

“THE ROLE OF PUBLIC LANDS IN ENERGY PRODUCTION”

STATEMENT OF STEVEN F. LEER PRESIDENT AND CEO, ARCH COAL, INC. ON BEHALF OF THE NATIONAL MINING ASSOCIATION

*ENERGY AND NATURAL RESOURCES COMMITTEE
U.S. SENATE
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Mr. Chairman, my name is Steve Leer. I am President and CEO of Arch Coal, Inc. headquartered in St. Louis, MO. I am appearing here today on behalf of the National Mining Association (NMA) to testify on the important role energy resources on federal lands, specifically coal resources, have in maintaining the reliable and affordable supply of energy that our nation needs to support our economy. Thank you for the opportunity to present the mining industry's views on this subject.

Summary

Affordable, reliable energy is a necessity for economic growth. Domestic, affordable and increasingly clean coal provides over 20% of all the energy that is used in the United States and is the fuel of choice for over 50% of the electricity generated in our nation today. Nearly 35% of our coal production is from mines on federal and Indian lands. Over one-third of the nation's coal reserve is found on lands owned or controlled by the federal government. Forecasts show that close to 90% of new production expected to come on line over the next 20 years will be from mines on federal lands. This statement will discuss the changes in policy needed to ensure that the vast resources on federal lands can contribute to the goal of energy self-sufficiency while at the same time ensuring that both the environment and the economies of the regions in which these resources are located are protected and advanced.

General Introduction

Arch Coal, Inc., headquartered in St. Louis, MO is the second largest coal producer in the United States. In 2002, our operating subsidiaries mined nearly 115 million tons of coal – approximately 11 percent of the nation's production – from surface and underground mines in Wyoming, Colorado, Utah, West Virginia, Kentucky and Virginia. Arch shipped coal to approximately 140 power plants in 30 states, providing the fuel for 6% of the electricity used by Americans last year. Arch owns or controls approximately 3.0 billion tons of coal reserves including reserves on federal lands.

In 2002, our company mined nearly 70 million tons of low-sulfur, sub-bituminous coal from our operating mines in the Powder River Basin (“PRB”) of Wyoming, 7 million tons in our West Elk Mine in Colorado and 13 million tons from three mines in Utah. This coal is almost exclusively mined on federal lands. One of Arch Coal's highest priorities is to operate safe and environmentally responsible mines. We are very proud of the safety

and reclamation performance of our mines and the national recognition we have received from the Office of Surface Mining (OSM) and the Mine Health and Safety Administration (MSHA) for our efforts

The National Mining Association (NMA) represents producers of coal, metals and non-metal minerals, as well as manufacturers of processing equipment, machinery and supplies, transporters, and engineering, consulting and financial institutions serving the mining industry. The members of NMA produce over 80% of America's coal, a reliable, affordable, domestic fuel choice used to generate over 50% of the electricity used in the nation.

Coal from Federal Lands is an Important Contributor to A Balanced National Energy Strategy.

Mr. Chairman we would like to commend you for holding these oversight hearings on the important role resources found on federal lands play in a balanced national energy strategy. Energy, whether it is from coal, oil, natural gas, uranium or renewable sources, is the common denominator that is imperative to sustain economic growth, improve standards of living and simultaneously support an expanding population.

There is no question that our nation will require more energy in the future both for economic reasons and to support a larger population. We will use energy more efficiently due to technological advances, conservation and increased efficiency. But, we will use more energy. Meeting this demand with reliable affordable energy while maintaining high environmental standards will be a challenge, but a challenge that can be met with the correct policies that consider and enhance the role of all energy sources, including those sources found on federal lands.

The Role of Coal in US Energy

Coal reserves, which are geographically distributed throughout the US, comprise the greater share of the nation's energy resource base. The demonstrated coal reserve is over 500 billion tons, a reserve large enough to support a growing coal demand for over 200 years. In 2002, 1.1 billion tons of coal were produced in mines located in 26 states. Coal, or electricity generated from coal is used in all 50 states. The coal industry contributes some \$161 billion annually to the economy and directly and indirectly employs nearly 1 million people.

Last year, close to one billion tons of coal were used to generate over 50 percent of all electricity used in the US. Although this is more than triple the amount of coal used for electrical generation in 1970, emissions have declined by over one-third. The Energy Information Administration forecasts show that electricity use will increase by another 40% by 2020 and that coal use for electricity will total at least 1.265 billion tons in 2020, some 280 million tons or 28% more than is currently utilized. Data supporting the EIA Annual Outlook 2002 forecast shows that over 90% of the increase in coal production needed to meet these new requirements will come from coal reserves located on federal lands.

Meeting electricity demands will require construction of new power plants including coal fired power plants and transmission facilities to move the power to where it is needed. Although beyond the scope of this hearing, the comprehensive energy bill that is ultimately passed by the Congress should include provision for incentives that allow companies building these new plants to assume the risks of commercializing new advanced clean coal technologies. The mining industry supports legislation designed to provide a measure of burden-sharing to cushion the cost of improving the environmental performance of existing coal-based generating facilities and to stimulate deployment of advanced technologies to further reduce emissions and improve efficiency in new generating facilities.

Coal fired electricity is and will remain the most reliable and affordable electricity available. Electric rates in regions dependent upon coal for electricity average at least one-third lower than rates in regions dependent upon other fuels for electricity. Forecasts show that these differentials will remain in place over at least the next twenty years.

Because coal is a domestic energy resource that is reliable, affordable and, through utilization of clean coal technologies, increasingly clean, coal can and should continue to play a major role in meeting the energy needs of our nation in the future. Coal production will increase and much of this new coal will be from reserves located on federal lands or effectively controlled by federal land policies.

Coal On Federal Lands

Coal mined on federal lands provides a vital portion of the nation's domestic energy supply. In 2001 (the latest data available) approximately 395 million tons of coal, 35 percent of national production, was mined on federal lands. Considering western production only, 71 percent came from mines on federal lands and, considering that the majority of privately held western reserves are on lands that are effectively controlled by federal land policies one can assume that at least this much or more of the growing western coal industry depends upon federal land management policies. Coal mines on federal lands are found in Colorado (68% of production within the state), Montana (56% on federal lands and another 13% on Indian lands), New Mexico (26% on federal and 35% on Indian lands), North Dakota (8%), Oklahoma (46%), Utah (75%), Washington (53%) and Wyoming (85%). In addition, 100% of Arizona's coal production occurs on Indian Lands.

Coal produced on federal lands contributes directly to local economies in a positive way. In 2000, this coal was worth over \$3 billion. Production activities provided high paying jobs for at least 11,000 workers in 2000, paying wages of nearly \$500 million. Considering both direct and indirect economic benefits, coal produced on federal lands provided employment for nearly 110,000 workers with wages of over \$3 billion dollars. Royalties paid to the Federal Government due to coal produced were an estimated \$337 million in 2001. Additionally, several million dollars annually is received by the federal government and shared with the public land states from bonus bids for federal coal tracts.

All the benefits of coal mined on Federal Lands do not remain within the region as this coal is shipped to electric generators in 30 states. Taken as a whole, coal mined on

federal lands is used to generate over 40% of all electricity generated from coal, or approximately 20% of all electricity produced in the US.

The Federal Government owns about one-third of the Nation's coal resources, which are located on approximately 76 million acres of land principally in the Western United States. Western federal lands contain approximately 60 percent of the total western coal reserve base. An additional 20 percent of the coal resources in the West are managed or impacted by the Federal Government by virtue of (1) the commingling of State and private coal reserves with Federal leases and (2) trust responsibilities for Indian lands.

Mineral Leasing Act Modifications

As stated earlier, over one third of our coal reserve is owned or controlled by the federal government. In the western United States 80 percent of the coal comes from federal lands. Further, a majority of privately held western coal reserves are on lands that are effectively proscribed by federal land policies, because of the commingling of state and private coal reserves with federal leases. To meet the demand described above, limited, focused modifications to the Mineral Leasing Act of 1920 (MLA) must be made. These changes will also help ensure the nation's energy independence in a time of increased uncertainty.

The MLA authorizes the Department of Interior through the Bureau of Land Management to lease federally owned coal for development by private lessees subject to payments and other lease terms and conditions. Significant leasing of federal coal did not occur during the first 40 years of the MLA. However, by the early 1970s, the amount of coal under lease was four times the amount leased prior to 1960, but actual production had not increased significantly. This raised concern about the holding of vast coal reserves for speculation and whether the government was receiving a fair return for the resource.

In 1976, after several administrative moratoriums on coal leasing, Congress addressed these concerns with the passage of the Federal Coal Leasing Act Amendments Act (FCLAA). FCLAA imposed a series of requirements related to development time frames, land use planning, and royalty rates for federal coal leases. Many of these policies were based upon forecasts of immediate spikes in coal demand and prices in the wake of the 1973-1974 oil embargo. For example, FCLAA's legislative history cites forecasts that predict coal demand reaching as high as 1.4 billion tons by 1980. Although these events spurred development of western coal reserves, coal demand never reached the level predicted and coal prices actually declined in real terms by \$10 a ton in just 10 years following FCLAA's enactment.

In many respects, the coal leasing policies adopted in FCLAA were intended to address a coal market and industry structure anticipated in a different era. In the more than 25 years since FCLAA's enactment, the coal industry has undergone a substantial restructuring in order to survive a market and price structure that dictates flexibility and efficiency. While there are many features of the federal coal leasing program that present impediments to the most rational and efficient development of federal coal resources, today we focus our testimony on modifications to a limited number of provisions that: no longer reflect economic and coal market realities; result in the bypass

of nearby federal coal reserves; compel inefficient production; and reduce federal and state royalty revenues.

These changes recognize the long lead times and extremely large capital expenditures necessary to produce federal coal in the most efficient, low cost and environmentally sensitive manner. Moreover, they reflect the very type of flexibility most private coal lessors retain in order to assure that their coal resource can be fully developed so they can maximize their return in the form of future coal royalty revenue.

Coal Lease Modifications: Current law recognizes that it might not always be possible to determine all the lands to include in an initial lease due to geologic uncertainty or other reasons. In an effort to balance the desire to ensure federal coal is competitively bid, with the realization that an operating mine may need to add unleased federal coal, it was provided that up to 160 acres in the aggregate could be added to a federal coal lease. This provision would eliminate the 160 acre life-of-mine limitation on federal coal lease modifications. This provision would allow the Secretary to add smaller quantities of non-competitive coal to an existing lease outside the time consuming lease-by-application process. This valuable tool facilitates the leasing of small quantities of contiguous coal that might otherwise be bypassed forever as the coal in question cannot support a stand-alone mining operation. Certain leases either have met and others are dangerously close to the current limitation.

The Secretary's discretion in the granting of lease modifications is not unfettered. 43 CFR 3432 allows the authorized officer to modify the lease to include all or part of the lands applied for if it is determined that: (1) the modification serves the interests of the United States; (2) there is not competitive interest in the lands or deposits; and (3) the additional lands or deposits cannot be developed as part of another potential or existing independent operation. While the lands could be added without competitive bidding, the government would retain discretion to lease these tracts based upon its determination whether it will receive the fair market value for the lease of the added lands, either by cash payment or adjustment of the royalty applicable to the lands added to the lease by the modification.

40 Year Mine-out Requirement: The Secretary should be given the discretion to allow the consolidation of leased coal reserves into a logical mining unit (LMU) that will require more than 40 years to mine. A logical mining unit may include federal leases as well as contiguous lands where the U.S. does not own the coal. The purpose of an LMU is to allow the coal lessee to achieve maximum economic recovery of federal coal, and where mixed coal ownership exists by combining federal and private tracts of coal into one unit for purposes of meeting MLA requirements of diligent development and continued operations. Current law requires that the coal reserves of the entire LMU must be mined within a period of 40 years.

This change would allow long term efficiency and orderly development of federal, state and private coal and minimize the potential for bypassing nearby coal resources and attendant loss of federal and state royalty and tax revenue. This proposal would not affect the existing requirement of diligent development or continued operation.

Advance Royalties: The Secretary should be allowed to accept the payment of advance royalties in lieu of continued operation for a total of 20 years, allow the lessees to apply those paid royalties against actual production beyond the initial twenty year lease term, and simplify the methodology for computing advance royalties. This change would permit the Secretary and federal coal lease holders the flexibility to manage federal coal resources for maximum return to the federal and state treasuries and avoid the compulsion of production that is not warranted by market conditions.

LMUs and individual federal coal leases are subject to the MLA's requirements of "diligent development" and "continued operation." To meet the diligent development requirement, a federal lessee must produce the LMU or federal lease's recoverable coal reserves in commercial quantities within its initial 10-year period. "Commercial quantities" is defined by regulation as one percent of the lease or LMU's recoverable coal reserves. Failure to meet diligent development requirements shall result in the termination of the lease by the Secretary. The diligent development requirement cannot be postponed or substituted by the payment of advance royalties. NMA is not suggesting the elimination of the existing diligent development requirement in the MLA.

After the diligent development requirement is met, the lessee must continue to produce coal from the lease or LMU in commercial quantities defined by regulation as one percent of the recoverable reserves during the remainder of the lease term. This is referred to as the continued operation requirement. Any federal coal lease on which continued operation is not maintained shall be cancelled.

Continued operation is not always possible if the coal producer cannot mine coal at the prevailing market price. As a practical matter, a lessee must spend tens of millions of dollars, if not hundreds of millions, in order to lease federal coal, prepare and process permits, acquire equipment, hire a labor force, and achieve diligent development. Obviously, the operator of a mine wishes to continue operating after the significant costs to open the mine have been expended. However, a currently operating mine may temporarily lose its competitiveness, due to a number of factors, including: increased costs of production due to geology; limited labor supply in rural areas; changes in prices for competing coals or other fuels such as oil, gas, hydro and nuclear; changes in transportation costs for coal and competing fuels, which transportation costs constitute a significant cost to the coal consuming customer; and shifting state and federal environmental regulations which periodically affect which coal can be burned in which power plant. When one or more of these factors arise, an operation is generally idled and when the market dictates, operations resume.

Under current law, upon application to and approval by the Department of Interior, an operator/lessee may pay advance royalties in lieu of continued operation. This system keeps royalty income flowing to the government while a mine is idled. Currently however, the aggregate number of years during the period of any lease for which advance royalties can be paid in lieu of continued operations is 10. Thus, a mine which periodically opens and closes as the market dictates, can add to this aggregate 10 year limitation. Due to the current age of many currently operating mines exceeding 25 years, and the potential for many additional years of mining at the same locations, the 10 year aggregate should be extended to 20 years.

When advance royalties are paid in lieu of continued operation, those amounts can be used to offset production royalties due when coal is again produced. At present, no advance royalty paid during the initial 20-year term of a federal lease or LMU may be used to reduce a production royalty after the 20th year of that lease or LMU's initial term. This arbitrary limitation should be removed in light of the longevity of mines producing federal coal.

When advance royalty is accepted in lieu of continued operation, it must be paid in the amount equal to the production royalty that would be owed on the production of 1 percent of the recoverable coal reserves and shall be computed on the federal recoverable reserve estimated by BLM at the initiation of the lease. Determining this amount is a long and contentious process. Changing the calculation to one computed based on the average price for coal sold in the spot market from the same region saves considerable federal and industry resources currently expended over disputes on acceptable valuation methods and more accurately reflects the current market conditions that idled the mine. Simply put, if the mine is idled, the coal is marginal and would find its highest value in the spot market. If the coal actual sale reflects a higher value, the difference in the royalty is collected at that time.

Due to the shifting competitiveness of various operations, several federal coal lease holders have been forced temporarily to curtail production and idle mines. Without the option of extending the lease by paying advance royalties, producers will be forced to take one of three courses of action: 1) prematurely terminating leases and walking away from the massive existing investment; 2) pay advance royalties on older leases with no opportunity to recover advance royalties; 3) dump coal onto the market at distress prices. All of these options will have a negative impact on the Nation's energy position, disrupt coal and electricity markets, waste federal coal resources, cost jobs, and reduce federal and state tax and royalty income.

If leases are terminated, the probability of the location being mined again is small. Royalty income that would otherwise flow from the payment of advance royalties would cease. Not only would jobs at the subject mine be lost, but so would jobs in the mine support sector (transportation, construction, vendors, consultants, and other jobs in the community that support the miners and their families.) Coal that otherwise would fuel electricity generation would remain in the ground--wasted.

Paying advance royalties without ever recouping the payment would result in the practical application of a 25 percent royalty on future production. Even if the market could bear the price of coal burdened with this levy, which is unlikely, electricity rates would ultimately reflect this increase.

If federal coal lessees/operators send this coal to market in order to recover at least a portion of the cost of production, it would compete not just with other federal coal from the West, but also private coal in markets shared by private coal from the Midwest and Appalachia. Failure to address these anachronistic provisions in the MLA will hurt non-federal coal producers in the Midwest and Appalachia. Modifications to the advance royalty provisions do not favor Western coal over Eastern coal or federal coal over private coal. They just make good sense for America's energy future.

Coal Lease Operation and Reclamation Plan: Under current law, before causing a significant disturbance of the environment, but no later than three years of lease issuance a lessee must submit for the Secretary's approval an operation and reclamation plan. NMA supports the elimination of the three year mandate.

This change would allow the coal operator to coordinate the preparation and submission of its MLA mine plan dealing with coal resource recovery with the permit required under the Surface Mining Control and Reclamation Act (SMCRA) which addresses the environmental planning and protection measures. This will eliminate duplication of resources by both the lessee and the Department while still requiring the lessee/operator to submit a plan before it takes any action which might cause a significant environmental disturbance as required presently by the MLA.

Financial Assurances with Respect to Bonus Bids: This section clarifies that MLA does not require a bond in connection with deferred bonus bids for coal leases. However, if the lessee fails to pay any installment of a deferred bid, the lease would terminate.

A combination of economic conditions and extraordinary events over the past two years has caused severe constraints in the surety capacity available to satisfy financial assurance requirements of the coal mining industry. It is unlikely that in the near term adequate surety capacity will be available to meet the mining industry's financial assurance requirements. The mining industry's inability to access surety for various financial assurance requirements imposed under federal and state regulatory programs is a product of severe disruptions to the credit markets, and not a result of any unusual loss experience associated with mining related projects. Indeed, the surety industry loss experience for mining related bonds are no more, and often less, than that for the other surety lines. Between 1989 and 2000, for example, the loss ratio for the entire surety industry was about 28%, while the ratio for mining related obligations was about 25%. However, substantial losses that began to appear at the end of 2000 through 2002 in the surety industry's other underwriting lines of business has resulted in the exit of many primary sureties from the market and caused the remaining ones to limit their underwriting in all areas. For the mining industry, the inability to access surety jeopardizes the continuation of existing operations and thwarts development of new operations since bonds are required as a condition to receive permits or other necessary government authorizations.

Last summer, the House Resource Committee Subcommittee on Energy and Mineral Resources conducted a hearing on this emerging crisis in the surety market. The Subcommittee heard testimony describing how an investment grade company was unable to access a surety bond at a reasonable price and terms to secure its deferred bonus bid payments for a federal coal lease. Companies that cannot access surety bonds for their financial assurance requirements must use cash or cash equivalents which compromise their capital and liquidity positions. The effect of these developments for the federal coal leasing program is that potentially fewer bidders will participate and bids will be lower than before as companies factor in the higher expense of posting some form of financial assurance. At the same time, not requiring a bond or other form of financial assurance to secure future installments for a deferred bonus bid does not pose any undue risk. First, bonus bids must be paid in five installments with the first due upon execution of the lease. Placing a lease into production typically exceeds five years so the leasehold will remain largely undisturbed. If the successful bidder defaults on an

installment and is unable to cure that default, the Department of the Interior can cancel the lease and the cancelled lease resold to another prospective bidder.

In sum, this provision protects the government in the event of default without further reducing the limited surety capacity available to guarantee performance of other regulatory obligations.

Coal/Coal Bed Methane Conflict in the Powder River Basin

The Powder River Basin of Wyoming and Montana is one of the world's richest energy resource regions and includes the largest reserves of low sulfur coal in the United States. Virtually all of the coal and about 50 percent of the oil and gas reserves in the Basin are owned by the federal government and managed by the Bureau of Land Management (BLM) under the Mineral Leasing Act of 1920. Problems have arisen because BLM issued federal coal leases and federal oil and gas leases for the same locations in the Basin. When these oil and gas leases were issued coal bed methane resource development was not contemplated. It was not until a Supreme Court decision that the law became clear regarding whether the coalbed methane underlying federal land belongs to the oil and gas lessee or the coal lessee.

In those areas leased both for coal and oil and gas, disputes over timing of mineral development have risen. For safety and operational reasons, concurrent development typically is impossible. No statutory measure exists to resolve disputes over the sequence of mineral development in these areas where the federal government has "double leased" its minerals. BLM has yet to provide effective guidance to reduce the likelihood of these disputes.

In order to achieve optimum recovery of the Basin's energy assets, legislation that would provide the necessary statutory direction to resolve these minerals development contests should be enacted. The statutory provisions should be used only in the conflict areas of the Powder River Basin and only as a last resort if private negotiations and BLM administrative policies prove to be inadequate.

Absent a statutory mechanism, coal production could be delayed, blocked or jeopardized by the inability of the coal producer to meet FCLAA's diligence requirements and, as a consequence, forfeiting its lease and/or reducing royalty revenue to federal government and states if coal is bypassed on active operations. Bonus bids paid to the federal government, and shared by the state, could also be diminished as a consequence of the bidder uncertainty over whether the coal leased can be economically and timely developed.

This committee has previously reported legislation to provide a mechanism to resolve these conflicts and we are eager to work with the committee to include comparable provisions either as freestanding legislation or as a part of a larger energy package.

USDA Forest Service Roadless Area Conservation Rule

As the roadless rule was being developed in the late 1990s, the mining industry sought meaningful maps from the Forest Service that identified the areas affected by the proposed rule. Other than large scale maps available to the general public on the Forest Service's roadless area web site, NMA members were given no maps nor descriptions on which a coal operator could base operational decisions. Ultimately, coal operators with reserves underlying or adjacent to lands administered by the U.S. Forest Service developed their own maps for Colorado and Utah and provided copies to the agency. These maps showed that in several locations the roadless area boundaries overlaid existing federal coal leases and other significant coal resources.

The roadless area boundaries are based on a 20-year old inventory and were never field-verified to establish whether the areas in question still retained the roadless values the rule supposedly was designed to protect. Neither the Forest Service nor any other federal agency has made an effort since the promulgation of the rule to undertake such verification.

While implementation of the rule was enjoined by the U.S. District Court in Idaho, operations located on Forest Service administered lands continued with modest delays as a result of federal agency concerns about the roadless area boundaries. Since the 9th Circuit Court set aside the District Court injunction, affected operations on and adjacent to Forest Service administered lands have been subject to noteworthy delays and uncertainties.

Many of the coal mines that are impacted by the roadless rule are underground operations that do not cause the surface disturbance that is associated with surface mining operations but do need access to the surface to construct and maintain ventilation and other systems essential to the health and safety of miners. Many of these systems must be in place in advance of extraction. Others, such as fire suppression systems must be accessible instantaneously in the event of emergency.

Unless unexpected and immediate access to surface areas overlying operations is certain, no mine operator will develop underground coal already under lease. Unless it is certain that reserves lying beyond initial-leased areas will be available for leasing in the future, capital for any mine development will not be available. To overcome these obstacles, a process must be established by policy, rule, or legislation whereby the roadless area boundaries can be identified and modified based on currently existing roadless values in a timely manner. Whatever the mechanism, the process must be flexible, predictable and timely.

Electric Power Plants Built Near Western Coal Fields Can Provide Reliably Affordable Electricity , But Changes Need To Be Made In How Transmission Lines Cost Justifies, Funded and Permitted.

Low cost coal and hydroelectric generation are the two reasons electricity is affordable in the US, by providing over 60% of the electricity in the Western US and well as the US as a whole. The West in particular and the the US in general have benefited from locating this generation where the natural resource is located and building high voltage transmission lines to deliver the affordable energy to the load. The West as in most of the US completed the last of these major low cost generation and transmission expansion over 20 years ago. Since that time, the electric load has grown by 60 %, but little new low cost generation has been added and the transmission system has expanded by less than 20%. The Western power crisis two years ago as well as the current price run up that is working its way through the country but especially the Northeast is significantly attributable to the lack of transmission to move low cost generation to the high cost areas which are transmission constrained. In order to stabilize electricity prices and continue to provide affordable electricity in the US, new low cost coal generation needs to be built along with the associated transmission lines. The most significant barrier to adding this low cost generation is getting the necessary transmission built.

There are three fundamental obstacles to getting transmission built in the US. The first is having a regional transmission planning analysis which will show economic value via reduced power prices by adding major transmission lines in conjunction with new and existing low cost generation. Such planning and cost/benefit analysis does not currently exist but is sorely needed to convince and provide support to the State regulators and public officials of the need for these new and/or upgraded transmission lines. This is especially true in the West where three Regional Transmission Organizations bifurcate the West. The Western Governors have proposed a voluntary region wide planning process, however the effort is sorely in need of funding and, without official standing, is unlikely to make timely or useful progress.

The second obstacle to getting new transmission built is having a mechanism to allow customers who are hundreds if not over a thousand miles away from the low cost generation fund on a long term basis part of these transmission lines so they can receive the benefits of this low cost remote generation. The lack of a truly regional and in the West, Westwide transmission planning and rate setting entity prohibits customers far away from low cost generation to advocate and pay for these valueable transmission projects which are associated with new affordable generation.

The final obstacle to getting new transmission built is the timing, siting and permitting processes. This obstacle will only be apparent once the first and second transmission obstacles are removed. No project will get to the siting and permitting phase unless it has recognized cost/benefits and can be funded, hopefully in part by those who will benefit from the lines being built. While siting and permitting is difficult, the West appears to have a protocol developed by the Western States and the Federal land and environmental agencies that have jurisdiction over some element of siting and permitting transmission lines. This joint protocol is intended to enable a single coordinated review of the siting and permitting issues to timely process transmission applications. I would add that it may useful to have the DOE take the lead moving these projects through the

siting and permitting phase similar to what occurred via Executive Order to address the California energy needs.