

**Statement of John Northington
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**Before the Senate Energy Committee
on
S.1722, H.R. 3063 and S. 1950
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Mr. Chairman, Members of the Committee, thank you for the opportunity to come before you to provide the Administration's views on S. 1722 and H.R. 3063 which would amend the Mineral Leasing Act to double the maximum acreage limits of Federal leases for sodium; and S. 1950, another amendment to the Mineral Leasing Act which seeks to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin of Wyoming and Montana.

The Administration supports enactment of S. 1722 and H.R. 3063. They will enhance full, efficient recovery of the Federal mineral assets, supporting economic development of a vital American industry. The current statutory limit of 15,360 acres for sodium leases is hampering, rather than enhancing, the goal of full efficient recovery of the sodium resource. Legislation is required to raise the acreage limit because it was set by the Mineral Leasing Act of 1920, as amended.

Regarding S.1950, the Bureau of Land Management (BLM) has sought to address the increasing demand for coalbed methane gas. We thank the Members for their assistance as we have dealt with various aspects of this issue. While we appreciate the Committee's interest and effort in attempting to resolve the conflicts between federal oil and gas, coal and coalbed methane interests through S. 1950, we believe this legislation does not provide the most effective remedy to resolve these issues. Consequently, the Department of the Interior cannot support this bill.

S. 1722 and H.R. 3063

We support S. 1722 and H.R. 3063 because: 1) similar leasable minerals have higher acreage limits; 2) mergers among soda ash firms have forced firms to work around acreage limits rather than focusing on maximum extraction of the minerals, and 3) new trona mining techniques which promote maximum recovery of the resource should be matched with larger mine sizes.

Trona is mined on Federal lands through Federal sodium leases. The primary product of trona mining is soda ash (sodium carbonate), a basic industrial chemical that is used for glass making and a variety of consumer products, including baking soda, detergents and pharmaceuticals. Sweetwater County in Southwestern Wyoming contains the world's largest body of trona deposits (estimated at 50-100 billion tons). Wyoming produces 90 percent of US soda ash from trona; 17.7 million tons were mined in 1998.

The sodium lease limit of 15,360 acres in any one state, 30 U.S.C. 184(b)(2), was established by Congress in a 1948 amendment to the Mineral Leasing Act of 1920. The trona industry was in its infancy at the time of the 1948 acreage amendment. Both the trona industry and demand have greatly expanded since 1948. Other leasable minerals have much higher acreage limits. The acreage limit for some other important leasable minerals, whether established by statute or regulation, is listed below.

Oil and gas -- 246,080 acres

Potash -- 96,000 acres

Coal -- 46,080 acres

Ownership patterns within the soda ash industry are changing through mergers and acquisitions. Two of the Bureau of Land Management's (BLM) sodium lessees in southwest Wyoming, FMC and Tg Soda Ash, merged in August 1999. The FMC acquisition of the Tg operation and leases in August 1999 and the Solvay acquisition of the Church and Dwight sodium leases in January 1999, have prompted questions by the public and industry as to whether the acreage limits for Federal sodium lease holdings need to be increased. Lease acreage is evaluated in accordance with 43 C.F.R. 3503.38, which assigns proportional ownership shares to the respective parties. FMC-Tg relinquished some leases during their merger process. BLM believes that it is in the public interest to allow companies to continue to hold mined-out acreage in support of existing operations where there is the possibility of future secondary recovery.

Mining technology has improved. Underground room-and-pillar mining, using a combination of conventional, continuous, and shortwall mining equipment, is the primary method of mining Wyoming trona ore. This method has an average 45% mining recovery, which is higher than the 30% average mining recovery from solution mining. Improved solution mining techniques, such as horizontal drilling to establish communication between well pairs, could increase this extraction rate and enable companies to develop some of the deeper trona economically. Technological advances are linked to the need for higher acreage limits because mined acreage must be retained---thus counted against acreage limits---by the mine operator for access and ventilation. New in-situ mining and processing techniques may be developed in the future.

The need for an increase in acreage limit is apparent when we note that the penalty for an acreage violation is lease cancellation (30 U.S.C. 184(h)(1)). The next lease renewal cycle for trona firms in the Green River Basin of Wyoming is 2006.

S.1950

Conflicts between federal oil and gas and Federal coal lessees have historically involved oil and gas resources contained in reservoirs much deeper than the coal, thereby allowing for development of one resource without loss of the other. Heightened interest in coalbed methane development has prompted the BLM to take a second look at these conflicts and put into place a policy which coincides with our mandate to maximize recovery of all the resources. The BLM has existing authority under the Mineral Leasing Act and federal regulations to resolve the

conflicts presented in such instances. In rectifying these disputes, we have three goals in mind-- (1) protect the rights of its lessee under the terms of its lease and the Mineral Leasing Act, including implementing regulations and those concerning conservation of natural resources; (2) optimize the recovery of both resources, thereby maximizing the return to the public; and, (3) optimize the return to the public while protecting public safety and the environment and minimizing impacts on local communities.

Our policy provides that the initial course of action is to facilitate an agreement between the lessees. However, absent a settlement, we can and will utilize existing law and regulations in conjunction with the lease provisions to optimize recovery of both resources. We expect a vast number of oil and gas operators will readily comply with the BLM's regulatory and statutory orders. As a reinforcement measure, we would not oppose legislation which seeks to strengthen our sanctioning power in cases where such operators fail to comply. The BLM believes this approach will allow for needed flexibility and use of judgment in individual circumstances. While the BLM has sought to work diligently with Committee staff to craft legislation to appropriately address this issue, S. 1950 deprives the Bureau and industry of these options.

First, the bill is limited to the Powder River Basin of Wyoming and Montana. As noted in the bill, the Powder River Basin is indeed one of the world's richest energy resource regions with significant deposits of oil and natural gas, including coalbed methane. However, it is not the only area of potential conflict. As development occurs in coalbed methane basins throughout the United States--specifically, Utah, Colorado and New Mexico, the potential for conflict remains. These disputes can be resolved by BLM under our current regulatory and statutory authority. Were S. 1950 to become law, unwarranted and unnecessary precedent could be set for additional legislation to resolve similar conflicts in other areas.

Second, the legislation usurps the regulatory authority of the Secretary of the Interior and the BLM with regard to such matters as suspension of leases, termination of leases, and public interest determinations and diligence, by placing these responsibilities under the jurisdiction of the courts. Further, any financial loss incurred by the dominant coal or oil and gas lessee as a result of the court's decision or an agreed upon settlement rests with the American taxpayer. The prevailing party can recapture any costs incurred through credit against future royalty. In addition, the bill mandates that the taxpayer bears the cost of compensating the state for its share of lost royalties--requiring the Secretary to compensate the state for 50% of any credit against royalties provided. Fundamental fairness dictates that the state share equally in the risk associated with such conflicts by sharing in the expense of compensating one of the lessees. For taxpayers to bear these costs while states remain financially whole is neither a standard nor a precedent we wish to set.

Finally, Federal laws, regulations and lease terms applicable to federal mineral development provide authority to the Secretary, upon determination that it is in the public interest, to conserve natural resources, to encourage the greatest ultimate recovery, and to protect the interests of the United States. Accordingly, the BLM is vested with authority to require cooperative development and the power to suspend operations of oil and gas leases, and to direct the rate of oil and gas development. Likewise for coal, BLM has authority to suspend lease operations, to ensure Maximum Economic Recovery through approval of a Resource Recovery and Protection

Plan, and to order immediate cessation of mining operations for non-compliance with the regulations or lease terms. Under these existing laws and authorities, the BLM is able to promote orderly, environmentally sound development of all of the resources in the Powder River Basin and elsewhere without detriment to the others.

The best case scenario provides that both coal and oil and gas producers will converge and develop a production agreement which promotes the greatest recovery of the coalbed methane, coal, natural gas and oil resources. The BLM stands ready to assist and foster this effort. However, in cases where these entities cannot agree, the BLM is also poised to exercise its existing authority to ensure optimized production of each resource.

Coalbed methane development and production has increased at an unprecedented rate, and we appreciate the Committee's support and assistance as the BLM has sought to address the many issues surrounding this boom. We look forward to continuing to work with you as we operate within our current authorities to promote orderly development of these resources in conflict areas.

Thank you for the opportunity to testify before you today. I welcome any questions the Committee may have.