, it is certainly a complicated question.

Mr. ISSA. We would submit the question in writing to you again anew. I wouldn't ask you to try to answer later what you heard here today. It would come to you in writing.

Mr. SCHAUMBERG. I understand. I am just suggesting that a response to a question such as that, it is probably a very large and complicated constitutional legal question that would not be easy to respond to.

Mr. ISSA. Is the gentlelady interested in the Cliff Notes or the long answer? [Laughter.]

Ms. WATSON. Mr. Chairman, my true opinion, this is kind of a waste of time, because these are not the guys who initiate the policy.

Mr. ISSA. Then the gentlelady withdraws that. I will save you that. With that, I have just one final closing question, and it will be very brief.

Mr. Mason, you had said in the first round that in fact you didn't believe that the price thresholds should be put into the regulations, but rather, they should be in the lease agreements and that you understood it was a policy decision in what was then the Clinton administration, but in fact you didn't believe it should be in the regulations. Is that correct? Did we hear you right?

Mr. MASON. I don't think I said I preferred one way or the other. The lease terms and conditions can be set forth in the proposed announcement of the lease sale, and the final notice of sale. They don't have to be in the regulations to be part of the lease. When I was asked my professional opinion of which way to go, I am not sure what I answered, but I must have said it would be fine to do it on a lease sale by lease sale basis. They could be more flexible that way, than have it codified in the CFR. If they did codify it in the CFR, the actual number of what the price threshold, since the statute grants the Secretary the discretion on the price of production, they could choose a different price production than the one that was originally set for old leases.

Mr. ISSA. OK. So if I understand correctly, you were the person that this decision process—does it go, or doesn't it go into the regulations—came to, in all likelihood. You believe that you issued an opinion that it could be done either way, and that in fact that led to it not being in the regulations itself, thus allowing for it to either be or not be in individual leases later granted at individual threshold amounts that were not determined by the regulation.

Mr. MASON. That is a complex question, too.

Mr. ISSA. Actually I was putting words in your mouth. [Laughter.]

Mr. MASON. I wasn't going to say that, Mr. Chairman. I am sorry.

Actually, Congress was the first that chose to let the Secretary decide when or if and how he or she would put in the price thresholds for these lease sales. It wasn't me.

Mr. ISSA. I understand. You are in that wonderful position that you have to interpret what 435 people in one side of the house and 100 people in the other might have meant.

Mr. MASON. And then get the Fifth Circuit to tell me what they truly meant. [Laughter.]

Sometimes, yes. So I just rendered a legal opinion that whether it was sufficient or OK to put them in the lease forms or the sale notices or the CFR.

Mr. ISSA. I would assume, as my opening statement said, that there were memoranda, there was some kind of correspondence, written documents that went with these decision, thought process, discussions.

Mr. MASON. Not usually. My legal practice is a lot of just oral correspondence on the telephone and in meetings that were deciding 18 issues, maybe, and they would say, well, can we do it this way, and I would say——

Mr. ISSA. OK. So my frustration in my opening comment that we have received no memoranda is because the departments operate basically orally and without memoranda, that is why we haven't gotten any correspondence back and forth?

Mr. MASON. Well, we are a couple of floors away from each other, and a lot of the day to day, at the time, I don't know if it seemed especially crucial. I don't know. I don't usually write a solicitor's opinion on matters like this, or put memos to the record.

Mr. ISSA. How about e-mails? I guess I will ask one closing question related to this particular subject. I am from an era before e-mails. In my previous Government time, I was in the military, in the 1970's. We used to call it CYA. We never knew what it meant, but we had an idea. [Laughter.]

I can't imagine, as a young second lieutenant, not annotating in my little green book—that you got when you got your butter bars—things that I was told, so that I would have them at the time as I remembered them. I can't imagine anything significant in the thousands of dollars that something wasn't produced on a standard blank form with a number on it that was put in the record or submitted to whoever was appropriate, just to confirm what I had been told. If it was so much as a vehicle leaving the base, which was an unusual event, potentially, there was a piece of paper.

So on $10 billion, and maybe it didn't seem like it was going to be $10 billion, are you saying that assuming the privilege is waived, we will find no correspondence between various people that was done in writing, including e-mail?

Mr. MASON. No, I am not saying that, Mr. Chairman. I don't recall putting any legal opinion in writing at the time. I may have referred to something in e-mails. The Solicitor's office no longer has e-mail, since the Cobell case.

I am not positive that there won't be something. But probably not from me. And quite frankly, you are right, often memos to the file are done. For the first 15 years of my Federal career, I kept my own chron file in my drawer of things I had written myself. The drawer got full and I quit doing that, because I don't have enough time to chronicle every opinion I render orally and in different meetings and back to back things. Maybe I should start doing that more often now.

Mr. ISSA. Well, I will tell you, I have five drawers of my chron file. I probably couldn't find things in there unless I knew the date, but my assistant would never let me get rid of it.

How about for the other two? Do you know of any memos from your recollection, including e-mail type memos, that you did that we should expect to see coming in time?

Mr. HEATH. Not to my knowledge, Congressman. Our daily practice, just to clarify a little bit, when we give informal advice on these sorts of questions, certainly if a client agency wants a written opinion, then we will give it to them. Back in the era when we did have e-mail, before we were cutoff, sometimes I would say, can you send me a confirmatory e-mail, that would be fine.

But a lot of times we will simply get informal inquiries if it is OK to X or Y. And we will answer those inquiries, but that frequently does not yield written correspondence. I don't know of any on this subject.

Mr. ISSA. OK. I will close with one last question, and Mr. Mason, you get the first and the last in this case. Looking back, had you made a different decision, one in which you said that price thresholds at a fixed amount should have been put in the regulation when you made your original decision, had that gone in the regulation at $28.50 and $3.50, do you believe we would be here today?

Mr. MASON. I don't think so. No.

Mr. ISSA. I will take that as a no.

Thank you very much. I appreciate your being here. With that, the first panel is dismissed. We are going to take a 5-minute break and give the second panel a chance to get seated and set up. Thank you.

[Recess.]

Mr. ISSA. This subcommittee will come back to order. Thank you very much.

Before we begin, I want to again bring everyone's attention to the first panel, which I think was illustrative of what I think this subcommittee is looking for. In the first panel, we were trying to determine who made a decision to have so many different contracts, how a mistake would happen where, with one intent of Congress we had multiple different documents, multiple different rule processes that led to an ambiguity that has both companies in court today. Obviously the Federal Government looking for royalty income that was forecasted but not received.

Our second panel today, which I am about to introduce, represents, to be honest, the finest brain trust that exists in oil companies doing business in America today. I am confident that when it comes to understanding how to find oil and natural gas, we couldn't have a better selection. More importantly, when it comes to understanding how this failure affected your companies, how we should correct it, how you forecast your own earnings and obligations to the Federal Government, and so we will begin looking at that. Although the first panel was about the agency that we hold responsible for the errors, we need your help, from the private sector, in preventing this from happening again. Understanding how it affects your company, and perhaps in how we can together get out of this in a legal and constitutional fashion, would be most appreciated.

Our second panel today of witnesses includes John Hofmeister, president of U.S. operations, Shell Corp.; Randy Limbacher, executive vice president, exploration and production-Americas, ConocoPhillips; Mr. Tim Cejka, president of Exxon Exploration Co., ExxonMobil Corp.; Mr. Paul Siegele, vice president for deep water development, Gulf of Mexico, Chevron Corp.; and Mr. Greg Pilcher, senior vice president, general counsel and secretary of Kerr-McGee Oil Corp.

Since I didn't do it the first time, I want to make sure I get this right. If I could ask everyone that is testifying and anyone who may give advice or counsel to those testifying to rise and take the oath.

[Witnesses sworn.]

Mr. ISSA. The clerk will please note that all witnesses and gentlemen behind answered in the affirmative.

Again, we previously have unanimous consent that all your opening statements be placed in the record. I want to thank everyone for rushing, in some cases at the last minute, to get us a good opening statement. Those will already be in the record. You need not re-read them, although you are certainly welcome to. I would ask that you stay within 5 minutes. The first panel shocked me by staying within 1 minute.

And with that, we are going to waive opening statements on this side and go to Mr. Hofmeister.

STATEMENTS OF JOHN HOFMEISTER, PRESIDENT OF U.S. OPERATIONS, SHELL OIL CORP.; RANDY LIMBACHER, EXECUTIVE VICE PRESIDENT, EXPLORATION AND PRODUCTION-AMERICAS, CONOCOPHILLIPS CO.; A. TIM CEJKA, PRESIDENT, EXXON EXPLORATION CO., EXXONMOBIL CORP.; GREGORY F. PILCHER, SENIOR VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY, KERR-MCGEE OIL CORP.; AND PAUL K. SIEGELE, VICE PRESIDENT FOR DEEP WATER DEVELOPMENT, GULF OF MEXICO, CHEVRON CORP.

STATEMENT OF JOHN HOFMEISTER

Mr. HOFMEISTER. Good morning. My name is John Hofmeister. I am the president of Shell Oil Co., the U.S. arm of Royal Dutch Shell.

Shell is an integrated oil and gas company that is dedicated to meeting the challenge of growing world demand for energy efficiently, profitably and responsibly. Shell puts sustainability, the search for viable new energy sources and the application of innovative technologies at the heart of how we do business. We are dedicated to growing the North American energy supply.

Our commitment is underpinned by a history of investing billions of dollars every year in the development of future domestic energy sources and defining new frontiers. Shell is pleased to testify before the subcommittee today regarding price thresholds and deep water leases.

Since its inception in the middle 1990's, Shell has been a proponent of the Deep Water Royalty Relief Act as a way to encourage investment in the emerging deep water Gulf of Mexico. The Deep Water Royalty Relief Act provided a great benefit to the Nation by encouraging the development and exploration of oil and gas leases by making them more economically attractive.

It was enacted at a time when the uncertainty of the technology and the size of the capital investment required huge corporate commitments to make these leases successful and productive. For example, even in the 1990's, the exploration and development of these leases required a billion dollar plus investment. A single exploratory well, not necessarily productive, involved costs in the $50 million range. This incentive was successful in attracting capital to the development of this important source of domestic energy.

Shell is a proponent of price thresholds on deep water royalty relief. We supported price thresholds on relief when the act was being drafted, and continue to support them today. Shell does not believe deep water royalty relief is necessary in the current commodity price environment. However, if prices fall, the economics of deep water projects would change and deep water royalty relief might be necessary again to encourage leasing in the deep water.

Outer continental shelf leases are not negotiated by lessees. Minerals Management Services drafts and publishes a standardized lease form to be used in the outer continental shelf. A lessee must either accept the lease as drafted or forfeit the lease and deposit. Therefore, when leases are awarded, the lessee must execute the lease and return it within the time specified. There is no negotiation, but only an award of a lease to the highest qualified bidder. Shell's policy is to pay royalties due by lease and by regulation.

Shell does not contest the implication of price thresholds to deep water leases. We are not a party to the litigation on price thresholds. We paid royalties for deep water leases for the years 1996, 1997 and 2000, when the price thresholds had been exceeded.

Shell holds some 73 deep water leases that were acquired in 1998 and 1999 lease sales. Four of these leases are producing.

Minerals Management Services Director Burton stated last week the Government made an administrative error by omitting price thresholds in the 1998 and 1999 deep water royalty leases. Shell stands ready to work with Minerals Management Services and Congress to address this issue. In fact, Thursday of last week, Shell sent Director Burton a letter, before I knew about this hearing, expressing our willingness to make a change in our 1998 and 1999 leases by considering the addition of price thresholds. I would like to submit a copy of that letter for the record.

Mr. ISSA. Without objection, that will be placed in the record.

[The information referred to follows:]

Shell Exploration & Production

Shell Energy Resources Company
Marvin E. Odum
Executive Vice President – EP Americas
200 North Dairy Ashford
Houston, TX 77079-[illegible]
Tel +1-281-544-[illegible]
Email marvin.odum@shell.com

June 15, 2006

By Fax: 202-208-3619

Ms. Johnnie Burton
Director, Minerals Management Service
U.S. Department of the Interior
1849 C Street NW, Room 6613
Washington, DC 20240

Re: Deepwater Leases issued in 1998-99

Dear Madame Director:

You made a public statement today regarding the 1998 and 1999 deepwater leases in the Gulf of Mexico. Specifically, you said that those leases are valid contracts, but that an error was made in omitting the provision for price thresholds. Further, you said that MMS would like to meet with any company willing to discuss the issue and correct the error.

Shell believes the sanctity of contracts is paramount and therefore would oppose a unilateral change to an existing contract. However, where an obvious error has occurred, and both parties are willing to review the contract and consider possible modifications to correct the error, we believe such discussions are appropriate. Therefore, Shell is interested in meeting with you on this matter.

Shell supports price thresholds for all deepwater royalty relief leases. Under the current commodity price environment, deepwater royalty relief is not necessary. However, if prices fell back significantly, the economics of deepwater projects would change and deepwater royalty relief might be justified to continue development necessary to meet the nation's energy needs.

We propose a meeting in Washington next Wednesday, June 21, to pursue this important issue.

Sincerely,

Marvin Odum

Mr. HOFMEISTER. We met with her yesterday to begin those discussions.

In addition, we have expressed our desire to resolve the issue to Members of the House and the Senate.

Mr. Chairman, we agree with you that it is time to resolve this issue. Shell strongly believes in the sanctity of contracts and would oppose unilateral modification of legally binding contracts. We do, however, support price thresholds for Deep Water Royalty Relief Act leases.

Mr. Chairman, this concludes my remarks. I am available to answer any questions you or the committee might have.

[The prepared statement of Mr. Hofmeister follows:]

Statement of

John Hofmeister

Shell Oil Company

before the

HOUSE GOVERNMENT REFORM SUBCOMMITTEE ON ENERGY & RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON

"Absence of Price Thresholds in Deepwater Leases"

Wednesday, June 21, 2006
Washington, DC

Good Morning. My name is John Hofmeister. I am the President of Shell Oil Company, the U.S. arm of Royal Dutch Shell Plc. Shell is an integrated oil and gas company that is dedicated to meeting the challenge of growing world demand for energy efficiently, profitably and responsibly. Shell puts sustainability, the search for viable new energy sources and the application of innovative technologies at the heart of how we do business. We are dedicated to growing the North American energy supply. Our commitment is underpinned by a history of investing billions of dollars every year in the development of future domestic energy sources and defining new frontiers.

Shell is pleased to testify before the Subcommittee today regarding price thresholds in deepwater leases. Since its inception in the mid 1990s, Shell has been a proponent of the Deepwater Royalty Relief Act (DWRR) as a way to encourage investment in the emerging deepwater Gulf of Mexico. The DWRR provided a great benefit to the nation by encouraging the exploration and development of oil and gas leases by making them more economically attractive. It was enacted at a time when the uncertainty of the technology and the size of capital investment required huge corporate commitments to make these leases successful and productive.

For example, even in the 1990s the exploration and development of these leases required a billion dollar plus investment. A single exploratory well – not necessarily productive – involved costs in the fifty million dollar range. This incentive was successful in attracting capital to the development of this important source of domestic energy.

Shell is a proponent of price thresholds on deepwater royalty relief. We supported price thresholds on relief when the Act was being drafted and continue to support them today. Shell does not believe deepwater royalty relief is necessary in the current commodity price environment. However, if prices fall, the economics of deepwater projects would change and deepwater royalty relief might be necessary again to encourage leasing in the deepwater.

OCS leases are not negotiated by lessees. MMS drafts and publishes a standardized lease form to be used in the OCS. A lessee must either accept the lease as drafted or forfeit the lease and deposit. Therefore, when leases are awarded the lessee must execute the lease and return it within the time specified. There is no negotiation but only an award of a lease to the highest qualified bidder. Shell's policy is to pay royalties due by lease and regulation.

Shell does not contest the application of price thresholds to deepwater leases. We are not a party to the litigation on price thresholds. We paid royalties for deepwater leases for the years1996, 1997 and 2000 when the price thresholds have been exceeded. Shell holds 73 deepwater leases that were acquired in 1998 and 1999 lease sales. Four of the 73 leases are producing.

MMS Director Burton stated last week the government made an administrative error by omitting price thresholds in the 1998 and 1999 deepwater royalty leases. Shell stands ready to work with MMS and Congress to address this issue. In fact, Thursday of last week Shell sent Director Burton a letter expressing our willingness to "make a change" in our 1998 and 1999 leases by considering the addition of price thresholds. I would like to submit a copy of that letter for the record. We met with her yesterday to begin those discussions. In addition, we have expressed our desire to resolve the issue to members of the House and Senate.

Mr. Chairman we agree with you that it is time to resolve this issue. Shell strongly believes in the sanctity of contracts and would oppose unilateral modification of legally binding contracts. We support price thresholds for Deepwater Royalty Relief Act leases.

Mr. Chairman, this concludes my remarks. I am available to answer any questions you or members of the committee might have.

Mr. ISSA. Thank you, sir.
Mr. Limbacher.

STATEMENT OF RANDY LIMBACHER

Mr. LIMBACHER. Good morning, Mr. Chairman and members of the subcommittee. My name is Randy Limbacher. I am the executive vice president of the Americas for ConocoPhillips. Prior to my current position, I was the chief operating officer at Burlington Resources.

I am pleased to appear before this subcommittee this morning to address ConocoPhillips' holdings in the Federal offshore oil and gas leases that were issued by the Department of the Interior during 1998 and 1999, and that do not incorporate price thresholds with respect to applicability of royalty relief for deep water production.

Before I get to the core of my statement, I would like to emphasize that ConocoPhillips' current upstream asset base consists primarily of the heritage assets of Conoco, Inc., Phillips Petroleum Co. and Burlington Resources, three previously independent companies that have combined over the past 3 years to create ConocoPhillips. The prior actions or positions taken by any one of these companies is not necessarily reflective of those of ConocoPhillips.

In the short time we had available, we conducted a review of our lease files, and as a result determined that ConocoPhillips holds interest in 34 leases issued during 1998 and 1999, that do not incorporate price thresholds with respect to the eligibility for royalty relief for deep water production. While some of these leases were acquired by one of our heritage companies at OCS lease sales directly from the Department of Interior, others were obtained in transactions with other companies. In addition, ConocoPhillips has relinquished or transferred to others interest in leases that its heritage companies acquired during this timeframe.

However, regardless of the manner obtained, the most important point for this committee's understanding is that none of these 34 leases are producing oil or gas, and as a consequence, no deep water royalty relief is presently being taken by ConocoPhillips. I am aware of the recent controversy concerning the appropriateness of royalty relief for deep water production in today's oil and gas pricing environment. However, this has not been a significant issue for our company, as we have not been in a position to make use of the incentives under the 1998 and 1999 leases.

We can say that ConocoPhillips, our current policy is that we don't believe royalty relief in the current price environment is justifiable, thus the reasons for the thresholds. And we are not pursuing such relief. We are willing to enter into dialog with Interior on these particular leases.

Mr. Chairman, as you might imagine, with the numerous mergers that we have undergone in recent years to become ConocoPhillips, our Federal lease holdings have undergone constant change. The information presented here today reflects our current lease situation regarding lease issues in the period of question. I would be most happy to respond to questions that members of the subcommittee might have relating to our leasing practices or related subjects. I thank you again.

[The prepared statement of Mr. Limbacher follows:]

STATEMENT OF RANDY L. LIMBACHER

EXECUTIVE VICE PRESIDENT, CONOCOPHILLIPS

BEFORE THE

HOUSE GOVERNMENT REFORM

SUBCOMMITTEE ON ENERGY & RESOURCES

WEDNESDAY, JUNE 21, 2006

Good morning Mr. Chairman and Members of the Subcommittee. My name is Randy L. Limbacher and I serve as Executive Vice President, Exploration and Production—Americas for ConocoPhillips. Prior to my current position, I was Executive Vice President and Chief Operating Officer at Burlington Resources, where I also served on the Board. During my career, I have also held various engineering positions with Burlington, Mobil and Superior Oil.

ConocoPhillips is the third largest integrated energy company in the United States, based on market capitalization, and oil and gas proved reserves and production, and the second largest refiner in the United States. Headquartered in Houston, Texas, ConocoPhillips operates in approximately 40 countries, with about 35,600 employees worldwide and assets of $107 billion. We continue to have a strong presence in the United States.

I am pleased to appear before the Subcommittee this morning to address ConocoPhillips' holdings in federal offshore oil and gas leases that were issued by the Department of the Interior during 1998 and 1999 and that do not incorporate price thresholds with respect to applicability of royalty relief for deep water production.

Before I get to the core of this testimony, I would like to emphasize that ConocoPhillips' current upstream asset base consists primarily of the heritage assets of Conoco Inc., Phillips Petroleum Company, and Burlington Resources Inc., three previously independent companies that have combined over the past three years to create ConocoPhillips. The prior actions or positions taken by any one of these companies is not necessarily reflective of those of ConocoPhillips.

In the relatively short time available we have conducted a review of our lease files and as a result have determined that ConocoPhillips presently holds interests in thirty-four leases issued during 1998 and 1999 that do not incorporate price thresholds with respect to the eligibility for royalty relief for deep water production. While some of these leases were acquired by one of our heritage companies at OCS lease sales directly from the Department of the Interior, others were obtained in transactions with other companies. In addition, ConocoPhillips has relinquished or transferred to others interests in leases that its heritage companies acquired during this time frame. However, regardless of the manner obtained, the most important point for this Committee's understanding is that **none** of these thirty-four leases are producing oil or gas and, as a consequence, no deep water royalty relief is presently being taken by ConocoPhillips.

I am aware of the recent controversy concerning the appropriateness of royalty relief for deepwater production in today's oil and gas pricing environment. However, this has not been a significant issue for ConocoPhillips as our company has not been in a position to make use of these incentives under our 1998 and 1999 leases.

With respect to the specific questions contained in the Subcommittee's letter to ConocoPhillips dated June 12, 2006, we would offer the following:

1. **<u>Industry's reaction to the Deepwater Royalty Relief issue with respect to leases with no price thresholds issued during 1998 and 1999.</u>**

As noted above, ConocoPhillips does not presently hold interests in producing leases that are eligible for royalty relief without price thresholds for deep water production. Consequently, this has not been a significant issue for our company and we are not well positioned to add to the existing debate on this matter.

While ConocoPhillips may in the future develop one or more of these leases to produce oil and/or natural gas, the timing of when such production may occur, as well as the then existing pricing environment for oil and gas, drilling and infrastructure development costs (to name a few key economic parameters impacting and oil and gas development, particularly in deep water) are so uncertain at present and unique to each individual lease development decision as to make any general statement about our company's position on deep water royalty relief in the future too speculative. Royalty relief would be only one part of the evaluation of lease development economics and in all likelihood would only serve to allow an economically marginal project a better chance of being developed.

We can say that it is ConocoPhillips' current policy that we do not believe royalty relief in the current price environment is justifiable, thus the reason for thresholds, and we are not pursuing such relief.

2. **<u>Explanation of the processes by which ConocoPhillips reviews, negotiates, approves and enters into leases on a general basis but more particularly during the 1998 and 1999 timeframe.</u>**

ConocoPhillips evaluates a number of factors in determining whether or not to attempt to acquire available acreage, to include geologic prospectivity, the likelihood of developing resources to provide an economic return, synergies with our existing asset base, and how the acreage compares in these and other measures with other investment opportunities available on a global basis. If the acreage is determined to be attractive, then after obtaining required approvals the company will seek to enter into an agreement with the resource owner to explore for and, if successful, to develop the resource. In some cases, this effort requires extensive negotiations, involving substantial give and take with respect to commercial terms and risk sharing, with the resource owner.

With regard to the tender of leases for Federal acreage the leasing process is well established by Federal regulation and in our experience involves no material discussion or negotiation between a prospective lessee and the Department of the Interior with respect to the terms of the lease. The terms and conditions for Federal lease sales are developed and published by the Department of the Interior and the bidding and award of federal leases is done pursuant to a public tender process. Only in the event that a bidder is successful would they then be provided the lease agreement for execution.

While I am unaware of the specific circumstances concerning ConocoPhillips' evaluation of federal deepwater acreage available in the 1998 to 1999 time frame, my view is that the company would likely have followed this same general approach.

3. **How ConocoPhillips regularly interfaces with the Department of the Interior, including whether COP had any contact regarding the interim and final regulations that implemented the Deep Water Royalty Relief Act.**

   I am unaware of any direct contacts made by ConocoPhillips employees with Interior Department employees with respect to interim and final regulations that implemented the Deep Water Royalty Relief Act.

4. **Whether COP ever raised issue with the omission of price thresholds in the final notices of sale and the leases themselves.**

   I am unaware of any direct contacts made by ConocoPhillips employees with Interior Department employees with respect to the omission of price thresholds in oil and gas lease sales during the 1998-1999 timeframe. However, in my experience it would be highly unusual for a prospective federal oil and gas lessee to have direct contact with Department of the Interior employees concerning lease terms, which are generally not subject to negotiation.

Mr. Chairman, as you might imagine, with the numerous mergers that we have undergone in recent years to become ConocoPhillips, our federal lease holdings have undergone constant change. The information presented here today reflects our current lease situation regarding leases issued in the period of question. I would be most happy to respond to any questions that Members of the Subcommittee might have relating to our leasing practices or related subjects. Thank you, again.

Mr. ISSA. Thank you.
Mr. Cejka.

STATEMENT OF A. TIM CEJKA

Mr. CEJKA. Thank you, Mr. Chairman, Ranking Member Watson. My name is Tim Cejka, and I am president of ExxonMobil Exploration Co., global in reach. I am located in Houston and I am pleased to be here to be involved in this discussion.

Energy continues to be a topic on many Americans' minds, particularly as we move into the summer driving season. We know that your constituents need reliable supplies of affordable energy not only for fuel for their vehicles, but also to run their businesses, perform their other activities and help them get through their daily lives. We understand and share their concern and interest regarding energy supply, so we welcome this opportunity to respond to your questions.

With respect to the committee's specific issue for discussion today, the 1998 and 1998 OCS lease sales and how they were impacted by the Deep Water Royalty Relief Act, I would like to begin with an overview of what we see as the MMS leasing process.

As you are aware, the MMS issues leases on Federal offshore lands for oil and gas exploration and development under the Outer Continental Shelf Lands Act, as well as regulations issued to implement that law. All leases issued are subject to the law and regulations. Before each lease sale, the MMS, after an extensive review process, publishes a final notice prior to the sale. The notice sets forth the terms and conditions under which the leasing for that sale will occur. This was done for all lease sales in 1998 and 1999.

The 1995 act mandated the leasing during this period to be done with a bidding system that provides for royalty relief. Please note that the final regulations implementing the 1995 act were issued in January 1998. I mention this because I wish to emphasize that all the leases that heritage Exxon and heritage Mobil entered into with the Government during this period were within full compliance of the laws and regulations at that time.

With respect to 1998 and 1999, OCS leases, given our understanding of the availability of the acreage at that time, heritage Exxon, heritage Mobil, bidding as separate companies, were in combination high bidders on 145 leases. To date, we have traded all or part of our interest in some of these original leases and formed ventures with other companies on additional blocks, to elevate our ownership position to 159 originally awarded in the 1998–1999 timeframe.

So far, unfortunately for me, we have drilled three wildcats, all dry, and are planning to drill a few more over the next year or so. Because we have yet to discover any commercial volumes of hydrocarbon on any leases and therefore no production, we have not taken any royalty relief on these leases. At the time the leases were issued, the MMS was adjusting its policy in accordance with the Deep Water Royalty Relief Act to promote additional activity in the deep water at a point in time when activity in this portion of the Gulf was modest, at best. The structure of the lease agreements enhance the potential reward to the risk if commercial volumes are discovered, something of which we have yet to do.

As a result of the MMS policy and the Deep Water Royalty Relief Act, industry has drilled 50 wildcats on the leases from 1998 to 1999, resulting in 15 commercial discoveries, and will ultimately produce about 1.5 billion oil equivalent barrels, according to the industry analyst, Wood MacKenzie.

The more fundamental issues underlying the question before the subcommittee today are the rule of law and the issue of contract sanctity. First, ExxonMobil adheres to all applicable laws and regulations with respect to the lease agreements we enter into with the Government. Second, in the United States and in all countries where ExxonMobil operates, the issue of contract sanctity is critical to our business decisions. Any change of prior year lease terms and conditions would indicate the U.S. Government does not place a high value on contract sanctity. If this value is undermined, it may have a negative impact on the investment climate in the United States.

Since we originally acquired the rights to these 159 leases, we have formed ventures with several companies and it is unimaginable that we would have to go back to our co-venturers and tell them that the terms we offered them have changed. Confidence in the stability of fiscal terms in the United States is one of several key reasons you have witnessed a resurgence in activity in the United States.

While the Federal Government, of course, certainly has the right to change the terms on future leases that it grants on Government lands, we expect the terms of existing leases to be honored. Any attempt to revoke or retroactively renegotiate leases previously granted by the Federal Government we think would set a bad example and discourage future industry investments.

As a U.S. energy company that has the scale and financial strength to make the future investments needed, undertake the risks and develop the new technologies necessary to provide Americans with greater energy access and greater energy security, ExxonMobil wants to continue to work with you and be part of an energy solution to this problem.

Compliance with all provisions of our regulatory agreements is of utmost importance to us. In 2005, ExxonMobil made royalty payments to U.S. Federal and State authorities of $838 million, and in addition, provided royalty in-kind production volumes of 6.6 million barrels of oil and 14.8 million cubic feet of gas.

I would like to conclude by stating how proud we are of the recognition we have received for our leadership in the royalty arena. Just since 1998, we received the Department of Interior's Safe Operations and Accurate Reporting [SOAR], award four times, including 2005. The SOAR award is given to the OCS lessees who demonstrate excellence in operational safety and financial reporting.

We have also received the Mineral Revenues Stewardship award twice since 2003. The Mineral Revenues Stewardship award recognizes companies with outstanding records for low error rates, timely payment and responsiveness to compliance and enforcement requests and orders.

Thank you for your time and consideration for these hearings.

[The prepared statement of Mr. Cejka follows:]

Tim Cejka
President, ExxonMobil Exploration Company
House Subcommittee Testimony on Royalty Relief
Washington, D.C.
June 21, 2006

Thank you Chairman Issa, Ranking Member Watson, and members of the Committee. My name is Tim Cejka and I am the president of ExxonMobil Exploration Company, located in Houston, Texas. I am pleased to appear before you today.

Energy continues to be a topic on many Americans' minds, particularly as we move into the summer driving season. We know that your constituents need reliable supplies of affordable energy not only to fuel their vehicles, but also to run their businesses and perform other activities to help them go about their daily lives. We understand and share their concern and interest regarding energy supply so we welcome this opportunity to respond to your questions.

With respect to the Committee's specific issue of discussion today - the 1998 and 1999 OCS lease sales and how they were impacted by the Deep Water Royalty Relief Act - I would like to begin with an overview of the MMS leasing process.

As you are aware, the MMS issues leases on Federal offshore lands for oil & gas exploration and development under the Outer Continental Shelf Lands Act as well as regulations issued to implement that law. All leases issued are subject to the law and the regulations. Before each lease sale, the MMS, after an extensive review process, publishes a final notice prior to sale. That notice sets forth the terms and conditions under which leasing for the sale will occur. This was done for all lease sales in 1998 and 1999.

The 1995 Act mandated that leasing during this period be done with a bidding system that provides for royalty relief. Please note that the final regulations implementing the 1995 Act were issued in January of 1998. I mention this because I wish to emphasize that the leases Exxon and Mobil entered into with the government during this period were in compliance with the law and regulations at that time.

With respect to the 1998 and 1999 OCS leases, given our understanding of available acreage at that time, Exxon and Mobil, bidding as then separate companies, were in combination the high bidders on 145 leases. To date, we have traded all or a portion of our interest in some of those original leases and formed ventures with other companies in additional blocks to elevate our ownership position to 159 blocks originally awarded in 1998 and 1999. So far we have drilled three wildcat wells on this acreage, all dry holes, and are planning more over the next year or so. Because we have yet to discover commercial volumes of hydrocarbons on any of these leases and therefore have no production, we have not taken any royalty relief on these leases.

At the time the leases were issued, the MMS was adjusting its policy in accordance with the Deep Water Royalty Relief Act to promote additional activity in the deep water at a point in time when activity in this portion of the Gulf was modest, at best. The structure of lease agreements enhanced the potential reward to the risk taker, if commercial volumes of hydrocarbons are discovered...something we have yet to do.

As a result of the MMS policy and the Deep Water Royalty Relief Act, industry has drilled about 50 wildcat wells on 1998 and 1999 leases resulting in 15 commercial discoveries that will ultimately produce about 1.5 billion oil equivalent barrels according to industry analysts Wood Mackenzie.

The more fundamental issues underlying the question before the subcommittee today are the **Rule of Law** and **the Issue of Contract Sanctity**. First, ExxonMobil adheres to all applicable laws and regulations with respect to the lease agreements we enter into with the government.

Second, in the United States and in all countries where ExxonMobil operates, the issue of Contract Sanctity is critical to our business decisions. Any change of prior year lease terms and conditions would indicate that the United States government does not place a high value on Contract Sanctity. If this value is undermined here, it would have a deleterious impact on the investment climate in the United States.

Since we originally acquired the rights to these 159 leases, we have formed ventures with several companies and it is unimaginable that we could have to go back to co-venturers and say our government has changed the terms. Confidence in the stability of fiscal terms in the United States is one of several key reasons you are witnessing resurgence in activity in the U.S.

While the federal government certainly has the right to change the terms of future leases that it grants on government lands, ExxonMobil expects the terms of existing leases to be honored as written. Any attempt to revoke or retroactively renegotiate leases previously granted by the federal government (whether owned by ExxonMobil or a third party) would set a bad example and discourage future industry investments on Federal lands. As a U.S. energy company that has the scale and financial strength to make the future investments needed, undertake the risks and develop the new technologies necessary to provide Americans with greater energy access and greater energy security, ExxonMobil wants to continue to work with you to be a part of energy solutions in this country.

Compliance with all provisions of our regulatory agreements is of utmost importance to ExxonMobil. In 2005, ExxonMobil made royalty payments to U. S. federal and state authorities totaling of $838 million, and in addition provided royalty in-kind production volumes of 6.6 million barrels of oil and 14.8 million cubic feet of gas.

I would like to conclude by stating how proud we are of the recognition we have received for our leadership in the royalty arena. Just since 1998, we have received the Department of Interior's Safe Operations and Accurate Reporting (SOAR) award four times, including for 2005. The SOAR award is given to those OCS lessees who demonstrate excellence in operational safety and financial reporting. We've also received the Mineral

Revenues Stewardship award twice since 2003. The Mineral Revenues Stewardship award recognizes companies with outstanding records for low error rates, timely payment, and responsiveness to compliance and enforcement requests and orders.

Thank you for your time and consideration in conducting these hearings.

# # #

Mr. ISSA. Thank you, Mr. Cejka.

Mr. Pilcher.

STATEMENT OF GREGORY F. PILCHER

Mr. PILCHER. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to be here today. My name is Greg Pilcher, and I am senior vice president, general counsel and corporate secretary of Kerr-McGee Corp.

My company, Kerr-McGee, has invested over $3.5 billion in deep water operations in the Gulf of Mexico, including over $450 million in bonuses and rentals to the Government. This year, we budgeted approximately $650 million for the deep water Gulf, and we continue to do our part to help expand the supply of energy products for the American people.

I would like to begin briefly with the act itself, which was intended to promote investment in the deep water Gulf, and help reduce our dependence on foreign oil. The deep water Gulf is a challenging environment. We operate in waters up to a mile deep, 100 miles from land and face annual threats from hurricanes. Each project entails significant risk and requires the investment of tens and sometimes hundreds of millions of dollars.

When a company hits a dry hole, which happens much more often than not in the deep water Gulf, industry absorbs the loss. There is no refund of bonuses paid to the Government and no revenues from production. These projects are long term investments with a time horizon well beyond the cyclical ups and downs in prices.

Now, a decade later, it is evident that the act has been an enormous success. Since 1995, industry has drilled almost 1,000 exploration wells and announced more than 125 discoveries there. Deep water production is up dramatically. Government revenues from upfront bonus payments from 1996 through 2000 increased by $2 billion. Tens of thousands of American jobs have been created.

When we are successful, royalty relief under the act for initial volumes helps us recover our massive investment, as well as offset our losses for failed projects. Of course, once production from a deep water lease exceeds the minimum volume, we pay royalties at the full rate.

Without the incentives of the act, we never would have made the decision in the 1990's to invest billions of dollars in these projects. The decision looks like a simple one now, given high prices. But at the time of the decision, the energy industry was struggling and was very reluctant to make substantial investments in exploration. It would be unfair and unwise for Congress to take any action that would change the rules established at the time the investments were made.

Now I would like to turn to the leasing process. The key point here is that the terms of offshore leases are not negotiated. The form of the lease, including its royalty language, is dictated by Interior, and those terms are not negotiable. Those terms, however, must comply with the law and the lease itself states that it is governed by then-existing law.

The only decisions for companies in the leasing process are whether to bid for and how much to bid. The only part of the lease that is determined by the company is the size of the bonus offered in the competitive auction. Thus, there were no negotiations on the terms of the leases that are the subject of today's hearing. And I am not aware of any discussions between Kerr-McGee and Interior about lease terms before the issuance of the leases in 1998 and 1999.

With regard to the absence of price triggers from the 1998 and 1999 leases, Kerr-McGee believes that Congress did not give Interior authority to include price triggers in any leases sold during the 5-year period after the act. In short, we don't believe that the absence of price triggers from leases awarded in 1998 and 1999 was a mistake. To the contrary, the absence of price triggers was necessary in order for those leases to be consistent with the law.

We think this is clear because: first, from the act itself, which mandates the suspension of royalty on certain minimum volumes specified by Congress for the leases in question; second, from the legislative history of the act; third, from the Federal court decision, which held that Interior does not have discretion to put conditions on the royalty relief specified by Congress; and fourth, from Interior's own regulations, which do not provide for price triggers on the leases in question.

Ultimately, the courts should decide whether we are right or wrong, and of course, we will honor whatever decision the courts make.

In conclusion, we believe the act should be recognized as a success, even though the act has only just begun to bear fruit to provide important new domestic energy sources. Regarding discussions, and as I have said to Members of Congress, we have had discussions with the agency in an effort to resolve our dispute, and we remain willing to discuss potential resolutions.

Mr. Chairman, thank you for the opportunity to testify. We stand ready to work with the subcommittee as you continue your investigation of this matter.

[The prepared statement of Mr. Pilcher follows:]

STATEMENT OF
GREGORY F. PILCHER

SENIOR VICE PRESIDENT, GENERAL COUNSEL,
AND CORPORATE SECRETARY

KERR-McGEE CORPORATION

BEFORE THE
COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON ENERGY AND RESOURCES

UNITED STATES HOUSE OF REPRESENTATIVES

June 21, 2006

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear here today. My name is Greg Pilcher, and I am Senior Vice President, General Counsel, and Corporate Secretary of Kerr-McGee Corporation ("Kerr-McGee").

As requested in your invitation to testify, my testimony will discuss royalty relief for production of oil and natural gas in the Gulf of Mexico pursuant to the Deep Water Royalty Relief Act of 1995, Public Law 104-58 ("the Act") and certain aspects of the administration of such royalty relief by the Department of the Interior ("Interior"). In particular, you have requested Kerr-McGee to address the absence of so-called price triggers from deep water leases that Interior issued to companies in 1998 and 1999.

Kerr-McGee has been leasing properties and exploring for oil and gas in the Gulf of Mexico since 1938. We are proud to have been and to remain at the forefront of deep water exploration and development. In 2005, we had 510 deepwater leases covering more than 3 million acres of seafloor. Kerr-McGee has invested over $3.5 billion in deep water operations, including installing the world's first cell spar in 2004.[1] For 2006, we have budgeted approximately $650 million in capital expenditures and exploration expense for the deep water Gulf of Mexico. Since 1999, Kerr-McGee has made 19 deep water discoveries, including 3 already in 2006. We produce more than 95,000 barrels of oil equivalent per day of net production from the deep water Gulf of Mexico to help supply America's energy needs.

As the members of this Subcommittee may be aware, a subsidiary of Kerr-McGee currently is engaged in a lawsuit in federal court to resolve a dispute between the Company and Interior. That lawsuit concerns Interior's assertion that the agency has discretion to impose conditions on the royalty relief that the 104^{th} Congress provided in the Act. Although I am not at liberty to discuss confidential opinions of counsel, attorney work product, or other privileged information about the lawsuit, I will discuss Kerr-McGee's publicly-stated positions about that legal dispute.

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[1] These costs include over $450 million spent on upfront cash bonuses paid to the U.S. Government to acquire and cash rentals to preserve deep water leases in the Gulf of Mexico, over $2.5 billion in well and other capital costs, and over $400 million in dry hole costs.

Background, Objectives, and Success of the Act

In 1995, enactment of the Act served to promote investment in the capital-intensive and high risk oil and gas operations in deep water areas of the Gulf of Mexico. To attract such investment, the Act unconditionally guaranteed each company that accepted a deep water lease from the federal government during the first five years after enactment—from 1996 through 2000—the right to produce "not less than" a statutorily defined volume of oil and natural gas without a royalty obligation on that volume, before paying royalties at the regular rate on any additional volumes produced from those leases.

As an incentive program, deep water royalty relief applied to projects that were, by their very nature, long-term investments. It is not uncommon for 5 or 6 years, or more, to pass between the issuance of a lease and the recovery of hydrocarbons from a discovery. Moreover, when discoveries are made, production can go on for many years. This long-term process means that the benefits of the incentive program, for both the companies and the public, will not be immediately achieved. It also means that the companies who receive the incentive are factoring it into long-term planning for the lives of their projects.

The offshore oil and gas industry was beleaguered in the early 1990s by many challenges. Production in the Gulf of Mexico was declining, oil companies were investing large portions of their drilling budgets overseas, and hundreds of thousands of domestic jobs in the industry had been slashed. (*See* Senate Report 103-248 (Apr. 11, 1994), examining in detail the dramatic decline in oil and gas production on the Outer Continental Shelf in the early 1990s and the costs involved in deep water exploration and production.) The Act was enacted in response to those developments, and to serve as a catalyst to help address our country's dependence on foreign oil. The legislative history of the Act demonstrates that the 104th Congress sought to increase investment in new drilling in the Gulf of Mexico, increase the domestic energy supply, and create jobs in an industry that was reeling from job losses. For example, Representative Bob Livingston stated:

> [T]he United States is now importing 50 percent of our energy needs. The Department of Energy projects 60 percent import level by 2010. The United States has lost 450,000 jobs in the oil and gas industry. The temporary royalty relief in [Senate Bill] 395 will enable the private sector to risk its own funds to find and produce domestic oil and gas to enhance national energy security and create jobs.[2]

(141 Cong. Rec. at H11856 (Nov. 8, 1995) (Rep. Livingston).)

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[2] See also 141 Cong. Rec. at H11857 (Nov. 8, 1995) ("These provisions will create jobs in the energy industry and further limit our reliance on foreign oil") (Rep. Ken Bentsen); 141 Cong. Rec. at H11859-60 (Nov. 8, 1995) (emphasizing job creation and increasing domestic energy supply) (Rep. Bill Brewster); 141 Cong. Rec. at 11860-61 (Nov. 8, 1995) (same) (Rep. W.J. "Billy" Tauzin); 141 Cong. Rec. at H11868 (Nov. 8, 1995) (same) (Rep. Sheila Jackson-Lee); 141 Cong. Rec. at H11878-79 (same) (Rep. Bill Richardson).

Although granting relief from some royalty obligations would decrease royalty revenues, the 104th Congress recognized that, in addition to the benefits of encouraging deep water exploration to support the domestic industry and to reduce dependence on foreign sources of energy, the sale of leases entitled to royalty relief also could be expected to generate increased upfront cash bonus dollars that companies pay at the outset, regardless of exploration success, to acquire new leases. For example, Secretary of Energy Hazel O'Leary stated to Congress that the royalty relief provisions of the Act were expected to lead to an increase of bonus payments of nearly one-half billion dollars ($485 million). (Conf. Rep. on S. 395, 141 Cong. Rec. H11854-01, at H11872 (letter from Energy Secretary O'Leary).)

Now a decade later, it is evident that the Act has been an enormous success.

In the ten federal offshore lease sales held during the period 1996 through 2000, Interior granted nearly 4,000 new deep water leases, generating record bidding and cash bonus payments to the United States. For example, Lease Sale No. 166, held in March 1997, generated more than 1,000 bids, including $40 million in bids on lease tracts that Interior had previously refused to lease because prior bids were too low. In contrast to the prediction that the Act would lead to $485 million in increased bonuses for the next 5 years, Interior has estimated that "the government received approximately $2 billion more in bonus payments in the lease sales held from 1996 to 2000 than it would have received had the leases been offered without royalty relief." (Statement of Walter Cruikshank, Deputy Director, MMS, Before the Committee on Government Reform, Subcommittee on Energy and Resources, March 1, 2006 ("Cruikshank Statement"), at p. 3.)

Moreover, Interior has noted that, although companies bid for fewer than 150 deep water tracts in 1993 and 1994 combined, they bid on 877 tracts in 1996 and 1,280 tracts in 1997. (Rose, Farndon & Fraser, "Design and Rationale of the Final Rule on the Deep Water Royalty Relief Act, p. 2 (Interior, MMS, Offshore Technology Conference Paper 8710 (May 1998).)

The Act's success was not limited to generating increased bidding on offshore leases. With regard to the goal of increasing energy production in the deep waters of the United States, MMS's Regional Director for the Gulf of Mexico has stated that development since the Act "has succeeded probably beyond the most optimistic dreams of most of us." (Interior, OCS Report MMS 2004-021, "Deepwater Gulf of Mexico 2004: America's Expanding Frontier," May 2004, at p. xi (preface of Chris C. Oynes).) Industry has drilled more than 980 exploration wells in deepwater areas of the Gulf of Mexico since 1995 and announced more than 125 deepwater discoveries. (Interior, OCS Report MMS 2006-022, "Deepwater Gulf of Mexico 2006: America's Expanding Frontier," May 2006, at p. xi (preface).) By the end of 2002, daily hydrocarbon production from the deep waters of the Gulf of Mexico had increased from 1995 levels by 535% for oil and 620% for natural gas. (OCS Report MMS 2004-021, at p. xi.) By year-end 2002, companies were producing an estimated 959,000 barrels of oil per day and 3.6 billion cubic fee of natural gas each day. (*Id.*) According to Interior, by 2004, deep water production "accounted for over 67 percent of the oil (362 million barrels) and 37 percent of the natural gas (1.5 trillion cubic feet)" produced from the Gulf of Mexico. (Cruikshank Statement, p. 3.)

Furthermore, Interior has determined that deepwater development has generated tens of billions of dollars in onshore economic activity and provided tens of thousands of jobs. (*See* Interior, OCS Study MMS 2001-019, "Lafourche Parish and Port Fourchon, Louisiana: Effect of the Outer Continental Shelf Petroleum Industry on the Economy and Public Services, Part 1," May 2001; Interior, OCS Report MMS 2004-021.)

The Importance of Deep Water Royalty Relief

The deep water of the Gulf of Mexico is a very challenging and costly environment for the oil and gas industry. The leases governed by the Act are located where the ocean is at least 200 meters (about 650 feet) deep, and many of Kerr-McGee's projects are in waters more than 3,000 feet deep. Our Red Hawk project is located in approximately 5,300 feet of water—about one mile deep. Thus, in order to discover and, where possible, recover hydrocarbons, we have to overcome deep ocean currents and other challenges even before drilling into the Earth. Moreover, we all have been reminded in recent years of the threat of hurricanes and tropical storms in the Gulf. Hurricanes Ivan, Katrina, and Rita, for example, all interfered at times with deep water operations.

These challenges and the innovative technology required to overcome them make deep water operations very expensive. Exploration wells in the deep water cost tens of millions of dollars each. When exploration finds hydrocarbons in producing quantities, hundreds of millions of dollars of additional infrastructure are required for production. In contrast to the fixed leg platforms for shallow waters, most of Kerr-McGee's deep water production occurs through floating spars, in some cases more than 100 miles from shore and, as I said, as much as a mile above the ocean floor.

Not surprisingly, deep water projects take a long time to implement. Once a deep water lease is accepted, several years typically pass before an exploration well is drilled and, if hydrocarbons are discovered, installation of production facilities typically takes 2 to 3 more years. Such long lead times are problematic in a cyclical industry where prices can vary over time—the present day's commodity prices cannot be counted on when production starts years later. As I mentioned before, investment decisions therefore have to be made with a long-term horizon in mind. Among the only factors that a company should expect to count on remaining stable during the long life of such an offshore project are the legally-mandated rules that apply to the offshore lease.

Although companies have drilled hundreds of exploration wells in deepwater areas of the Gulf of Mexico since 1995, with some notable successes, the vast majority—over 80%—have not led to announced discoveries of oil or gas sufficient to support production. Kerr-McGee alone has incurred over $400 million in dry hole costs in the deep water of the Gulf of Mexico.

In the event of a dry hole, where the investment of up to $100 million in a single deep water well fails to find hydrocarbons, the leasing company and its working interest partners must absorb the entire cost of the failed project. In such instances, there is no refund of the millions of dollars in bonuses paid to the U.S. Treasury to obtain the lease, no revenues from production, no basis for paying royalties, and, obviously, no royalty relief.

When exploration is successful, royalty relief for initial production helps the company to recover its massive investment in that project, as well as in failed projects in the deep water. I note, however, that royalty relief for leases issued from 1996 through 2000 applies only to statutorily-defined volumes produced from those leases. (Those volumes vary, depending on the water depth at the lease.) Once production from a deep water lease exceeds the specified minimum volume, and the company has received the expected incentive under the Act, then the company has the obligation to pay royalties to the government on additional volumes at the usual rate.

The Leasing Process

Prior to submitting a sealed bid at an Outer Continental Shelf lease sale, Kerr-McGee evaluates each tract offered at the sale, and considers the geology of the tract—and the associated potential for discovering hydrocarbons—as well as the costs of drilling exploratory wells at that location and depth and, if sufficient hydrocarbons are discovered, the likely costs of production facilities and related infrastructure.

When companies are interested in an offshore tract offered by Interior, they submit sealed bids to the agency that specify the upfront cash bonus that they are willing to pay to the federal government to obtain the lease for that tract. The high bidder, assuming that it satisfies Interior that the bid meets the requirements for a fair return for the lease rights granted and it is qualified in the sense of having the resources and expertise necessary to operate in that environment, will be offered the lease. It is worth emphasizing that the upfront cash bonus offered by a bidder is the only term of the contract that is determined by the company. The form of the lease, including its royalty language, is dictated by Interior and companies are not given an opportunity to negotiate about the terms and conditions of that form.

Interior, however, must act in accordance with applicable law, including the Act. Indeed, the standard Interior offshore lease expressly provides in Section 1 of the contract that the lease is subject to the Outer Continental Shelf Lands Act (of which the Deep Water Royalty Relief Act is a part) and implementing regulations in effect at the time the lease is issued.[3] Thus, the applicable law is part of the contract itself. The only opportunity, however, a company has to object to unlawful provisions in the form of lease offered to successful bidders by Interior is to follow the rules imposed by Congress through the Administrative Procedure Act and the implementing regulations adopted by Interior. If

3 *See Mobil Oil Exploration & Producing Southeast, Inc. v. United States*, 530 U.S. 604, 609, 616-20 (2000) (holding that Section 1 means that, as part of the contract between the government and the company, such offshore leases are not subject to later changes in the law, except for the narrow category of future changes specified in that section).

Interior never sought to enforce an unlawful provision in its lease form, a challenge to that provision would not be ripe; the issue would be moot.

Consistent with the bidding process I have just described, including applicable law and agency regulations, there are no negotiations, as such, for lease terms. After inquiring, I am not aware of any discussion Kerr-McGee had with Interior about the form of the deep water leases issued during the 5-year period from 1996 through 2000. If any other business or group sought to engage in discussions with Interior about the form of those deep water leases, I am not aware of such discussions.

Instead, and consistent with Interior's administrative review procedures, Kerr-McGee used Interior's administrative review process in a timely way to challenge unlawful provisions included in the leases when Interior sought to enforce these unlawful provisions. I have been informed that several other independent exploration and production companies that operate in the Gulf of Mexico also have pursued administrative appeals from Interior efforts to enforce the same provisions. As far as I am aware, however, Kerr-McGee is the only company that has received a final agency decision concerning price triggers, allowing for judicial review.

The Absence of Price Triggers From 1998 and 1999 Deep Water Leases Is Consistent with the Act and Interior's Implementing Regulations

Kerr-McGee believes it is clear that the 104th Congress did not give Interior discretion or authority to include price triggers in any leases sold during the 5-year period after the passage of the Act. Thus, the absence of price triggers from the leases awarded in 1998 and 1999 does not appear to be a mistake; to the contrary, the absence of price triggers was necessary in order for those leases to be consistent with the law.

Kerr-McGee's understanding of the applicable law is informed by a decision of the United States Court of Appeals for the Fifth Circuit styled *Santa Fe Snyder Corporation vs. Norton.* We believe that the absence of price triggers from leases issued in 1998 and 1999 is consistent with and, indeed, mandated by that court's interpretation of the Act.

In interpreting and applying the Act, the district court in that case ruled that—

> Section 304 [of the Act] mandates that, without exception, based only on the objective factors of water depth, location of the lease block and date of the lease sale [during the 5 years after enactment], all leases meeting these objective criteria are entitled to receive the suspensions of royalties benefit, which the Secretary may not set at a volume less than the particular volume assigned for each water depth. The statute is unambiguous on this point.

(*Santa Fe Snyder Corp. v. Norton*, No. 2:00-CV-1641, opinion at p. 9 (W.D. La. Jan. 8, 2003).) On appeal, the court of appeals agreed with and affirmed that interpretation of the Act. (*Santa Fe Snyder Corp. v. Norton*, 385 F.3d 884, 892 (5th Cir. 2004).) Thus, as interpreted by the courts, although Section 303 of the Act gave Interior certain discretion to condition royalty relief for many leases, Section 304 of the Act "replaces Interior's discretion with a fixed royalty suspension for New Leases [that is, sold from 1996 through 2000] on a volume basis ...." (*Id.*)

Interior's own published regulations support this conclusion. When Interior published regulations governing leases sold from 1996 through 2000, the agency did not include in those regulations any provision concerning price triggers. (*See* 30 C.F.R. §§ 260.110 through 260.117.) In contrast, when Interior published regulations for leases sold before 1996 and after 2000, those regulations explicitly addressed the inclusion and effect of price triggers for such earlier and later leases. (30 C.F.R. §§ 203.78, 260.122.) It is important to note that the establishment and publication in the Federal Register of such agency regulations is not a haphazard effort. To the contrary, compliance with the Administrative Procedure Act and agency protocols require careful deliberation and opportunities for public comment. In this case, Interior did not publish its final regulation governing leases sold from 1996 through 2000 until January 1998. (63 Fed. Reg. 2626 (Jan. 16, 1998), publishing 30 CFR § 260.110 *et seq.*) As I noted, when Interior did so, the agency did not provide for price triggers for such leases, including those sold during 1998 and 1999. We believe, in this respect, the resulting regulations were consistent with the Act.

Notably, shortly after Interior finalized its regulations in January 1998, which govern deep water leases sold from 1996 through 2000, Interior stopped inserting the unlawful price trigger language in its leases. Thus, from outside the agency, it certainly appears that the absence of price thresholds from 1998 and 1999 leases is consistent with and quite possibly the result of Interior's well-reasoned conclusion, through the rule-making process, that the Act did not allow Interior unilaterally to impose conditions on the royalty relief mandated by the 104th Congress.

Furthermore, the legislative history of the Act strongly supports the conclusion that the 104th Congress did not intend to give Interior discretion to impose conditions such as price triggers on deep water royalty relief for a 5-year period. In 1995, Senator Bennett Johnston introduced S. 158, which proposed royalty relief for deepwater leases. That bill had no provision that would limit royalty relief by price triggers. Discussion of that bill during a hearing before the Senate Committee on Energy and Natural Resources on March 23, 1995, emphasized the concern of the bill's proponents that Interior have as little discretion as possible in the allowance of a royalty suspension volume for leases issued during the first 5 years.

Two witnesses for the Clinton Administration, the Deputy Secretary of Energy and the Assistant Secretary of the Interior, agreed that they did not read S.158 to give Interior discretion to alter the minimum suspension volumes provided for new leases. Instead, both agreed that the bill simply provided that "all new leases offered in deep-water portions of the Central and Western Gulf of Mexico for the next 5 years would include royalty suspensions on initial production as specified in the bill." (Statement of Asst. Secretary Bob Armstrong, "Outer Continental Shelf Impact Assistance and Deep Water Royalty Relief Act," Hearing before the Committee on Energy and Natural Resources, United States Senate, on S. 158 and S. 575, 104th Cong., 1st Sess. 13 (1995); *see also id.* at 57 (essentially identically worded statement of Deputy Secretary William H. White).)

Remarks at the same hearing by Senators Johnston and Don Nickles and Committee Chairman Frank Murkowski all stressed that, to use Senator Johnston's phrase, "if we can take all the discretion out of it [royalty relief], so much the better." (*Id.* at p. 40; *see also id.* at 9 (remarks of Sen. Nickles) ("I think maybe we might want to . . . take away some of that discretion"); *id.* at p. 41 (remarks of Sen. Murkowski) (skeptical of leaving too much discretion with the Secretary).)

The deep water royalty relief provisions of S. 158 came to be incorporated into S. 395 and passed by the Senate on May 16, 1995. Upon consideration of S. 395, however, the House of Representatives struck those royalty relief provisions. The two bills went to a conference committee, which restored the Senate's provisions. (H.R. Rep. 104-312, 104th Cong., 1st Sess., 8-11 & 19 (1995) (conference report).)

In urging adoption of the conference report on the Act, Senator Johnston explained how royalty relief would be granted for leases issued in the first 5 years after enactment.

> This provision is straightforward. For the next 5 years, deep water leases will be offered for sale under the following terms: First, payment of an upfront bonus bid, and second, waiver of the royalty on a fixed volume of oil and gas based on the water depth of the lease.

(141 Cong. Rec. S17023 (1995).)

In the House, Representative George Miller of California, who opposed the conference report, made essentially the same point:

> Under the language of the conference report, all leases in more than 200 meters must be granted on a royalty-free basis for the next 5 years with no finding of need even though that need is the only rationale for granting the royalty holiday in the first place. Don't let anyone tell you the royalty holiday is discretionary for new leases.

(Cong. Rep. on S. 395, 141 Cong. Rec. H11854-01, at H11875-76 (Nov. 18, 1995).)[4]

With these stated explanations of how royalty relief pursuant to the Act would operate for leases sold during the next 5 years, the 104th Congress passed the Act by wide margins in both chambers.

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[4] *See also* 141 Cong. Rec. at H7584 (July 25, 1995) ("This takes discretion away from the Secretary") (Rep. Miller); 141 Cong. Rec. at H11857 (Nov. 8, 1995) ("The problem with this is, it is mandatory.") (Rep. Miller); 141 Cong. Rec. at H11868 (Nov. 8, 1995) ("This is an entitlement for the next five years because this is mandatory. This is not discretionary.") (Rep. Miller).

In sum, the plain language and the legislative history of the Act indicate that Interior lacked authority to impose price triggers for leases issued during a 5-year period that included 1998 and 1999. It appears from the agency's regulations that Interior had reached the same conclusion by January 1998, when it published final rules to govern these leases. Thus, Kerr-McGee does not regard the absence of price triggers from the 1998 and 1999 leases to have been a mistake.

Our Working Relations with MMS

Kerr-McGee has a good professional working relationship with Interior and its MMS division. The professionals employed by Interior are knowledgeable, competent, and hard working.

Kerr-McGee works diligently to comply with all of Interior's regulations and all applicable federal laws, and has an outstanding record in that regard. Kerr-McGee has received from MMS the "SAFE Award" on numerous occasions. In fact, Kerr-McGee has been a finalist or the recipient of the SAFE Award 7 out of 8 years. Additionally, in 1997 and 1998 Kerr-McGee received from MMS the Conservation Award for Respecting the Environment (CARE) for the Gulf of Mexico.

That does not mean that Kerr-McGee has not, on occasion, had grounds for disagreeing with certain MMS actions or taking issue with Interior's legal positions on some issues. The calculation of royalties, for example, is a complex question that depends on a variety of inputs concerning the value of production and the deductions permissible under law. Disputes can arise when there is uncertainty or occasional error concerning those inputs.

When such disputes with Interior have arisen, however, we feel that they have been addressed in a professional manner. In some cases, such uncertainties and disputes can be resolved through agreements in which both the Company and the agency compromise, thus conserving resources that otherwise would be expended on litigation rather than finding common ground. In other cases, administrative appeal processes within the agency have resolved disputes between Kerr-McGee and Interior. (*See, e.g., Kerr-McGee Corp.*, 147 IBLA 277 (Dep't of Interior, Off. of Hrgs. & Appeals, Interior Bd. of Land Appeals (Jan. 29, 1999) (overruling Kerr-McGee's position on royalty calculations for certain offshore production).) In still other cases, as in the *Santa Fe Snyder* lawsuit, both Interior and Kerr-McGee have stood fast in their respective good faith positions in the controversy, and the judicial system has served as a neutral arbiter to perform its duty, as Chief Justice John Marshall said 200 years ago, "to say what the law is." (*Marbury v. Madison*, 5 U.S. 137, 177 (1803).)

Conclusion

We believe that the Act should be recognized as a tremendous success. The Act is responsible for encouraging the very investment and resulting increase in domestic production of oil and gas that are so critical to our nation's energy supply. Indeed, we believe the American people should praise the foresight of the 104th Congress in 1995 to encourage deep water exploration efforts, which have only just begun to bear fruit to provide important new domestic energy sources.

With regard to price triggers for royalty relief for leases issued during 1996 through 2000, Kerr-McGee believes that the absence of price triggers from leases issued in 1998 and 1999 was not a mistake, but rather necessary for those leases to comply with the Act. For other leases issued during that period, Kerr-McGee has a dispute with Interior that has become ripe for judicial review. It is a foundational principle of our system of government that an independent judiciary exists to resolve disputes both among private parties, and between individuals and their government. Although we believe it is clear that the legislation passed by the 104th Congress applies to price triggers in the manner I have discussed, since Interior now takes a contrary position, under our system of government such disputes ultimately are to be resolved by the courts. We hope that Congress will permit the judicial system to do its work and to permit the underlying dispute to be resolved according to the rule of law and in a manner consistent with traditional notions of fair play and substantial justice.

Mr. Chairman, thank you again for carefully considering the issues we lay out today. We share your commitment to working to increase America's domestic oil supplies in an effort to bring down energy costs and dependence on foreign sources. We stand ready to work with the Committee as you continue your investigation of this important issue.

Mr. ISSA. Thank you.
Mr. Siegele.

STATEMENT OF PAUL K. SIEGELE

Mr. SIEGELE. Mr. Chairman and members of the subcommittee, on behalf of Chevron, I wish to express my appreciation at having the opportunity to appear here today to discuss the Department of Interior's Deep Water Royalty Relief Program.

As vice president, deepwater exploration and projects, my job responsibilities include looking for new sources of oil and gas in the deep water Gulf of Mexico. My previous position was General Manager for Deepwater Exploration.

Chevron participates at every stage of the MMS Gulf of Mexico leasing program. As to lease sales, Chevron uses sale notices to determine on which tracts it will bid for exploration. Importantly, Chevron and other bidders are not able to negotiate lease terms. Rather, we submit upfront sealed bonus bids. The MMS evaluates the high bids for adequacy, and if deemed acceptable, the MMS prepares the lease, along with its addenda and stipulations.

Successful high bidders must execute the leases as drafted by the MMS or forfeit their deposits, 20 percent of the bid bonus. Once finally executed, leases are binding contracts.

Deep water leases give exploration rights, but in most cases, no oil or gas is found before their term expires, and the leases revert back to the MMS. Deep water exploration is costly. Over the past 10 years, Chevron has spent in excess of $3 billion in deep water exploration costs.

When oil or gas is discovered, significant additional expenditures must be made to build producing facilities. For example, Chevron and its partners are spending $3.5 billion to develop one of its recent Gulf of Mexico discoveries expected to come on production in 2008. Once production from any lease begins, Chevron pays royalties as the oil and gas is produced and sold and Chevron is one of the Federal Government's largest payers. In 2001 through 2005, Chevron paid the MMS in excess of $2.8 billion in Federal royalties.

Turning to the chief question which this subcommittee seeks to answer, Chevron has the following understanding regarding the omission of price thresholds from the leases sold in 1998 and 1999. After the first lease sale in 1998, Chevron questioned MMS' regional office in New Orleans regarding the apparent omission of thresholds. They indicated they believed the thresholds were incorporated in the leases through a reference to the regulations governing royalty relief. Some time after the thresholds were re-introduced in 2000, the MMS indicated to Chevron that an oversight had in fact occurred, and that the 1998 and 1999 leases did not have thresholds as part of their terms.

Chevron has relied on the terms of its 1998 and 1999 leases in making investment decisions. When Chevron enters into a contractual arrangement with the Federal Government, or with any other partner, Chevron honors its contractual terms. Chevron expects the same of its counterparts.

Chevron understands that in the very near future, the MMS will be sending letters to Chevron, and to other companies, requesting meetings to discuss the absence of price thresholds in these leases. Chevron has great respect for the MMS. If requested, Chevron will meet with the MMS to discuss the 1998 and 1999 leases, and Chevron will seriously consider any proposals the agency may make.

Again, on behalf of Chevron, I wish to express our gratitude for being given the opportunity to appear here today and to discuss our views on deep water royalty relief. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Siegele follows:]

STATEMENT OF
PAUL K. SIEGELE,
VICE PRESIDENT, DEEPWATER EXPLORATION/PROJECTS,
CHEVRON NORTH AMERICA EXPLORATION AND PRODUCTION COMPANY,
A DIVISION OF CHEVRON U.S.A. INC.,
BEFORE THE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON ENERGY AND RESOURCES,
UNITED STATES HOUSE OF REPRESENTATIVES,
JUNE 21, 2006, HEARING

Mr. Chairman and Members of the Subcommittee, on behalf of Chevron I wish to express our appreciation at having the opportunity to appear here today to discuss the Department of the Interior's deepwater royalty relief program.

As Vice President, Deepwater Exploration and Projects, my job responsibilities include looking for new sources of oil and gas in the deepwater Gulf of Mexico. My previous position was General Manager for Deepwater Exploration and Production.

Chevron's Views Regarding the Lack of Thresholds in 1998 and 1999 Leases

As you know, federal oil and gas leases are binding contracts that are not negotiated, but instead (as discussed in more detail below) they are sold at bid in lease sales administered by the Minerals Management Service (MMS). The leases themselves are form documents prepared by the MMS without input from the lessees. Whenever Chevron enters into contractual arrangements with the federal government or any other partner, however, Chevron seeks to honor the terms of the contracts, and Chevron generally expects the same of its counterparties. For this reason, Chevron has always relied on the terms of its federal deepwater leases, including royalty relief where it applies, in evaluating project economics. Of course, the viabilities and risks associated with individual deepwater exploration projects are a function of a complex set of economic, geologic, and other factors. Congress's purpose in passing the Deepwater Royalty Relief Act was to provide incentives for high-risk development of offshore oil and gas resources in frontier areas. Chevron believes that the existing deepwater royalty relief program, including both the statutory regime adopted by Congress in the Deepwater Royalty Relief Act and the current discretionary royalty relief programs administered by the MMS, has worked well in achieving the purposes which Congress intended.

Chevron understands that in the very near future the MMS will be sending letters to Chevron and other companies requesting meetings to discuss the absence of price thresholds in the 1998 and 1999 leases. Chevron has great respect for the MMS as Chevron's lessor and partner in the domestic exploration and production process. If requested, Chevron will meet with MMS to discuss the 1998 and 1999 leases, and Chevron will seriously consider any proposals the agency may offer to resolve the current royalty incentive debate.

Chevron's Participation in Gulf of Mexico Deepwater Leasing Program

Chevron is an active and consistent participant in all aspects of MMS's Gulf of Mexico deepwater leasing program. Chevron expects that MMS will extensively describe the leasing program in its testimony, and also suggests that the Subcommittee may wish to review MMS's report entitled "Leasing Oil and Natural Gas Resources: Outer Continental Shelf" for a thorough overview of the leasing framework. (Available at http://www.mms.gov/ld/PDFs/GreenBook-LeasingDocument.pdf.) As far as Chevron's general level of participation in the program at the program design level is concerned, Chevron submits comments on virtually all aspects of the leasing program where the opportunity to comment is available. For example, Chevron has commented on the proposed 5-year plans for outer continental shelf oil and gas leasing such as the current Draft Proposed Program for Gulf of Mexico leasing for 2007 through 2012. For offshore areas where Chevron is interested in bidding on leases, Chevron has also submitted comments in response to calls for information and nominations regarding proposed lease sales and on proposed notices of lease sales.

Regarding the lease sales themselves, Chevron uses the proposed and final lease sale notices to determine what tracts it will bid on to build its portfolio of lands it would like to explore in keeping with its overall domestic offshore exploration strategy. Using geological and geophysical data, lease terms, and other information regarding the expected utility of offered tracts to the portfolio, Chevron develops a bid for each tract. Chevron then must submit a sealed "bonus" bid at the time of the lease sale. Once bids are submitted, MMS determines the high bids, at which point the high bidders must submit a deposit equal to 20% of their bids. The MMS then evaluates the bids for adequacy based on a variety of factors, including the number of bids submitted and the MMS's assessment of the economic value of the oil and gas resources on each tract as indicated by MMS's extensive geophysical and geological data. MMS often rejects even high bids, which is proper as the Federal Government reserves the right to reject any or all bids or to withdraw any blocks from a sale.

Again, Chevron and other bidders do not have the opportunity to negotiate regarding the terms of their leases. Rather, the MMS prepares the lease along with its addenda and stipulations. Once the MMS deems a high bid acceptable, it notifies the bidder and provides the bidder with a set of official lease forms for execution. After the MMS receives the bid payment and executed lease forms from the successful bidder, the appropriate MMS official executes the lease and returns a duplicate fully executed copy to the bidder. Leases typically become effective on the first day of the month following execution by the appropriate MMS official. Importantly, the failure of a successful bidder to execute and return the lease documents and pay the remaining 80% of the bid amount in a timely fashion results in the lease not being issued and forfeiture of the bidder's 20% deposit.

To provide some idea of the high costs and risks of deepwater exploration, over the last decade Chevron has spent over $3 billion in deepwater Gulf of Mexico exploration investment costs that have resulted in almost no production. At the beginning of this year, Chevron had interests in approximately 750 leases of Gulf of Mexico submerged lands in water depths of 1,000 feet or greater that could be eligible for some category of royalty relief. Chevron paid more than $400 million in bonus bids to acquire its interests in these leases and pays MMS approximately

$40,000 per year per lease in rentals to maintain these leases in its portfolio. Most of the leases will never produce oil or gas. In fact, only 10 of these 750 deepwater leases have produced within the last 5 years. Three of the 10 have already stopped producing, and one is currently shut-in because of damage from Hurricane Rita. Additionally, since the beginning of the year Chevron has relinquished approximately 50 of the 750 leases back to the MMS. As these statistics suggest, more often than not Chevron's exploration activities result in leases being drilled unsuccessfully or not being drilled at all, and being relinquished back to MMS at the end of their terms. In addition to the costs of acquiring and retaining leases that never produce oil or gas, other costs of unsuccessful exploration are also enormous. In 2001 through 2005, for example, in the deepwater Gulf of Mexico alone Chevron incurred approximately $395 million in dry hole costs.

When Chevron does find oil and gas it pays royalties as required by its lease terms, and in 2001 through 2005 Chevron (including Texaco and Unocal) paid the federal government a total of approximately $2.8 billion in oil and gas royalties for production from federal onshore and offshore lands. (This $2.8 billion figure understates the total value of royalties paid by Chevron because it excludes the value of the large volumes of oil and gas delivered to the Government as royalty-in-kind.) In the same 2001 through 2005 time frame, Chevron (including Texaco and Unocal) received an estimated $72 million of royalty relief on properties subject to Deep Water Royalty Relief.

Participation in 1998 and 1999 Lease Sales and Chevron's Manner of Interfacing with MMS and Participation in Rulemakings Implementing the Deepwater Royalty Relief Act

Pre-merger Chevron, Texaco, and Unocal all purchased Gulf of Mexico deepwater leases sold in 1998 and 1999 lease sales. Additionally, the companies routinely commented on MMS rulemakings. As well as participating in various MMS rulemakings through the submission of comments, Chevron personnel routinely attend MMS events, including workshops and training events, and have various business contacts with MMS personnel as representatives of our lessor. Further, MMS personnel are often invited to speak at industry-sponsored training sessions, meetings, and events, such as, for example, Rocky Mountain Mineral Law Foundation seminars and institutes.

Conclusion

Again, on behalf of Chevron I wish to express Chevron's gratitude for being given the opportunity to appear here today to discuss our views on the Department of the Interior's deepwater royalty relief program. I will be happy to answer any questions that you may have.

Mr. ISSA. Thank you. And again, I want to thank the panel in these few minutes giving us more candid information about your understanding than we have gotten from the Department of Interior in months of work. Your candor is important to us, and as we go through the questions and answers, if we continue this way, this will be the most fruitful of all panels we have yet had before this committee.

Mr. Siegele, you said that in 1998, your company contacted the Department of Interior when you noticed that the thresholds were not in the body of a lease that you received, is that correct?

Mr. SIEGELE. We contacted the regional office of the MMS in New Orleans. That is correct.

Mr. ISSA. Who was that at the regional office? Do you have records of that?

Mr. SIEGELE. I don't know. I was not personally involved.

Mr. ISSA. But it was in writing? Is there a correspondence trail?

Mr. SIEGELE. It was a meeting. And I could provide the names of who attended in Chevron, but I am not sure who attended at the MMS.

Mr. ISSA. That would be very helpful, if you could provide those names, that would allow us to followup in hopefully a less formal manner.

At that time, your company was informed that these were going to be not in the body but in the rulemaking. But that still begs the question, if you recognized that they weren't there, when did your company become aware, between that and 2000, that you might not have to pay, even if the price went above a certain level?

Mr. SIEGELE. It would have been after the price thresholds were re-introduced in 2000, maybe even 2001.

Mr. ISSA. Well, then, I have to ask this question, because I think it is extremely important, when your company, when Chevron was making their analysis of what you were going to pay, what the value of these leases were and so on, you assumed you were going to pay on price thresholds at that time. So it didn't, and I don't want to put words in your mouth here, but it didn't affect your decision process. The 1996, 1997, 1998, 1999, 2000, these were all the same from a standpoint of how you would work your relationships, your contracts, and more importantly, where you choose to invest?

Mr. SIEGELE. Yes, I think this is a critical piece. There are two very different periods of investment. So what you said is correct for the leasing decisions. That is the amount of bonus that we were going to pay to secure the lease. That is a relatively small investment decision, compared to when we are going to drill the well, or more importantly, when we are going to invest the development dollars upon success.

So there are various stages of investment decisions. It is important to segregate out the early understandings, when we are making the bids, from later understandings, when we are making big investments.

Mr. ISSA. So if I understand correctly, up until 2000, the understanding was that they were all the same. Starting in 2000, would it be fair to say that the leases signed in 1998 and 1999 now had more value, because in a quickly spiking up energy market, these offered you the ability to take natural resources it found at a less total cost?

Mr. SIEGELE. I think it is correct to say that they had more value. It would be not correct to assume in 2000 that prices were spiking up. Prices have really only spiked up in the last year, year and a half. So in 2000, prices were probably at $30 a barrel.

Mr. ISSA. But would it be fair to say that today, when you are choosing where to drill, you are drilling in the 1998 and 1999 leases, versus the ones that have thresholds? In other words, it is a better return on your investment if you find resources in those areas in which you get X amount of, in this case natural gas, before you pay? They are just simply better leases to you.

Mr. SIEGELE. That is correct.

Mr. ISSA. And at the time you were bidding, though, you didn't know this. So you bid as though they had a threshold?

Mr. SIEGELE. That is correct also.

Mr. ISSA. OK, so it was, oddly enough, a windfall due to a clerical error?

Mr. SIEGELE. I wouldn't characterize it as a windfall.

Mr. ISSA. Well, you wouldn't have when you bid it. But today, I am assuming you would consider it a windfall to find out you had 2 years worth of leases that you didn't bid any higher for, you didn't pay any more for, but they are going to generate more revenue if productive.

Mr. SIEGELE. What I would say is at the time of the leases, no one envisioned $70 oil. So it is important to put the decision in the perspective of the oil price of the day and what we are facing today. The important thing for us is that we honor the contracts and we understand we are in a different situation today, and we are willing to them the MMS about that.

Mr. ISSA. I appreciate that, and I appreciate the willingness of many of the companies to proactively say, "we want to work our way through a clerical error." I also hope that all of your companies will appreciate that the United States is built on a body of law that says we do honor contracts. In fact, although there is the question of whether or not the contract says one thing or not, this committee, and I believe all aspects of the Federal Government, wants to be a role model for the world that in fact we do not arbitrarily change contracts simply because the price of oil goes up. We have seen that in other parts of the world. We see it going on today. I for one, believe that no one in Government wants to renegotiate, simply because prices went up. Hopefully that is something that your companies rest assured that when dealing in the United States, that will never be a concern, although I am very aware of some of the countries where it not only is a concern but a reality.

Back to the question, though, of 1998, 1999, because of your experience, would you say that had you known, in 1998 that you didn't have price thresholds, that it would have had some value based on the what-if scenario? Remember, the thresholds were $28.50. This was not an unreasonable expectation that we might inch above $3.50 for natural gas, because that was certainly forecast, that would happen, or that oil could once again get above the threshold that might be below $70, but certainly above the $28.50 that was in the other contracts.

Mr. SIEGELE. Are you talking about 1998 specifically?

Mr. ISSA. If you were bidding in 1998 and knew that there were contracts over here that had thresholds and contracts over here that didn't, and you were going to bid two squares next to each other, would you have bid a different price for that value?

Mr. SIEGELE. It is a bit speculative, my answer, but I would say probably not. In 1998, oil was at $12.50 a barrel, and companies like mine were scrambling to stay in business. So it was difficult to envision at that time how high prices might be today.

Mr. ISSA. OK, as I did in the first panel, and all of you were here for hat, I would summarize and say, as the first two panelists said, that if prices went so high, that the value went two, three, four times as high, it never concerned you that you might not get royalty relief, because at that point you wouldn't need it. In 1998, looking forward, if somebody had said, what if natural gas triples or what if oil goes to $70 a barrel, you would have said, well, then we don't need royalty relief, correct?

Mr. SIEGELE. I think it is important to come back to, in 1998, that is one thing. Subsequent decisions have been made up until today based on the contracts and how we understand the contracts. And the 1998 decisions were, relatively speaking, minor investments compared to the investment decisions we are facing today.

Mr. ISSA. I very much agree with you.

Before I yield to the ranking member, Mr. Hofmeister and Mr. Limbacher, you both indicated that, if I understand correctly, that this is something that you believe that between your companies and MMS that an understanding similar to what I just said with Mr. Siegele, you would be able to say, "you know what, we are making enough money now that we are perfectly happy in future development of some of these wells that aren't even yet developed." You would be willing to have those thresholds in, or believe that since it was bid, believing they were in, that in fact that could be negotiated with MMS. Is that a general understanding, that your companies would hope to be able to do that, outside of any court involvement or congressional involvement?

Mr. HOFMEISTER. The important principle to us, Mr. Chairman, is that we have and we will continue to support the Deep Water Royalty Relief Act. We believe it is a sound piece of law, and so it is a basic principle to us.

Second, given the sanctity of contracts, we would expect to reach a mutually agreeable way forward. Those are the discussions that we have entered into.

Mr. ISSA. I appreciate that. Mr. Limbacher.

Mr. LIMBACHER. I believe my comments would be similar. We do agree that in this price environment, that we don't require royalty relief to justify the development of such projects. We are willing to enter into a discussion. When you say renegotiation, we just need to know what that proposal looks like and understand all the pieces, rather than just make a blanket statement that we are going to do this or that.

Mr. ISSA. Of course.

Mr. LIMBACHER. We do have business partners, and a lot of these leases that we need to just make sure that are not making a comment, that we are not able to carry out later on due to those dealings or create another legal issue with another party as a result. But the answer is, we are certainly willing to enter that dialog based on those facts.

Mr. ISSA. Right. And hopefully, if I used the word renegotiations, I apologize. My intention was to say that, to the extent that your companies support the concept that there was a clerical error made that at the time of bidding, most companies didn't understand there wouldn't be thresholds. However, you may have acted in good faith and you may have contractual obligations that make it to your detriment. You have acted to your detriment potentially in later contracts, that clarifying or clearing up a clerical error is not as easy as simply putting it back into the contract, because you have acted on it.

So my intention of talking about the meetings is that those meetings are good faith meetings to deal with the problem of what now appears to be a fairly significant clerical error that has financial impact. But this Member, and I think, I'll speak a little bit for the ranking member, we are not trying to void contract sanctity. That would be the last thing that I think an American Congress would ever do.

Mr. Cejka, your position was slightly different in your opening testimony. Would you clarify how you view engaging with MMS as to these 2 years?

Mr. CEJKA. Yes. I go back just a bit. Similar to the conversation from Chevron, we take a look at the royalty aspects, all the fiscal aspects of a contract at the time we bid and at the time we decide to drill a wildcat well, and then again when we are about to make a development decision. And at that time, 1998, 1999, as best I can determine in talking to people who were active in that area at that time, we assumed, maybe with good intent, that the MMS intended to leave them out. We noticed they were out.

But we also noticed activity in the Gulf was at a very low point. We assumed they were creating an additional incentive. So when we bid on those tracts, we bid with the understanding that they were not, the price thresholds were not in. Did we question that? No. And much like my associates have said, it is not a negotiation. MMS hands you a form and you agree or you don't get to play the game.

Now, today, what would we do today? As with any good faith effort, we are always willing to meet with the MMS, with any other branch of the Government, and discuss issues. We, as my other members have said, are very concerned about contract sanctity. But working with the Government is, I think, our duty, and we would be happy to participate in discussions.

Mr. ISSA. Excellent. So if I understood you correctly, you clearly understood it, thought it was an incentive, which I think is different than any other testimony we have had so far. It certainly was quite an incentive. Did that induce you to bid, or did that actually, in your opinion, raise what you were willing to bid? Did you bid higher as a result, in your opinion?

Mr. CEJKA. To tell you the truth, neither. Going back in my memory, the biggest issue we had with the deep water was geologic risk. We were bidding our tracts as to the favorability of the geologic setting. We thought as any piece of a fiscal package is, that was a good thing.

Did it encourage us to bid more? No, I'd say it was in our minds, but what we really bid was geologic risk. Now, that would impact us in the future, if we had to make a decision and we were on a marginal development. Would that help a marginal development come on production? We would consider it very seriously then.

A big discovery that is overwhelming may not need the help. A marginal discovery that could add volumes for U.S. citizens might not get developed without some relief. So that is how we would have done that analysis. First, geologic risk. Then are the terms acceptable, then we would have bid.

Mr. ISSA. I see. So you picked based on your belief that you would come up with, I guess they would be wet holes if they are not dry holes. OK, well, that is good.

Mr. CEJKA. Unfortunately, my track record is three dry holes. So I hope the next three I drill will not be the same.

Mr. ISSA. I have been going to Las Vegas for over 25 years, and—no, I did it for business. [Laughter.]

The only reason I can say I came back with oil is that I went to the show and sold my product. I understand that there are many places in which you can have those kinds of odds, and Las Vegas probably offers better odds than drilling in deep water.

I am interested in Exxon, specifically, you recognized immediately that these thresholds were not there. You believed that they were intended not to be there. Do you have written documentation that is timely in that, either as to meetings or correspondence, either within the company or to Department of the Interior or any part of U.S. Government that would help illuminate that you in fact recognized it and acted on it?

Mr. CEJKA. The only communication of a written form we have with the MMS was actually quite I'd say minor and technical. We were confused by the definition of field, which as you understand later was corrected by the court.

Mr. ISSA. The Fifth Circuit did a great job of correcting that understanding.

Mr. CEJKA. So the one formal communication we had with the MMS was, please clarify that definition. So it was a very minor, technical question.

Internally, I am not sure that there is a written document. The review process is the manager of the area would express an intent on fiscal terms, whether they were appropriate or not appropriate. That person may or may not have included that in their actual presentation package. We would be happy to look.

Mr. ISSA. I would appreciate if you would look for it.

I might note that in 1996, March 1996, taking from one of your correspondence, it says, "only the product that receives a price that exceeds the ceiling price should have royalty relief suspended. All tracts in upcoming sales are eligible for royalty relief, as stated in the law, the ceiling price only applying to existing leases."

Unfortunately, of course, that is prior to this thing that it appears as though your trade association and each of your companies in various ways, and I am just citing yours, because we are on that subject, in 1996, your companies expected the Royalty Relief Act to have triggers for price in addition to volume.

OK. Mr. Pilcher, I have gotten everybody else but you. I am very interested in your bidding process, what you thought was in the act. Did you believe the act would have price thresholds? Did you bid based on price thresholds and so on? If you could sort of echo some of your colleagues as you see it.

Mr. PILCHER. Sure, I will try to.

As I said in my testimony, we don't believe that there was a clerical error or any other kind of error involved in connection with the 1998 and 1999 leases. To the contrary, we think the 1998 and 1999 leases, and specifically the absence of the price trigger or price threshold in them reflects precisely what Congress had done when it passed the Deep Water Royalty Relief Act back in 1995, and that the absence of those price triggers was simply the manifestation by the Department to do exactly what Congress had ordered the Department to do through that act.

We think the errors were in the other leases, in the prior years, when those price triggers were included. We think the law was clear at the time Congress enacted it in 1995. We think it remains clear today. I think that is consistent with the regulations and the rules that I heard the first panel talk about in terms of them, consistent with the act, not including price triggers. I think what has happened is the Secretary has effectively usurped Congress and taken authority Congress did not grant the Secretary for that period in question, for that 5 year period, when the Secretary sought to include price triggers in those leases.

Mr. ISSA. OK, so let me see if I can understand. Your company, which is by far the premier deep water drilling company, as I understand it, with all due respect to the others, numerically you are very, very active, and it is the biggest part of your portfolio. Some of these other companies are involved in much broader, different areas. But this is really what Kerr-McGee does.

And let me understand, are you an API member?

Mr. PILCHER. We are a member of API, that is correct.

Mr. ISSA. Are you aware that they published clearly an understanding, and of course they were part of writing the legislation, that there would be price thresholds?

Mr. PILCHER. I know the API publishes a lot of things and a lot of good things. I am unfamiliar with the specifics of any particular one.

I think I heard you or one of the witnesses talk about the applicability of price thresholds to existing leases. If that is what you are referring to, I think the concept of existing leases is a term of art under the act that applied to leases that were in effect prior to the enactment of the act in 1995.

Mr. ISSA. We were actually citing, among others, the American Petroleum Institute's document dated April 8, 1996, in which they say, "for existing leases," and then it says, and this is bolded for me, "MMS should lift the suspensions only for products whose price ceilings have been reached." It appears as though they were anticipating this continuing, because they were involved in the rulemaking at this time, they were proposing this into the rulemaking.

But let me ask you, you received leases in 1996, 1997, 1998, 1999 and 2000, is that correct?

Mr. PILCHER. Yes, sir, that is correct. I am not sure if we received leases in every one of those years, but we probably did.

Mr. ISSA. OK. So in 1996 and 1997, those leases specifically had price thresholds in the body of those lease documents that your company and Department of Interior signed?

Mr. PILCHER. Well, not quite. They had threshold or price trigger provisions that were discussed variously by different people, not in the main body of the leases, but in the addenda.

Mr. ISSA. OK, they are in the addendum. But that is considered, that is the lease.

Mr. PILCHER. Absolutely. It is part of the lease. It is just not the main body of the lease.

Mr. ISSA. That is correct. When I lease out one of my commercial buildings, the template that shows what the county considers to be the lot is separate, but we clip it in there and everyone understands that when you figure out where your parking spaces can be, it is based on that.

So you signed those in 1996 and 1997. There wasn't any duress, was there?

Mr. PILCHER. On signing those leases?

Mr. ISSA. Yes.

Mr. PILCHER. No, there was no duress.

Mr. ISSA. And so you would expect that, contract sanctity says that you live up to what the lease says?

Mr. PILCHER. I absolutely believe in contract sanctity. As we have discussed, this is an auction process. The leases themselves are not negotiable. The only decision we, the companies, make in this process is whether and how much to bid. The leases are dictated by the Department as a matter of law. The guiding principles that apply to the Department are the authority that is granted to the Department by the Congress. As a matter of law, that is how it works.

But in this case, in particular, the fact that the law, as enacted by Congress, governs these leases, is recited in the leases themselves. The leases themselves say they are subject to the law. And we believe the law is clear. We think it was clear in 1995 and we think it is clear today.

Mr. ISSA. I appreciate that. In 1996, 1997, 1998, 1999, 2000, to the extent that you signed leases, and at least in 1996 and 1997 it was very clear the thresholds were there. Starting in 2000 it was again very clear, when did you first correspond in writing, in a legal format, since not only you were an attorney, but these were big dollars, it is done in a very legal, reviewed process, when did you first say to the Department of Interior, yes, we have signed this lease, but no, we shouldn't have to pay this if price thresholds are not reached—or reached?

Mr. PILCHER. As I mentioned, it is an auction process, so we didn't negotiate——

Mr. ISSA. No, no, and I understand that. But you signed leases that had provisions you believed were not correct, based on intent of Congress. When did you first tell the U.S. Government that you had signed these documents but in fact, you did not intend to pay royalties if prices reached a certain point? When did you alert the Government that in fact this provision was invalid, in your opinion?

Mr. PILCHER. The first occasion we had to do that, although I don't know the precise date, would have been promptly after the Government notified us that it intended to actually enforce a provision of the lease we thought was improper and was inconsistent with the act. I just don't know the precise date, but it would have been right after that. It would have been at a time after prices had come up.

Mr. ISSA. OK. So basically from 1996, whether it was in the document, whether there was a defect or not, from 1996 through 2004, you didn't intend to pay if the price of gas went up. You intended to rely on your internal, quiet opinion that you had signed something which you believed was unenforceable and you would deal with it if it happened. In the meantime, you would say nothing, similar to my example of receiving these dollars and not saying anything to the bank unless they discovered it?

Mr. PILCHER. We intended from the very beginning to be governed by the law as enacted by Congress.

Mr. ISSA. But you expressed that you have an opinion on that, and if I understand correctly, and this is different than some of the other oil companies' positions, which are not identical, but varied. Every one of them varies from yours. You developed an opinion, apparently back in 1996 when you first signed a contract that said it had a price threshold, that the act of Congress was in fact different. You believed that if you hit that threshold you would not pay, and you never told the Government that.

Mr. PILCHER. We talked about a couple of provisions, somebody mentioned the Santa Fe Snyder case and the fact that these improper field designations had been included in there, which is consistent with the process that applies here. When there is a problem with the leases, the way those are challenged by the rules, again, enacted by Congress through the Administrative Procedures Act, and then by the agency through its implementing regulations, are to follow the processes that are out there, which we did. We played precisely by the rules. And when we were told by the MMS that it wanted to enforce these provisions, we promptly objected to it.

I understand generally that when we objected to it, or at some point in that discourse, there was this pending Santa Fe case, that the response we got back from the Government at some point was, what we understood it to be was, we are unsure whether we are going to enforce these mechanisms, we are waiting on the outcome of the Santa Fe case. And as we discussed, we think the Santa Fe case was pretty clear, where the Fifth Circuit has determined conclusively that Congress was real specific when it determined how royalty relief should be granted for this 5 year period, and that the Secretary had exceeded that authority.

We think that same analysis applies to these leases. It was in error. We intended all along to be bound by precisely what Congress ordered when it enacted the act.

Mr. ISSA. OK, and I am going to turn it over to the ranking member. I just want to mention for all the panelists, I am sure you are aware of this, I have authored a bill, H.R. 5231, which has been referred to the Judiciary Committee, which I also serve on. Congress has the right to take away anything it wants to in the way of determination from the courts. That is specifically applicable when Congress passes a law and the intent of Congress is questioned.

So I might bring note here that as the day goes on, I become more convinced that if we cannot reconcile this with contract sanctity being observed, that errors, to the extent they existed, being rectified in a non-judicial fashion, that it may very well be appropriate for Congress to take that decision away, Congress determine, or reclarify what the law meant and turn that down.

I am going to turn over to the ranking member, but I will say that if I signed a contract that said, I will do X, and then waited until somebody asked me to do X to say that I never intended to do it because that wasn't enforceable, I would say that was bad faith. I would say that in fact when you negotiate a contract, or when a contract is given to you as a heads-up, heads-down, you do have an obligation to at least in a timely fashion say, we believe this provision is inconsistent. And it doesn't appear as though that was done.

Ms. Watson.

Ms. WATSON. Thank you so much, Mr. Chairman.

The Interior Department's budget plan projects that over the next 5 years, companies, including all of you, will pump about $65 billion worth of oil and gas from public lands without paying a penny in royalties. So in the New York Times article, they calculated that this will cost the Government about $7 billion over that time line.

Meanwhile, the oil industry is enjoying the highest profits in history. I know that ExxonMobil just posted the highest revenues ever in the history of business. I was stunned during the Katrina crisis to learn that in the quarterly reports, the oil industry recognized billions of dollars worth of profits and the cost for a gallon of gasoline hit almost near $5.

I know that the MMS can only implement what Congress has written into law. I think that builds the case for the Markey Bill, which I described earlier. Let me reiterate it: this bill would ensure that taxpayers receive the billions of dollars in future royalty payments that they are owed by the biggest oil companies, as payments to drill on public lands.

It would suspend the application of any Federal law under which persons are relieved from the requirement to pay royalties for productions of oil or natural gas from Federal lands in periods of high oil and natural gas prices. The bill is H.R. 4749. It would also require the Minerals Management Services [MMS], to renegotiate all leases that fail to include the specific price thresholds.

I want to thank most of you for being responsible corporate business people. Kerr-McGee is already in court, and that issue that you have will be settled based on your own court case. Listening intently to the rest of you, I think there is, and particularly with Shell, an open-mindedness and an understanding that we simply need to renegotiate the terms because circumstances have changed. And I know Mr. Cejka, when you do that dry drilling, it is a bust. We understand all that.

But I think in this time when we are facing huge natural disasters, it calls for responsibility on all our parts. My colleague was absolutely right when he said that these terms need to be looked at again. That is the way we feel. We need to look at them in the interest of all parties, particularly the American taxpayers.

I just told my colleague in the Chair that we probably should have listened to Shell's presentation at the end, because I think you have come up with the bottom line of what these hearings are all about. The title of our hearing was Mismanagement and Cover-Ups. And the people that we should hold responsible for clarifying this are not in this hearing today. We hope to have a subsequent hearing.

You who represent the oil companies are in a dialog with us about the direction we should go from here on, taking into consideration a different set of circumstances in 2006–2007 than we had in 1998–1999. I want to thank Shell, particularly, for their agreeing to take another look.

I don't really have any more questions, Mr. Chairman, because I think you asked the really crucial questions. I look forward to another hearing and I look forward to the cooperation of the oil companies who collectively have made gigantic profits. I don't look forward to responding to my constituents in California, many of them are yours, too, who pay these high prices. Sure, they can run their cars to go on with the daily duties of their lives, but I certainly can't talk to them at this point about relief.

I do hear the willingness of your cooperations to sit at the table and see if we can work out some relief. And we will also keep in mind contract sanctity, that we are not throwing out. But I do think it is time for us to sit at the table again, and thank you, Mr. Hofmeister, for your willingness in your opening statement, we didn't get it until today, and the Chair and I were concerned that Shell might not even participate.

Mr. ISSA. They gave us the top rack, too.

Ms. WATSON. Yes. So I do appreciate that, and I want you to know, all panelists, and Mr. Pilcher, you have your responsibilities. You are now on trial, so I can't hold you responsible for not being willing to take another look. That will be determined in the court that you are in.

But the rest of you, I think you are at a point where you agree that we have to take another look, and thank you so much for appearing on the panel today. We will continue these discussions, I know, and Mr. Chairman, thank you very much for giving us the opportunity to have this dialog.

Mr. ISSA. Thank you, Ms. Watson. I am going to just be very brief, because I think this has been incredibly profitable for us, a lot has been learned. Mr. Siegele, particularly, I am very pleased at some of what you have told me. But it has caused me to ask all of you for an indulgence. If I could ask each of you to have your companies, and this is a voluntary request, but I am hoping I will get an agreement here, to search through and give us copies of all external correspondence that occurred, in other words, all correspondence that occurred between your companies or consultants and the Department of Interior or other groups, including the American Petroleum Institute, that could be in any way relevant to your understanding, trying to bring their understanding. Mr. Siegele, you particularly said there was this meeting, and hopefully you will get us at least the members of your company that were there, and hopefully an understanding of who was there from the Department of Interior, MMS and so on.

To the extent you can provide us those documents voluntarily, it would be very, very helpful. Additionally, I would ask that you, each of your companies work with our staff to see what documents that might be internally sensitive could be negotiated to be provided so that we would have a full understanding of what was going on within the company as far as understanding that I am not prepared to subpoena that or to order it at this time. But your voluntary cooperation, as you have been so forthcoming today, would be helpful.

Ms. WATSON. Mr. Chairman, would you yield for just 1 minute?

Mr. ISSA. I would be happy to yield.

Ms. WATSON. I mentioned a couple of times the bill that we are going to be considering, H.R. 4749. I would ask also through the Chair that you take a look at it and maybe Mr. Pilcher probably will not want to, since you are in a court case at the moment. But I would like the others of you to take a look at that bill and give us a critique, give us a response. Is this something that looks feasible?

I am intending on going on as a co-sponsor with Mr. Markey. I would like to have some guidance and direction from the oil companies as to what you feel about it. We certainly will take your responses into consideration.

Thank you, Mr. Chairman.

Mr. ISSA. I would only ask, is it acceptable for each of your companies to go through, at least here today, make your best effort to provide those documents, so that we could further determine what the Department of Interior knew and when they knew it?

Mr. HOFMEISTER. We are happy to do a review, yes.

Mr. ISSA. Thank you.

Mr. LIMBACHER. Yes.

Mr. CEJKA. Yes, sir.

Mr. PILCHER. Mr. Chairman, I have to make a longer-winded answer, I apologize.

Mr. ISSA. We will go on to Paul and come back to you, is it OK?

Mr. SIEGELE. Yes.

Mr. ISSA. OK.

Mr. PILCHER. We are happy to make that review. I don't think there is anything that goes to this issue that you are investigating. The only concern I have is the fact we are in litigation and the documents you may be asking for may be subject to attorney-client privilege. So I would have to confer with our outside counsel.

But subject to being able to do it, we would be happy to do it.

Mr. ISSA. OK, then I would modify my request to you and ask that you identify the existence of documents in the normal privileged way, so that we are aware of what they are and then we can go through whatever negotiations are necessary to glean those. But if you would identify them, which is standard in discovery, that would satisfy your not breaching anything. We obviously wouldn't take them unless the other thresholds were cleared.

Mr. PILCHER. Yes, sir.

Ms. WATSON. Mr. Chairman, if I may.

Mr. ISSA. Yes, I would gladly yield again.

Ms. WATSON. Can we put that in writing to them, so they can respond back? Just give them a letter from our committee?

Mr. ISSA. Right. The committee will give you an official letter, consistent with the record.

Ms. WATSON. Great.

Mr. ISSA. I want to close by saying that it is not often that a panel of this type is brought before the Congress. Your willingness of your companies not only to deliver the highest level of people knowledgeable in this matter, but your testimony here today is very much appreciated.

There are a lot of dollars at risk. There is the whole question of whether the United States believes in contract sanctity, to include, to be honest, if a mistake is made. We want to maintain that. Your willingness of many of your companies to make this sort of an offer that this can be taken care of in a non-judicial fashion is very much appreciated.

In closing, I didn't ask questions about whether or not your companies put in reserves in your financial statements, whether these differences were material and the like. I didn't do it for two reasons. First of all, this is an internal matter of what you expected you would gain or not gain.

The primary reason for our hearings today is that we are deeply concerned that when Congress passes a law, and it clearly was understood in previous hearings, was understood by the Department of Interior, their system, their bureaucracy allows for—we don't have the right on up right now—but it allows for so many signatures on something that clearly got changed repeatedly without anybody owning up to the fact that if one of them implemented properly, Congress, and I know that is open to debate here, but if one of them implemented, then clearly the others didn't.

Your help in getting to the bottom of this is appreciated.

Additionally, and in closing, the willingness by many of those testifying to try to come to a business-like solution between the landlord and the tenant, if you will, to make the entire matter something in the past is very much appreciated by this Chair.

And with that, we stand adjourned.

[Whereupon, at 11:42 a.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Exhibit 1

Activity/operator	Location	Date
Apache Corporation, Structure Removal Operations, SEA No. ES/SR 97–104.	Vermilion Area, Block 325, Lease OCS–G 2089, 92 miles south of the shore of Vermilion Parish, Louisiana.	05/22/97
Apache Corporation, Structure Removal Operations, SEA No. ES/SR 97–105.	Vermilion Area, Block 61, Lease OCS–G 7679, 14 miles south of the shore of Vermilion Parish, Louisiana.	06/24/97
Union Pacific Resources, Structure Removal Operations, SEA Nos. ES/SR 97–107 through 97–109.	High Island Area, Blocks A–562, A–193, and A–200; Leases OCS–G 13436, 6211 and 8172; 125 miles south of Sabine Pass, Texas.	05/15/97
CNG Producing Company, Structure Removal Operations, SEA Nos. ES/SR 97–110 through 97–112.	Ship Shoal Area, Blocks 246 and 271, Leases OCS–G 1027 and 1038, 48 to 55 miles from the shoreline of Terrebonne Parish, Louisiana.	06/24/97
Seagull Energy E&P Inc., Structure Removal Operations, SEA Nos. ES/SR 97–115 and 97–116.	Galveston Area, Block 391, Lease OCS–G 3740, 27 miles from the shoreline of Brazoria County, Texas.	06/24/97
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 97–117.	East Cameron Area, Block 46, Lease OCS–G 3288, 15 miles south of Cameron Parish, Louisiana.	06/18/97
Enron Oil & Gas Company, Structure Removal Operations, SEA No. ES/SR 97–118.	Viosca Knoll Area, Block, 32, Lease OCS–G 7871, 18 miles south of the shore of Dauphin Island, Alabama.	06/05/97
The Coastal Corporation, Structure Removal Operations, SEA No. ES/SR 97–119.	West Cameron Area, Block 498, Lease OCS–G 3520, 85 miles south of Cameron Parish, Louisiana.	06/05/97
Chevron U.S.A., Structure Removal Operations, SEA Nos. ES/SR 97–120 and 97–121.	Bay Marchand Area, Blocks 2 and 3, Leases OCS 0369 and OCS 0370, 5 miles south of Lafourche Parish, Louisiana.	06/12/97
Union Pacific Resources, Structure Removal Operations, SEA No. ES/SR 97–122.	Ship Shoal Area, Block 251, Lease OCS–G 10782, 49 miles south of Terrebonne Parish, Louisiana.	06/26/97
Murphy Exploration and Producing Company, Structure Removal Operations, SEA Nos. ES/SR 97–123 and 97–124.	Eugene Island Area, Block 47, Lease OCS 0317, 10 miles south of St. Mary Parish, Louisiana.	06/19/97
Murphy Exploration and Production Company, Structure Removal Operations, SEA Nos. ES/SR 97–125 through 97–133.	Ship Shoal Area, Blocks 90, 92, 93, 94, 120, and 134, Leases OCS 0063, OCS 0042, OCS–G 5540, OCS–G 5545, and OCS–G 5201, 25 miles south of Terrebonne Parish, Louisiana.	06/23/97
Enron Oil and Gas Company, Structure Removal Operations, SEA No. ES/SR 97–134.	Viosca Knoll Area, Block 156, Lease OCS–G 7885, 25 miles south of Jackson County, Mississippi.	06/24/97
Santa Fe Energy Resources, Inc., Structure Removal Operations, SEA No. ES/SR 97–135.	Vermilion Area, Block 249, Lease OCS–G 6678, 70 miles south of Vermilion Parish, Louisiana.	06/26/97
Enron Oil and Gas Company, Structure Removal Operations, SEA No. ES/SR 97–136.	East Cameron Area, Block 306, Lease OCS–G 7667, 95 miles south of Cameron Parish, Louisiana.	06/26/97

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: July 16, 1997.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 97–19505 Filed 7–23–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, ~~Western Gulf~~ of Mexico, Oil and Gas Lease Sale 168

AGENCY: Minerals Management Service, Interior.

ACTION: Final Notice of Sale.

1. *Authority.* ~~This~~ Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356, (1988)), and the regulations issued thereunder (30 CFR Part 256).

A "Sale Notice Package," containing this Notice and several supporting documents referenced in the Notice, including the maps, "Lease Terms, Bidding Systems, and Royalty Suspension Areas, Sale 168" and "Stipulations and Deferred Blocks, Sale 168," is available from the MMS Gulf of Mexico Regional Office Public Information Unit (see paragraph 14(a) of this Notice).

2. *Filing of Bids.*

(a) *Filing of Bids.* Sealed bids will be received by the Regional Director (RD), Gulf of Mexico Region, Minerals Management Service (MMS), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m., Central Standard Time (c.s.t.)) until the Bid Submission Deadline at 10 a.m., Tuesday, August 26, 1997. Hereinafter, all times cited in this Notice refer to c.s.t. unless otherwise stated. Bids will not be accepted the day of Bid Opening, Wednesday, August 27, 1997. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or written withdrawal request is received by the RD prior to 10 a.m., Tuesday, August 26, 1997.

Exhibit 1A

An eligible lease from this sale may receive a royalty suspension volume only if it is in a field where no currently active lease produced oil or gas (other than test production) before November 28, 1995. The following applies only to eligible leases in fields meeting this condition.

(i) The royalty suspension volumes are:

—17.5 million barrels of oil equivalent (mmboe) in 200 to 400 meters of water;
—52.5 mmboe in 400 to 800 meters of water; and
—87.5 mmboe in 800 meters of water and greater.

A map titled "Lease Terms, Bidding Systems, and Royalty Suspension Areas, Sale 168" depicting blocks in which such suspensions may apply is currently available from the MMS Gulf of Mexico Regional Office Public Information Unit (see paragraph 14(a) of this Notice).

(ii) When production first occurs from any of the eligible leases in a field (not including test production), MMS will determine the royalty suspension volume applicable to eligible lease(s) in that field. The determination is based on the royalty suspension volumes and the map specified in paragraph 4(c)(3)(i) above.

(iii) If a new field consists of eligible leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies.

(iv) If an eligible lease is the only eligible lease in a field, royalty is not owed on the production from the lease up to the amount of the applicable royalty suspension volume.

(v) If a field consists of more than one eligible lease, payment of royalties on the eligible leases' initial production is suspended until their cumulative production equals the field's established royalty suspension volume. The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty suspension volume is reached.

(vi) If an eligible lease is added to a field that has an established royalty suspension volume, the field's royalty suspension volume will not change even if the added lease is in deeper water. The additional lease may receive a royalty suspension volume only to the extent of its production before the cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

(vii) If MMS reassigns a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, from the first field.

(viii) An eligible lease may receive a royalty suspension volume only if the entire lease is west of 87 degrees, 30 minutes West longitude. A field that lies on both sides of this meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the meridian.

(ix) An eligible lease may obtain more than one royalty suspension volume. If a new field is discovered on an eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension.

(x) A lessee must measure natural gas production subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas equals one barrel of oil equivalent, as measured fully saturated at 15.025 psi, 60 degrees F.

(xi) In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, royalties on the production of oil must be paid at the lease stipulated royalty rate (see paragraphs 4(c)(1) and (2) above), and production during such years counts toward the royalty suspension volume.

In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, royalties on the production of natural gas must be paid at the lease stipulated royalty rate (see paragraphs 4(c)(1) and (2) above), and production during such years counts toward the royalty suspension volume.

These prices for oil and natural gas are as of the end of 1994, and must be adjusted for subsequent years by the percentage by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(xii) A royalty suspension will continue until the end of the month in which the cumulative production from eligible leases in the field reaches the royalty suspension volume for the field.

Paragraph 14(l), *Information to Lessees*, contains additional information pertaining to royalty suspension matters.

5. *Equal Opportunity*. The certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985) must be on file in the MMS Gulf of Mexico Regional Office prior to lease award (see paragraph 14(e)).

6. *Bid Opening*. Bid opening will begin at the bid opening times stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time.

7. *Deposit of Payment*. Any cash, cashier's checks, certified checks, or bank drafts submitted with high bids, and any EFT payments made in accordance with Paragraph 3(a)(2) above, will be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal of Tracts*. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. *Acceptance, Rejection, or Return of Bids*. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any tract will be awarded to any bidder, unless:

(a) The bidder has complied with all requirements of this Notice and applicable regulations;

(b) The bid is the highest valid bid; and

(c) The amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $25.00 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, tracts will be evaluated in accordance with established MMS bid adequacy procedures. A copy of the current procedures ("Summary of Procedures for Determining Bid Adequacy at Offshore Oil and Gas Lease Sales: Effective August 1997, with Sale 168") is available from the MMS Gulf of Mexico Regional Office Public

Exhibit 2

SALE 168 LEASE ADDENDUM

ROYALTY SUSPENSION PROVISIONS PURSUANT TO PUBLIC LAW 104-58

(As specified in the Final Notice of Sale 168, published in the Federal Register on July 24, 1997)

To the following extent, this addendum modifies Sections 5 and 6 of this lease instrument.

Sec. 5. Minimum Royalty.

The minimum royalty requirement is not applicable during periods of royalty suspension.

Sec. 6. Royalty on Production.

In accordance with Public Law 104-58, signed by the President on November 28, 1995, the following procedures for the suspension of royalty payments on production apply to Sale 166 leases:

MMS will allow only one royalty suspension volume per field regardless of the number of eligible leases producing the field. An eligible lease is one that: is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes West longitude; and is offered subject to a royalty suspension volume authorized by statute.

An eligible lease may receive a royalty suspension volume only if it is in a field where no currently active lease produced oil or gas (other than test production) before November 28, 1995. The following applies only to eligible leases in fields meeting this condition.

(a) The royalty suspension volumes are:

17.5 million barrels of oil equivalent (mmboe) in 200 to 400 meters of water;

52.5 mmboe in 400 to 800 meters of water; and,

87.5 mmboe in 800 meters of water and greater

A map titled "Lease Terms, Bidding Systems, and Royalty Suspension Areas" (March 1996) depicting blocks in which such suspensions may apply is provided by the MMS GOM Regional Office in conjunction with the Final Notice of Sale 168.

(b) When production first occurs from any of the eligible leases in a field (not including test production), MMS will determine the royalty suspension volume applicable to eligible lease(s) in that field. The determination is based on the royalty suspension volumes and the map specified in the paragraph above.

Exhibit 2A

(c) If a new field consists of eligible leases in different water depth categories, the royalty suspension volume associated with the deepest eligible lease applies.

(d) If an eligible lease is the only eligible lease in a field, royalty is not owed on the production from the lease up to the amount of the applicable royalty suspension volume.

(e) If a field consists of more than one eligible lease, payment of royalties on the eligible leases' initial production is suspended until their cumulative production equals the field's established royalty suspension volume. The royalty suspension volume for each eligible lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty suspension volume is reached.

(f) If an eligible lease is added to a field that has an established royalty suspension volume, the field's royalty suspension volume will not change even if the added lease is in deeper water. The additional lease may receive a royalty suspension volume only to the extent of its production before the cumulative production from all eligible leases in the field equals the field's previously established royalty suspension volume.

(g) If MMS reassigns a well on an eligible lease to another field, the past production from that well will count toward the royalty suspension volume, if any, specified for the new field to which it is assigned. The past production will not be counted toward the suspension volume, if any, from the first field.

(h) An eligible lease may receive a royalty suspension volume only if the entire lease is west of 87 degrees, 30 minutes West longitude. A field that lies on both sides of this meridian will receive a royalty suspension volume only for those eligible leases lying entirely west of the meridian.

(i) An eligible lease may obtain more than one royalty suspension volume. If a new field is discovered on an eligible lease that already benefits from the royalty suspension volume for another field, production from that new field receives a separate royalty suspension.

(j) A lessee must measure natural gas production subject to the royalty suspension volume as follows: 5.62 thousand cubic feet of natural gas equals one barrel of oil equivalent, as measured fully saturated at 15.025 psi, 60 degrees F.

(k) In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, royalties on the production of oil must be paid at the lease stipulated royalty rate, and production during such years counts toward the royalty suspension volume. In any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, royalties on the production of natural gas must be paid at the lease stipulated royalty rate, and production during such years counts toward the royalty suspension volume. These prices for oil and natural gas are as of the end of 1994 and must be adjusted for subsequent years by the percentage by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(l) A royalty suspension will continue until the end of the month in which the cumulative production from eligible leases in the field reaches the royalty suspension volume for the field.

Page 2b

§ 203.88 What is in a production report?

This report supports your development and production timing and product quality expectations and must contain the following elements.

(a) Production profiles by well completion and field that specify the actual and projected production by year for each of the following products: oil, condensate, gas, and associated gas. The production from each profile must be consistent with a specific level of reserves and resources on the aggregated distribution of field size.

(b) Production drive mechanisms for each reservoir.

§ 203.89 What is in a deep water cost report?

This report lists all actual and projected costs for your field, must explain and document the source of each cost estimate, and must identify the following elements.

(a) Sunk cost, which are all your eligible post-discovery exploration, development, and production expenses (no third party costs), and also include the eligible costs of the discovery well on the field. Report them in nominal dollars and only if you have documentation. We count sunk costs in an evaluation (specified in § 203.68) as after-tax expenses, using nominal dollar amounts.

(b) Appraisal, delineation and development costs. Base them on actual spending, current authorization for expenditure, engineering estimates, or analogous projects. These costs cover:

(1) Platform well drilling and average depth;

(2) Platform well completion;

(3) Subsea well drilling and average depth;

(4) Subsea well completion;

(5) Production system (platform); and

(6) Flowline fabrication and installation.

(c) Production costs based on historical costs, engineering estimates, or analogous projects. These costs cover:

(1) Operation;

(2) Equipment; and

(3) Existing royalty overrides (we will not use the royalty overrides in evaluations).

(d) Transportation costs, based on historical costs, engineering estimates, or analogous projects. These costs cover:

(1) Oil or gas tariffs from pipeline or tankerage;

(2) Trunkline and tieback lines; and

(3) Gas plant processing for natural gas liquids.

(e) Abandonment costs, based on historical costs, engineering estimates, or analogous projects. You should provide the costs to plug and abandon only wells and to remove only production systems for which you have not incurred costs as of the time of application submission. You should also include a point estimate or distribution of prospective salvage value for all potentially reusable facilities and materials, along with the source and an explanation of the figures provided.

(f) A set of cost estimates consistent with each one of up to three field-development scenarios and production profiles (conservative, most likely, optimistic). You should express costs in constant real dollar terms for the base year. You may also express the uncertainty of each cost estimate with a minimum and maximum percentage of the base value.

(g) A spending schedule. You should provide costs for each year (in real dollars) for each category in paragraphs (a) through (f) of this section.

(h) A summary of other costs which are ineligible for evaluating your need for relief. These costs cover:

(1) Expenses before first discovery on the field;

(2) Cash bonuses;

(3) Fees for royalty relief applications;

(4) Lease rentals, royalties, and payments of net profit share and net revenue share;

(5) Legal expenses;

(6) Damages and losses;

(7) Taxes;

(8) Interest or finance charges, including those embedded in equipment leases;

(9) Fines or penalties; and

(10) Money spent on previously existing obligations (e.g., royalty overrides or other forms of payment for acquiring a financial position in a lease, expenditures for plugging wells and removing and abandoning facilities that existed on the application submission date).

§ 203.90 What is in a fabricator's confirmation report?

This report shows you have committed in a timely way to the approved system for production. This report must include the following (or its equivalent for unconventionally acquired systems):

(a) A copy of the contract(s) under which the fabrication yard is building the approved system for you;

(b) A letter from the contractor building the system to the MMS's GOM Regional Supervisor—Production and Development, certifying when construction started on your system; and

(c) Evidence of an appropriate down payment or equal action that you've started acquiring the approved system.

§ 203.91 What is in a post-production development report?

For each cost category in the deep water cost report, you must compare actual costs up to the date when production starts to your planned pre-production costs. If your application included more than one development scenario, you need to compare actual costs with those in your scenario of most likely development. Keep supporting records for these costs and make them available to us on request.

[FR Doc. 98-842 Filed 1-15-98; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

RIN 1010-AC14

Royalty Relief for New Leases in Deep Water

AGENCY: Minerals Management Service (MMS), ~~Interior~~.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is authorized to offer Outer Continental Shelf (OCS) tracts in parts of the Gulf of Mexico for lease with suspension of royalties for a volume, value, or period of production. This applies to tracts in water depths of 200 meters or more. This final rule specifies the royalty-suspension terms for lease sales using this bidding system.

DATES: This final rule is effective February 17, 1998.

FOR FURTHER INFORMATION CONTACT: Walter Cruickshank, Chief, Washington Division, Office of Policy and Management Improvement, at (202) 208-3822.

SUPPLEMENTARY INFORMATION:

I. Background

Legislative

On November 28, 1995, President Clinton signed Public Law 104-58, which included the Outer Continental Shelf Deep Water Royalty Relief Act ("Act"). The Act contains four major provisions concerning new and existing leases. New leases are tracts leased during a sale held after the Act's enactment on November 28, 1995. Existing leases are all other leases.

First, section 302 of the Act clarifies the Secretary's authority in 43 U.S.C. 1337(a)(3) to reduce royalty rates on existing leases to promote development, increase production, and encourage production of marginal resources on

Exhibit 3A

producing or non-producing leases. This provision applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes West longitude.

Second, section 302 also provides that "new production" from existing leases in deep water (water at least 200 meters deep) qualifies for royalty suspensions if the Secretary determines that the new production would not be economic without royalty relief. The Act defines "new production" as production (1) From a lease from which no royalties are due on production, other than test production, before the date of the enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or (2) resulting from lease development activities under a Development Operations Coordination Document (DOCD), or supplement thereto that would expand production significantly beyond the level anticipated in the DOCD approved by the Secretary after the date of the Act. The Secretary must determine the appropriate royalty-suspension volume on a case-by-case basis, subject to specified minimums for leases not in production before the date of enactment. This provision also applies only to leases in the Gulf of Mexico west of 87 degrees, 30 minutes West longitude.

Third, section 303 establishes a new bidding system that allows the Secretary to offer tracts with royalty suspensions for a period, volume, or value the Secretary determines.

Fourth, section 304 provides that all tracts offered within 5 years of the date of enactment in deep water (water at least 200 meters deep) in the Gulf of Mexico west of 87 degrees, 30 minutes West longitude, must be offered under the new bidding system. The following minimum volumes of production are not subject to a royalty obligation:

- 17.5 million barrels of oil equivalent (MMBOE) for leases in 200 to 400 meters of water;
- 52.5 MMBOE for leases in 400 to 800 meters of water; and
- 87.5 MMBOE for leases in more than 800 meters.

Regulatory

On February 2, 1996, we published a final rule modifying the regulations governing the bidding systems we use to offer OCS tracts for lease (61 FR 3800). New § 260.110(a)(7) implements the new bidding system under section 303 of the Act.

We published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on February 23, 1996 (61 FR 6958), and informed the public of our intent to develop comprehensive regulations implementing the Act. The ANPR sought comments and recommendations to assist us in that process. In addition, we conducted a public meeting in New Orleans on March 12–13, 1996, about the matters the ANPR addressed.

On March 25, 1996, we published an interim final rule in the **Federal Register** (61 FR 12022) specifying the royalty-suspension terms under which the Secretary would make tracts available under the bidding system requirements of sections 303 and 304 of the Act. We issued an interim final rule, in part, because we needed royalty relief rules in place before the lease sale held on April 24, 1996. However, in the interim final rule we asked for comments on any of the provisions and stated that we would consider those comments and issue a final rule. This final rule now modifies some of the provisions in the March 25, 1996, interim final rule.

On May 31, 1996, we published another interim final rule in the **Federal Register** (61 FR 27263) implementing section 302 of the Act. The interim final rule established the terms and conditions under which the Minerals Management Service (MMS) would suspend royalty payments on certain deep water leases issued as a result of a lease sale held before November 28, 1995. (The rule also contained provisions dealing with royalty relief on producing leases under the authority granted the Secretary by the OCS Lands Act.) We again asked for comments that we would consider before issuing a final rule.

Simultaneous with the publication of this rule, we are issuing another final rule (RIN 1 interim fin 302 of the 30 CFR 20 suspension certain dee result of le November

Note: No Price Thresholds in 30 CFR Part 260

II. Responses to Comments

One respondent—Exxon Exploration Company (Exxon)—submitted comments on the Interim Final Rule for Deep Water Royalty Relief for New Leases, issued March 25, 1996.

Exxon disagreed with our definition of the term "Field" (§ 260.102). Exxon said that our definition could be applied in such a way as to place unrelated and widely separated reservoirs within the same field. Exxon offered an alternative definition that it said provides for the creation of fields based on geology by allowing the inclusion of separate reservoirs in the same field when there is a meaningful geologic relationship between those reservoirs and avoids inclusion of reservoirs when such a relationship does not exist.

Exxon offered this alternative definition:

> "Field means an area consisting of a single hydrocarbon reservoir or multiple hydrocarbon reservoirs all grouped on or related to same local geologic feature or stratigraphic trapping condition. There may be two or more reservoirs in a field that are separated vertically by intervening impervious strata. Separate reservoirs would be considered to constitute separate fields if significant lateral separation exists and/or they are controlled by separate trapping mechanisms. Reservoirs vertically separated by a significant interval of nonproductive strata may be considered as separate fields when their reservoir quality, fluid content, drive mechanisms, and trapping mechanisms are sufficiently different to support such a determination."

Except for a minor editorial change, we have decided to leave the definition of "Field" unchanged from the interim final rule for the following reasons:

- The definition in the interim final rule is similar to, or consistent with, standard definitions used in industry and government, including the American Petroleum Institute, the National Petroleum Council, and the Department of Energy's Energy Information Administration.
- We do not segregate reservoirs vertically since the reservoirs are developed from the same platforms and use the same infrastructure. Affected lessees/operators typically make development decisions based on a primary objective(s) knowing that secondary targets exist which they will pursue subsequently.
- Reservoir quality, fluid content, and drive mechanisms are not appropriate determinants for field designations. These factors are reservoir performance/recovery issues. Indeed, such information is rarely available to MMS at the time field determinations are made. We have not considered these factors in our past field designations and their inclusion now would complicate the process significantly and lead to too much subjectivity.
- Elements of the alternative definition, e.g., "a significant interval of nonproductive strata" and "significant lateral separation" would be difficult to define and even more difficult to apply consistently.

We recognize industry's concerns about field designations. This rule establishes, as discussed below, a process whereby lessees may appeal field designations to the Director, MMS.

Other steps include:

- The MMS *Field Naming Handbook*, which explains our methodology for

Exhibit 4

Statement of Mr. Walter Cruickshank, Ph.D., Deputy Director, Minerals Management Service, Department of the Interior before the United States House of Representatives, Committee on Government Reform, Subcommittee on Energy and Resources hearing transcript entitled, "Natural Gas Royalties: The Facts, The Remedies." March 1, 2006.

MR. CRUICKSHANK:

"I believe that what happened is –yes, the addendums to the lease were being changed to reflect the fact the regulations had changed and in doing so, the price threshold language came out for those two years. My understanding is people believed at the time the price threshold still applied, but the revisions clearly do not have that effect" (40).

Exhibit 5

Department of the Interior

Employees and Positions Involved in Leasing or Rule Processes Related to 1998/99 Leases

Note: Organization is a reconstruction based on review of surname sheets, current organizational structure, knowledge of reorganizations, and available records

						Involvement	
				Status	**Current Phone #**	Sale	Rules
Office of Policy Analysis:							
Office of the Assistant Secretary for Land and Minerals:							
	AS/LM (1996 - 1998)	Bob Armstrong		unknown		X	X
	AS/LM (1999)	Sylvia Baca		unknown		X	X
Office of the Solicitor:							
	Assoc. Solicitor for Energy & Resources	~~Katherine [illegible]~~		~~unknown~~		~~X~~	~~X~~
		Peter Schaumberg		Retired		X	X
	SOL/ROM*	Geoff Heath				X	
	SOL/ROM*	Milo Mason				X	X
		Barry Crowell				X	
	SOL/DMR**	Glenda Owens				X	
	SOL/DMR**	Joel Yudson				X	

* Royalty and Offshore Minerals

** Division of Mineral Resources

Exhibit 6

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 172

ACTION: Final notice of sale 172.

On March 17, 1999, the Minerals Management Service (MMS) will open and publicly announce bids received for blocks offered in Sale 172, Central Gulf of Mexico, pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 256). Bidders can obtain a "Final Notice of Sale 172 Package" containing this Notice of Sale and several supporting and essential documents referenced herein, from the MMS Gulf of Mexico Region's Public Information Unit, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF, or via the MMS Gulf of Mexico Region's Internet site at http://www.gomr.mms.gov. The MMS also maintains a 24-hour Fax-on-Demand Service at (202) 219–1703. The "Final Notice of Sale 172 Package" contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the package.

Location and Time

Public bid reading will begin at 9 a.m., Wednesday, March 17, 1999, at the Hyatt Regency Conference Center (Cabildo Rooms), 500 Poydras Plaza, New Orleans, Louisiana. All times referred to in this document are local New Orleans time.

Filing of Bids

Bidders must submit sealed bids to the Regional Director (RD), MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, during normal business hours (8 a.m. to 4 p.m.) prior to the Bid Submission Deadline at 10 a.m., Tuesday, March 16, 1999. If the RD receives bids later than the time and date specified above, he will return the bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m., Tuesday, March 16, 1999. In the event of widespread flooding or other natural disaster, the MMS Gulf of Mexico Regional Office may extend the bid submission deadline. Bidders may call (504) 736–0537 for information about the possible extension of the bid submission deadline due to such an event.

Areas Offered for Leasing

The MMS is offering for leasing all the blocks and partial blocks listed in the document "Blocks Available for Leasing in Gulf of Mexico OCS Oil and Gas Lease Sale 172" included in the Sale Notice Package. All of these blocks are shown on the following Leasing Maps and Official Protraction Diagrams (which may be purchased from the MMS Gulf of Mexico Regional Office Public Information Unit).

Outer Continental Shelf Leasing Maps—Louisiana Nos. 1 through 12. This is a set of 30 maps which sells for $32.

Outer Continental Shelf Official Protraction Diagrams (these diagrams sell for $2.00 each):

NH 15–12 Ewing Bank (rev. 12/02/76).
NH 16–4 Mobile (rev. 02/23/93).
NH 16–7 Viosca Knoll (rev. 12/02/76).
NH 16–10 Mississippi Canyon (rev. 05/01/96).
NG 15–3 Green Canyon (rev. 12/02/76).
NG 15–6 Walker Ridge (rev. 12/02/76).
NG 15–9 (No Name) (rev. 04/27/89).
NG 16–1 Atwater Valley (rev. 11/10/83).
NG 16–4 Lund (rev. 08/22/86).
NG 16–7 (No Name) (rev. 04/27/89).

Acreage of all blocks is shown on these Leasing Maps and Official Protraction Diagrams. Available Federal acreage of blocks available in this sale is shown in the document "Blocks Available for Leasing in the Central Gulf of Mexico OCS Oil and Gas Lease Sale 172" included in the Sale Notice Package. Some of these blocks may be partially leased or transected by administrative lines such as the Federal/State jurisdictional line. Information on the unleased portions of such blocks, including the exact acreage, is found in the document titled "Central Gulf of Mexico Lease Sale 172—Unleased Split Blocks and Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease," included in the Sale Notice Package.

Areas Not Available for Leasing

The following blocks in the Central Gulf of Mexico Planning Area are not available for leasing:

Blocks currently under lease; and the following unleased blocks or partial blocks:

Main Pass Area, South and East Addition, Blocks 253 and 254; and Viosca Knoll Blocks 213 and 256 (which are currently under appeal); and the following blocks which are beyond the United States Exclusive Economic Zone and have been temporarily deferred from leasing by the Department of the Interior due to ongoing negotiations with the Government of Mexico:

Area NG 15–9

Blocks
133 through 135
177 through 184
221 through 238
265 through 281
309 through 320
358

Area NG 16–7

Blocks
172, 173
213 through 217
252 through 261
296 through 305
349

Leasing Terms and Conditions

Primary lease terms, minimum bids, annual rental rates, royalty rates, and royalty suspension areas are shown on the map "Lease Terms and Economic Conditions, Sale 172, Final" for leases resulting from this sale:

Primary lease terms: 5 years for blocks in water depths of less than 400 meters; 8 years for blocks in water depths of 400 to 799 meters; and 10 years for blocks in waters depths of 800 meters or deeper;

Minimum bids: $25 per acre or fraction thereof for blocks in water depths of less than 800 meters and $37.50 per acre or fraction thereof for blocks in water depths of 800 meters or deeper (the minimum bid for each available block has been calculated and is shown in the document "Blocks Available for Leasing in Gulf of Mexico OCS Oil and Gas Lease Sale 172" included in the Sale Notice Package);

Annual rental rates: $5 per acre or fraction thereof for blocks in water depths of less than 200 meters and $7.50 per acre or fraction thereof for blocks in water depths of 200 meters or deeper, until initial production is obtained;

Royalty rates: 16⅔% royalty rate for blocks in water depths of less than 400 meters and a 12½% royalty rate for blocks in waters depths of 400 meters or deeper, except during periods of royalty suspension;

Royalty Suspension Areas: Royalty suspension *may* apply for blocks in water depths of 200 meters or deeper; see the map for specific areas. See 30 CFR 203 for the final rule specifying royalty suspension terms.

The map titled "Stipulations and Deferred Blocks, Sale 172, Final" depicts the blocks where the Topographic Features, Live Bottoms, Military Areas, and Blocks South of Baldwin County, Alabama, stipulations apply. The texts of the lease stipulations

Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on January 9, 1998.

Quentin J. Smith, Jr.,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 Amended

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

...Effective January 29, 1998

New York, NY, John F. Kennedy Intl, ILS RWY 4L, Amdt 9

...Effective February 26, 1998

Ames, IA, Ames Muni, GPS RWY 13, Orig
Ames, IA, Ames Muni, GPS RWY 19, Orig
Plymouth, MA, Plymouth Muni, GPS RWY 6, Amdt 2
Worcester, MA, Worcester Regional, GPS RWY 29, Orig
Morris, MN, Morris Muni, GPS RWY 32, Orig
Lebanon, NH, Lebanon Muni, ILS RWY 18, Amdt 4
Manville, NJ, Central Jersey Regional, VOR OR GPS-A, Amdt 6
Manville, NJ, Central Jersey Regional GPS RWY 7, Orig
Newark, NJ, Newark Intl, ILS RWY 4R, Amdt 10
Fredricksburg, VA, Shannon, NDB RWY 24, Amdt 2
Fredricksburg, VA, Shannon, GPS RWY 24, Orig
Appleton, WI, Outagamie County, NDB RWY 29, Amdt 1
Appleton, WI, Outagamie County, ILS RWY 29, Amdt 2
Wisconsin Rapids, WI, Alexander Field South Wood County, GPS RWY 20, Orig

Note: The following Standard Instrument Approach Procedures (SIAPs) published in TL 98-01 effective February 26, 1998, have been rescinded:

Yuma, AZ, Yuma MCAS-YUMA Intl, GPS RWY 17 Orig
Yuma, AZ, Yuma MCAS-Yuma Intl, GPS RWY 21R, Orig

...Effective April 23, 1998

Ashland, OH, Ashland County, VOR OR GPS-A, Amdt 8
Ashland, OH, Ashland County, NDB OR GPS RWY 18, Amdt 10
Georgetown, OH, Brown County, GPS RWY 35, Orig
Wilmington, OH, Airborne Airpark, ILS RWY 4L, Amdt 4
Wilmington, OH, Airborne Airpark, ILS/DME RWY 4R, Amdt 1A, CANCELLED
Wilmington, OH, Airborne Airpark, ILS RWY 4R, Orig
Wilmington, OH, Airborne Airpark, ILS/DME RWY 22L, Amdt 1, CANCELLED
Wilmington, OH, Airborne Airpark, ILS RWY 22L, Orig
Rice Lake, WI, Rice Lake Regional-Carl's Field, VOR RWY 1, Orig

[FR Doc. 98-1098 Filed 1-15-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 203

RIN 1010-AC13

Royalty Relief for Producing Leases and Certain Existing Leases in Deep Water

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule establishes conditions for reducing royalties on producing leases; provides for suspension of royalty payments on certain deep water leases issued as the result of lease sales held before November 28, 1995; and describes the information required for a complete application for royalty relief.

EFFECTIVE DATE: This rule is effective February 17, 1998. However, the information collection requirements contained in § 203.61 will not become effective until approved by the Office of Management (OMB). MMS will publish

Exhibit 7

United States Department of the Interior

MINERALS MANAGEMENT SERVICE
Washington, DC 20240

OFFICIAL
FILE COPY

FEB 9 1999

SURNAME
M. Clara 1/27
SURNAME
DHenry 1/27
SURNAME
[illegible] 1/27
SURNAME
CBeane 1/27
SURNAME
[illegible] 1/27
SURNAME
[illegible] 1/28/98

Memorandum

To: Sylvia Baca
Acting Assistant Secretary, Land and Minerals Management

From: Cynthia Quarterman Cynthia Quarterman
Director, Minerals Management Service

Subject: Outer Continental Shelf (OCS) Oil and Gas Lease Sale 172, Central Gulf of Mexico—Decisions on Final Notice of Sale

Your decision is sought on the terms and conditions to be included in the final Notice of Sale for Sale 172 in the Central Gulf. The sale is scheduled for March 17, 1999.

Under section 19(c) of the Outer Continental Shelf Lands Act (OCSLA), you are required to accept the recommendations of the Governor of an affected State regarding the size, timing, or location of the sale if you determine, "that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State." In November 1998, we provided the Governors of Alabama, Mississippi, Louisiana, and Texas the opportunity to make recommendations on the proposed Notice of Sale. Only the Governor of Alabama responded to this request. Governor James of Alabama, in his letter of January 6, 1999, stated that he remains opposed to leasing south and within 15 miles of the Baldwin County coastline (He also expressed his concerns regarding leasing in this area in his comments on the proposed Notice of Sale for Sale 169.); but if MMS chooses to offer blocks in this area for lease, he strongly urges MMS to impose a lease stipulation on Mobile Area, Block 829 to minimize potential visual impacts of new oil and gas facilities that may be required. See Attachment 1 for more information.

Heath SO4 Rom 1/28/99

[illegible] 1/28/99

K. Henry 1/28/99

Atkins 2/2/99

Don Hill 2/2/99

TKitsos 2/8/99

Section 307(c)(1) of the Coastal Zone Management Act, as amended, requires that: "each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs." In October 1998, the MMS sent consistency determinations to the States of Alabama, Mississippi, Louisiana, and Texas, finding that proposed Sale 172 was consistent to the maximum extent practicable with the enforceable policies of their coastal management plans. All four States concurred with our determinations. In their concurrence letter of December 4, 1998, the Louisiana Department of Natural Resources expressed concern over potential OCS-related wetlands loss, urging that MMS find means to compensate Louisiana for direct and indirect effects of OCS-related activities on wetlands. They stated their concern about the infrastructure costs incurred by the State to meet the growing needs of deepwater development,

LD 9-0322

Exhibit 8

Name	Position at time of surname	Sale / Rule	Action	Involvement*	Date
Gerald D. Rhodes	Eng&S Br., Petroleum Engineer	ANPR Implementing DWRRA		P	2/1/1996
John V. Mirabella	Eng&S Br., Chief Engineer	ANPR Implementing DWRRA		S	2/1/1996
Elmer P. Danenberger	Op&Safety Mgmt., Chief	ANPR Implementing DWRRA		S	2/1/1996
Henry Bartholomew	Op&Safety Mgmt., DAD	ANPR Implementing DWRRA		S	2/1/1996
Milo Mason	SOL/ROM	ANPR Implementing DWRRA		S	2/8/1996
Peter Schaumberg	SOL/ROM	ANPR Implementing DWRRA		S	2/6/1996
Kathrine L. Henry	Assoc. SOL for Energy & Resources	ANPR Implementing DWRRA		S	2/8/1996
Thomas Gernhofer	OMM, AD	ANPR Implementing DWRRA		S	2/7/1996
Hugh Hilliard	PMI	ANPR Implementing DWRRA		S	2/7/1996
Lucy Querques (Denett)	PMI, AD	ANPR Implementing DWRRA		S	2/7/1996
Carolita U. Kallaur	OMM, AD	ANPR Implementing DWRRA		S	
Cynthia Quarterman	MMS Director	ANPR Implementing DWRRA		S	2/8/1996
Bob Armstrong	DOI, ASLM	ANPR Implementing DWRRA		S	2/14/1996
Walter Cruickshank	OMAD, Chief	IRN Implementing DWRRA Existing Leases		?	?
Larry Maloney	PMI	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Bill Hauser	for Eng&S Br., Chief	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Sharon Buffington	for Engineer and Technology Div., Chief	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Larry J. Slaski	for Resource Evaluation Div., Chief	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Terry Holman for	Res. & Env. Mgmt., DAD	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Jeff Wiese	for Op&Safety Mgmt., DAD	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Kathrine L. Henry	Assoc. SOL for Mineral Resources	IRN Implementing DWRRA Existing Leases		S	5/16/1996
Milo Mason	SOL/ROM	IRN Implementing DWRRA Existing Leases		S	5/16/1996
Peter Schaumberg	Acting, Assoc. SOL for Mineral Resources	IRN Implementing DWRRA Existing Leases		S	5/16/1996
Thomas Gernhofer	OMM, AD	IRN Implementing DWRRA Existing Leases		S	5/17/1996
Milt Dial	Royalty Management	IRN Implementing DWRRA Existing Leases		S	5/17/1996
R. Dale Fazio	Royalty Management, AD	IRN Implementing DWRRA Existing Leases		S	5/17/1996
Hugh Hilliard	PMI	IRN Implementing DWRRA Existing Leases		S	5/14/1996
Walter Cruickshank	PMI	IRN Implementing DWRRA Existing Leases		S	5/15/1996
Lucy Querques (Denett)	PMI, AD	IRN Implementing DWRRA Existing Leases		S	5/17/1996
Carolita U. Kallaur	OMM, AD	IRN Implementing DWRRA Existing Leases		S	5/17/1996
Cynthia Quarterman	MMS Director	IRN Implementing DWRRA Existing Leases		S	5/17/1996
William D. Bettenberg	Office of Pol. Anl.	IRN Implementing DWRRA Existing Leases		S	5/17/1996
Bettine Montgomery	MMS FR Liaison	IRN Implementing DWRRA Existing Leases		S	5/24/1996
Bob Armstrong	DOI, ASLM	IRN Implementing DWRRA Existing Leases		S	5/20/1996
Sam Fraser	OMM, Economist	FR Implementing DWRRA Existing Leases		P	10/6/1997
Peter Schaumberg	Acting, Assoc. SOL for Mineral Resources	FR Implementing DWRRA Existing Leases		S	10/10/1997
Milo Mason	SOL/ROM	FR Implementing DWRRA Existing Leases		S	10/??/1997
Carolita U. Kallaur	OMM, AD	FR Implementing DWRRA Existing Leases		S	10/14/1997
Walter Cruickshank	PMI	FR Implementing DWRRA Existing Leases		S	10/16/1997
Robert E. Brown	PMI, AD	FR Implementing DWRRA Existing Leases		S	10/16/1997
Cynthia Quarterman	MMS Director	FR Implementing DWRRA Existing Leases		X	10/28/1997
Bob Armstrong	DOI, ASLM	FR Implementing DWRRA Existing Leases		S	11/6/1997
Walter Cruickshank	OMAD, Chief	IR Implementing DWRRA New Leases		P	3/??/1996
John V. Mirabella	Eng&S Br., Chief	IR Implementing DWRRA New Leases		S	3/8/1996
Elmer P. Danenberger	Op&Safety Mgmt., Chief	IR Implementing DWRRA New Leases		S	3/8/1996
Henry Bartholomew	Op&Safety Mgmt., DAD	IR Implementing DWRRA New Leases		S	3/8/1996
Larry J. Slaski	Resource Evaluation staff	IR Implementing DWRRA New Leases		S	3/8/1996
Paul Martin	RED, Chief	IR Implementing DWRRA New Leases		S	3/8/1996
Thomas A. Readinger	DAD/Resources & Env. Mgmt.	IR Implementing DWRRA New Leases		S	3/8/1996
Milo Mason	SOL/ROM	IR Implementing DWRRA New Leases		S	3/11/1996
Peter Schaumberg	SOL/ROM	IR Implementing DWRRA New Leases		S	3/11/1996
Kathrine L. Henry	Assoc. SOL for Mineral Resources	IR Implementing DWRRA New Leases		S	3/11/1996
Thomas Gernhofer	OMM, AD	IR Implementing DWRRA New Leases		S	3/11/1996
R. Dale Fazio	Royalty Management, AD	IR Implementing DWRRA New Leases		S	3/11/1996
Hugh Hilliard	for PMI, AD	IR Implementing DWRRA New Leases		S	3/11/1996
Cynthia Quarterman	MMS Director	IR Implementing DWRRA New Leases		S	3/11/1996
Bob Armstrong	DOI, ASLM	IR Implementing DWRRA New Leases		X	3/??/1996
Walter Cruickshank	PMI/WD, Chief	FR Implementing DWRRA New Leases		S	8/??/97
Milo Mason	SOL/ROM	FR Implementing DWRRA New Leases		S	8/20/1997
Peter Schaumberg	Acting Deputy Assoc. SOL Min. Res.	FR Implementing DWRRA New Leases		S	8/20/1997
Carolita U. Kallaur	OMM, AD	FR Implementing DWRRA New Leases		S	8/22/1997
Walter Cruickshank	PMI	FR Implementing DWRRA New Leases		S	9/4/1997
Robert E. Brown	PMI, AD	FR Implementing DWRRA New Leases		S	9/5/1997
Cynthia Quarterman	MMS Director	FR Implementing DWRRA New Leases		X	9/9/1997
Sylvia Baca	AS/LM	FR Implementing DWRRA New Leases		S	9/22/1997
Larry Maloney	PMI	FR Implementing DWRRA New Leases		S	8/18/1997
Kumkum Ray	Op&Safety Mgmt.	FR Implementing DWRRA New Leases		S	8/10/1997
Elmer P. Danenberger	Op&Safety Mgmt., Chief	FR Implementing DWRRA New Leases		S	8/15/1997

* X=Signature, S=Surname, P=Preparer
** Memo regarding streamlining of Leasing Documents by incorporation by reference

Eng&S Br.	Engineering & Standards Branch
Op&Safety Mgmt.	Operations and Safety Management
IRN	Interim Rule Notice
DWRRA	Deep Water Royalty Relief Act
ANPR	Advance Notice of Proposed Rulemaking
Office of Pol. Anl.	Office of Policy Analysis
RED	Resource Evaluation Division
RM	Royalty Management
AD	Associate Director
Dir.	Director
DAD	Deputy Associate Director
FR	Final Rule
IR	Interim Rule
FNOS	Final Notice of Sale
PNOS	Proposed Notice of Sale