Statement of Pete Culp
Assistant Director, Minerals, Realty & Resource Protection
U.S. Department of the Interior
Bureau of Land Management
Before the
House Resources Committee
Energy & Minerals Subcommittee
on
H.R. 4297
July 20, 2000

Madame Chairman, Members of the Subcommittee, thank you for the opportunity to come before you to provide the Administration's views on HR 4297, the Powder River Basin Development Act of 2000, an 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 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 subcommittee's interest and effort in attempting to resolve the conflicts between oil and gas, coal and coalbed methane interests through HR 4297, we continue to have concerns about the legislation. Consequently, the Department of the Interior cannot support this bill.

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 these resources. The BLM has existing authority under the Mineral Leasing Act, Federal regulations and lease provisions to resolve the conflicts presented in such instances. In rectifying these disputes, we have three goals in mind--(1) protect the rights of the 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 they have already done. 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 and discretion in individual circumstances. While the BLM has sought to work diligently with Committee staff to craft legislation to appropriately address this issue, H.R. 4297, in many instances, 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 H.R. 4297 to become law, unwarranted and unnecessary precedent could be set for additional legislation to resolve similar conflicts in other areas.

Second, the legislation before the committee 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. The bill also 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 the Federal resources in the Powder River Basin and elsewhere.

Senator Craig Thomas has sought to address a number of the Bureau's concerns with this legislation in the amended version of S.1950 reported out of the Senate Energy Committee on June 7, 2000. The royalty credits provision makes strides towards equity by limiting the credit to the payments made to Federal lessees rather than granting it to all, including those with state and private development rights. However, the legislation falls short; continuing to require the Secretary to compensate the State for 50 percent of any credit against royalties provided. The State benefits from production within its borders but remains whole at the American taxpayers' expense. The State must be willing to share in the costs in order to reap the benefits of coalbed methane production. Likewise, in this amended version of S. 1950, efforts to reinsert the Secretary into the coal-gas conflict resolution process extend beyond those outlined in the original bill. Unfortunately, severe limitations on the Secretary's discretion in making critical rulings, such as public interest determinations, remain. While these changes do not reach the level of consensus legislation, they do represent notable progress made in working with House and Senate staff to craft legislation to address this issue. We look forward to continuing to work with you to ensure orderly development of these resources in conflict areas.

All parties recognize 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. We appreciate the Committee's support and assistance as the BLM has sought to address the many issues surrounding coalbed methane production.

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