114323

BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Actions Needed To Increase Federal Onshore Oil And Gas Exploration And Development

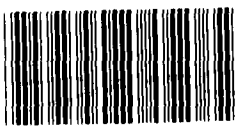
The Nation's need for more oil and gas development from Federal lands will not be met unless Federal agencies act to

--make more lands, now closed to leasing, available for oil and gas development,

--reduce the number and severity of lease restrictions which hamper or prevent exploration and development, and

--expedite the processing of Federal leases and drilling permits.

GAO makes congressional and agency recommendations to open more Federal lands to mineral leasing, formulate a minerals policy for military lands, justify the use of surface protection stipulations, and improve the overall Federal oil and gas leasing and drilling permit programs.



114323

114323
015303

EMD-81-40
FEBRUARY 11, 1981

Request for copies of GAO reports should be sent to:

U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are $3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are $1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-201799

To the President of the Senate and the
Speaker of the House of Representatives

This report analyzes how the exploration and development of oil and gas from Federal lands could be accelerated. It identifies ways in which both the Congress and the administration could open more lands to development and ensure the timely issuance of Federal leases and permits.

We initially undertook this review at the request of Representative Richard B. Cheney. Subsequently, Representative John B. Breaux, Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, House Committee on Merchant Marine and Fisheries, Senator William L. Armstrong, and Representative Edwin B. Forsythe requested similar information from us.

Copies of this report are being sent to the Director, Office of Management and Budget, and the Secretaries of the Interior, Agriculture, Defense, and Energy.

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

ACTIONS NEEDED TO INCREASE FEDERAL ONSHORE OIL AND GAS EXPLORATION AND DEVELOPMENT

D I G E S T

With the Nation facing continuing prospects of large gaps between consumption of oil and gas and domestic production, the use of Federal lands for energy exploration and development must be an important consideration. Managing these lands involves difficult tradeoffs between the often-conflicting issues of development, conservation, and environmental protection.

GAO was asked to examine how the exploration and development of oil and gas from Federal lands could be accelerated. They are hampered by

--the unavailability for leasing of prospectively valuable Federal oil and gas lands,

--the imposition of stipulations on leases which restrict exploration and development, and

--lengthy delays in the approval of Federal leases and drilling permits.

GAO has determined that the first two of these issues are more significant because of the indefinite duration of actions which have closed lands, the severeness of stipulations on leases, the large acreages involved, and their substantial oil and gas potential. Congressional consideration is required to expedite "opening" of these lands and oversee agency actions.

Based on an examination of Federal oil and gas practices in Colorado, Mississippi, Nevada, New Mexico and Wyoming, GAO found that greater opportunities exist nationwide for the Government

EMD-81-40

Tear Sheet. Upon removal, the report cover date should be noted hereon.

to intensify the production of oil and gas from Federal lands.

FEDERAL LANDS CLOSED TO LEASING HAVE POTENTIAL FOR INCREASING SUPPLIES OF OIL AND GAS

The Federal Government controls about 410 million acres in the lower 48 States. Of this, approximately 64 million acres have been closed to oil and gas leasing (withdrawn). (See p. 41.) Wilderness programs at the Forest Service could close, at a minimum, an additional 33 million acres to new mineral development after 1983. As much as 55 percent of these withdrawn lands has some likelihood of containing oil or gas. (See ch. 3.)

GAO found that of the 20 million acres withdrawn from leasing in the five States reviewed, over 11 million acres are considered to be potentially valuable for oil and gas. The minimum amount of exploration that has occurred around many of these areas makes reliable resource estimates for withdrawn lands impossible. Recognizing the speculative nature of such estimates, GAO has used 1978 Geological Survey estimates of recoverable resources to calculate that a potential 312.6 million barrels of oil and 156.4 billion cubic feet of gas could be affected by these withdrawals. However, further exploration in many of these areas would be needed to provide better information on the amount of resources involved. (See ch. 4.)

Most of these lands have been formally closed for indefinite periods by law, regulation, Executive order, or public land order. The Department of Defense and the Fish and Wildlife Service controlled the most withdrawn lands considered to have oil and gas potential. These lands deserve early consideration of being reopened. (See ch. 4.)

Federal agencies are also closing lands to oil and gas leasing through management decisions. Such administrative actions account for approximately 6 million of the

20 million acres closed in the States reviewed. (See ch. 4.) As a result of the Federal Land Policy and Management Act of 1976, the Department of the Interior has categorized these "no leasing" decisions as land management decisions rather than withdrawals under this Act. Interior is prohibiting oil and gas leasing on lands without subjecting the decision to formal withdrawal procedures or to congressional review and possible veto. Thus, it is unlikely that the Congress or the Federal Government will be able to readily identify areas closed to leasing unless these single management decisions have affected 100,000 acres or more. Records are not consistently maintained by Interior to keep management abreast of the extent to which "no leasing" decisions are being reached. (See ch. 3.)

Management of mineral activities in potential wilderness areas is being treated differently by the Forest Service and the Bureau of Land Management. (See ch. 3.) Both of these agencies' actions have deferred exploration for oil and gas in potential wilderness areas, and thus, have delayed the development of potential energy resources. By limiting mineral development, these agencies have followed policies which are more restrictive than what the Congress allowed under wilderness legislation. Under the Wilderness Act of 1964 and other wilderness statutes, mineral development is permitted at least until December 31, 1983. Of the 16.5 million acres of potential wilderness in the review States, at least 8.5 million acres are considered to be prospectively valuable for oil and gas. (See ch. 4.)

Interior and the Department of Defense dispute whether the withdrawal application procedures of the Federal Land Policy and Management Act apply to the military. Specifically at issue is the requirement for detailed minerals assessments for all proposed withdrawals. Since the Congress must establish any Defense withdrawal over 5,000 acres, it should clarify

Tear Sheet

what minerals data will be needed in reaching a decision to set aside lands for military use. (See ch. 3.)

Agencies are now requiring lessees to accept special conditions on leases to ensure protection of surface resources. These stipulations can increase the costs of production for an operator and can act as a disincentive to exploration and development. In the States reviewed, a minimum of 1 million acres of leasable lands are subject to various "no surface occupancy" stipulations. At least 345,000 acres of these restricted lands lie in the Wyoming Overthrust Belt. This data indicates that the practice of restricting surface use on valuable leases or drilling permits is likely to be widespread. (See ch. 4.)

Another category of withdrawn lands exists through the Bureau of Land Management's failure to reoffer expired leases in the simultaneous leasing system (the lottery). GAO found 1,070 leases on at least 830,000 acres of Federal land which had been withheld from leasing in GAO's review States. (See ch. 4.)

DELAYS IN APPROVAL OF FEDERAL LEASES COULD DEFER OIL AND GAS DEVELOPMENT

Lease applications in the States GAO reviewed encountered a variety of delays. Agencies for various reasons are not managing their programs in a manner to secure optimum exploration and development efforts on Federal lands. In part, this is due to the fact that Federal oil and gas programs are in competition with other resource management programs for scarce funds and manpower.

At least 3,995 (55 percent) of the pending lease applications in the review States as of December 31, 1979, were over 4 months old. In addition, 33 percent of the leases issued by

the Bureau of Land Management in 1979 were delayed. The length of delays varied by type of lease and by State. (See ch. 5.)

Most delays in lease approvals were due to Federal actions. The Bureau itself delayed half the sampled cases during lease processing because of inaction, lack of followup, and mailing errors. The Bureau has not established time frames or agreements with other agencies to facilitate lease processing.

Other delays were due to environmental analyses, deferral of leasing in study areas, title work by surface management agencies, and miscellaneous reasons. (See ch. 5.) Environmental assessments have been done on many leases which are never developed. Such assessments can be time-consuming and repetitive for Bureau staff, especially when done for each stage of oil and gas activity. Therefore, GAO believes assessments could be deferred until actual surface disturbance for oil and gas activity is planned on the lands. Unlike withdrawals, leasing delays only defer possible production for temporary periods.

DELAYS IN APPROVING FEDERAL DRILLING PERMITS AFFECT OIL AND GAS PRODUCTION

Forty-seven percent of the 1,749 drilling permits approved in 1979 by the U.S. Geological Survey in our review States were "delayed." In addition, 63 percent of the 553 permits pending as of December 31, 1979, were more than 30 days old. (See ch. 6.)

Delays occurred at all stages of the Geological Survey's permit processing. The most common delays involved: obtaining information from applicants, securing archaeological clearances, and receiving surface protection recommendations from Federal agencies on the operator's drilling plans. GAO believes improving the present permit system by clarifying operator requirements and establishing processing time frames will eliminate many of these delays. (See ch. 6.)

Tear Sheet

GAO believes remedial steps are necessary if Federal agencies are to increase oil and gas activity on Federal lands. (See ch. 7.)

RECOMMENDATIONS TO THE CONGRESS

The Department of the Interior's use of land management decisions under section 202(e) of the Federal Land Policy and Management Act to close lands to mineral leasing may have an effect similar to withdrawals under section 204 of the statute. Therefore, the Congress should determine whether it wishes to be excluded from the review and possible disapproval of such decisions. If not, the Congress should amend section 202(e) of the act to provide that management decisions closing lands to mineral leasing and affecting smaller sized tracts should be reported to the Congress. Section 202(e) should be further amended to require that the Department of the Interior submit with each report to the Congress the minerals report described in section 204(c)(2) for withdrawals and any other information required in section 204(c)(2) which the Congress considers appropriate. (See Appendix XVII (A) for text of suggested amendment.)

Because minerals information for military lands is scarce and existing legislation does not require that adequate minerals data be available prior to a decision to reserve lands for military purposes, the Congress should amend section 3 of the Engle Act so that the withdrawal information for military applications conforms with the Federal Land Policy and Management Act's section 204(c)(2) requirements for mineral analyses. (See Appendix XVII (B) for text of suggested amendment.)

To increase energy development of potentially valuable Defense lands, the Congress should amend section 6 of the Engle Act to provide that the Secretary of Defense may only determine that oil and gas development is inconsistent

with an installation's military use after the issue has been studied by Defense. The Secretary's decision should be reviewed by the Secretary of the Interior and reported to the Congress. (See Appendix XVII (B) for text of suggested amendment.)

In order to allow for adequate oil and gas exploration in wilderness areas, the Congress should allow leasing in any future wilderness legislation for some reasonable period beyond 1983. In addition, since most existing Service wilderness areas will be closed to new oil and gas leasing after 1983, the Congress should consider whether sufficient minerals information has been developed on these lands which would allow it to still conclude that leasing should be prohibited.

RECOMMENDED AGENCY ACTIONS TO MAKE MORE LANDS, NOW CLOSED TO LEASING, AVAILABLE FOR OIL AND GAS DEVELOPMENT

Recommendations to the Secretary of the Interior

The Secretary of the Interior should:

--Establish criteria on which "no leasing" decisions must be based. The Secretary should also require the Bureau of Land Management to maintain records of "no leasing" decisions adequate enough to permit periodic congressional oversight.

--Require the Bureau to inventory lands which have been closed by management decision to oil and gas leasing. The Bureau should then determine, under section 202(e) of the Federal Land Policy and Management Act, to retain closure only to the extent it can demonstrate that a continuation of the decision not to lease is based on the criteria defined above. Such justification should be supplied by the appropriate surface management agencies.

--Direct the Bureau to give priority to evaluating pre-Engle Act Defense withdrawals under the Bureau's withdrawal review program. Any existing prohibitions on oil and gas leasing should be reviewed and revoked where possible.

--Direct the Geological Survey to review the oil and gas potential of Fish and Wildlife refuges in the lower 48 States, and report its findings to the Bureau and the Fish and Wildlife Service. The Secretary should then seek regulatory changes to make these lands available for leasing in a manner compatible with their fish and wildlife resources, and report his findings to the Congress.

--Direct the Bureau to develop a withdrawal review program, similar to the Federal Land Policy and Management Act's program, to include the remaining 38 States.

--Direct the Bureau to inventory and justify lands withheld from the simultaneous leasing system.

RECOMMENDED AGENCY ACTIONS TO REDUCE THE NUMBER AND SEVERITY OF LEASE RESTRICTIONS WHICH HAMPER OR PREVENT EXPLORATION AND DEVELOPMENT

Recommendations to the Secretaries of Agriculture and the Interior

The Secretaries should direct the Forest Service and the Bureau of Land Management, respectively, to establish standards and criteria for the use of restrictive stipulations, such as surface disturbance and "no surface occupancy" restrictions. Leasable lands should then be inventoried to determine the extent of use of such stipulation and to verify if the stipulation use meets the standards and criteria. Stipulation uses which are determined to be unjustified should be removed.

RECOMMENDED AGENCY ACTIONS TO EXPEDITE THE FEDERAL PROCESSING OF OIL AND GAS LEASES AND PERMITS

Recommendations to the Secretary of Defense

The Secretary of Defense should formulate a minerals policy, consistent with current national energy needs and evaluations of oil and gas potential on affected lands, that will provide guidance to the military services in making installations available to leasing.

Recommendations to the Secretary of the Interior

The Secretary of the Interior should:

--Direct the Bureau of Land Management to change its guidelines implementing the National Environmental Policy Act to defer the requirement for environmental assessments for oil and gas activities until surface disturbance is proposed.

--Direct the Bureau to establish standard time frames for the completion of lease processing. Such time limits would be incorporated in Bureau manuals and in its planning and budget systems. In cases where the Bureau is unable to process an application in a timely manner (e.g., if over 4 months), notification should be given to the applicant that his lease has been delayed. The Bureau should maintain records to show how many cases are being delayed and report these annually to the Secretary.

--Direct the Bureau to work with surface management agencies to develop cooperative agreements and goals for lease processing. These agreements should clearly state the time by which an agency's report should be received by the Bureau.

Tear Sheet

--Direct the Bureau to develop a standard followup system for tracking outstanding lease applications.

--Direct the Geological Survey to clearly state in its guidelines (Notice to Lessees No. 6) what the operator is required to submit, such as designation of operator, and unit agreements, to meet the Survey's legal and administrative requirements.

--Direct the Survey to review drilling permit applications and notify an applicant within 7 days of filing date if his application is incomplete.

--Direct the Survey to develop standard procedures for tracking and recording actions taken on Applications for Permit to Drill.

--Direct the Survey to coordinate with operators so that they have an archaeologist available during joint-site inspections, whenever a surface-managing agency requires that an archaeological survey be done prior to drilling.

AGENCY COMMENTS

Comments on a draft of this report were solicited from the Departments of Energy, Defense, Agriculture, and the Interior. Their responses are included as appendixes XIII, XIV, XV, and XVI, to this report and analyzed in chapter 7. The Departments' overall reactions to the report are quite favorable. They conclude that the report is factually accurate and its recommendations are generally appropriate and reasonable.

The Department of Energy suggested a change in the language of one GAO recommendation which was not modified for the final report.

The Department of Agriculture's Forest Service provided substantive and other detailed comments, and where appropriate, GAO has made changes in the report to reflect its views.

The Department of Defense agreed to develop a minerals policy to promote development of energy resources and furnish guidance to the military departments for leasing their lands. Defense disagreed with our recommendation to amend the Engle Act to provide more minerals data in military withdrawal applications.

The Interior Department agrees with most of our recommendations and is presently implementing several of them. However, Interior feels some recommendations which were not planned for in Interior's budget proposals may be difficult to implement. In addition, Interior describes several other initiatives which it believes will improve the oil and gas leasing situation.

Contents

ABBREVIATIONS

APD	Application for Permit to Drill
bbls	barrels
Bcf	billions of cubic feet
BLM	Bureau of Land Management
DOD	Department of Defense
DOE	Department of Energy
EIS	environmental impact statement
FLPMA	Federal Land Policy and Management Act of 1976
GAO	General Accounting Office
IBLA	Interior Board of Land Appeals
IMP	Interim Management Policy and Guidelines for Lands under Wilderness Review

KGS	known geologic structure
MMB	millions of barrels
MMcf	millions of cubic feet
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act of 1969
NTL-6	Notice to Lessees No. 6
OTA	Office of Technology Assessment
RARE	roadless area review and evaluation
SMA	surface-managing agency
TVA	Tennessee Valley Authority
WPRS	Water and Power Resources Service (Department of the Interior)

CHAPTER 1

INTRODUCTION

The Federal Government owns over one-third of the Nation's lands--about 770 million of the 2.3 billion acres in the United States. In addition, the Government has retained the mineral rights to over 60 million acres of State and private lands.

The responsibility for managing and administering most of these lands rests with two agencies. The Department of the Interior's Bureau of Land Management is responsible for 427 million acres (55 percent) as well as all Federal mineral rights on Federal, State, and private lands. The Department of Agriculture's Forest Service is responsible for 188 million acres (24 percent). The remaining land is administered by Department of Defense (3 percent), Interior's National Park Service (8 percent) and Fish and Wildlife Service (5 percent), and a number of other agencies which administer smaller portions.

Federal lands 1/ contain significant quantities of natural resources and aesthetic and recreational values essential to our economy, growth, and quality of life. Managing these lands involves difficult trade-offs between the often-conflicting issues of development, conservation, and environmental protection. For example, developing energy resources is generally not compatible with protecting and conserving other resource values, and may at times adversely affect environmental quality.

The use of Federal lands for fossil fuels exploration and development, specifically oil and gas, has become an important issue. This is evidenced by recent congressional and Presidential interest in "opening" more lands to oil and gas development.

CALL FOR MORE OIL AND GAS FROM FEDERAL LANDS

In President Carter's April 1979 energy message to the Nation, he stressed the importance of an effort to "***step

---

1/Federal lands are all classes of land owned by the Federal Government.

up exploration and production of oil and gas on Federal lands." This concern has been echoed many times as part of a long and growing congressional debate.

Representative Richard Cheney asked the General Accounting Office to examine "the major problems facing the oil and gas industry as it looks to the public lands as a source of additional energy." This request served as the basic framework for the issues developed in the report. Subsequently, Chairman John Breaux of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, House Committee on Merchant Marine and Fisheries, Senator William Armstrong, and Representative Edwin Forsythe requested that similar information be developed. (See apps. I to IV for requestors' letters.)

This report addresses their concerns about access to Federal lands and the approval process for exploring and developing onshore oil and gas. After describing relevant legislative and other background information (ch. 2), we analyze the availability of lands for energy leasing (chs. 3 and 4), the Federal leasing process (ch. 5), and the Federal drilling permit process (ch. 6). We have presented these issues in this format to follow the steps industry must go through if it hopes to produce oil and gas from Federal lands. First, land must be available to lease; second, an applicant must obtain a lease giving a right to develop the land's oil and gas; third, an operator must have an approved permit to drill in order to begin a development effort.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our study were to seek answers to the following questions:

--How much Federal land has been withdrawn from oil and gas leasing?

--What potential do those withdrawn lands have for oil and gas?

--Does the oil and gas industry face restrictions and conditions in leases and permits so burdensome that oil and gas development is impeded or even prevented?

--Does the oil and gas industry face delays in the approval of Federal leases and drilling permits which impede oil and gas development?

--What Federal actions can be taken to expand or accelerate exploration for and development of oil and gas in Federal lands?

As mentioned, this study was initially requested by Representative Cheney. In accordance with discussions with his office, the request was modified and subsequently incorporated into two studies. The first study analyzed the administration's bill to expand competitive leasing of Federal onshore oil and gas resources. 1/ The second study is this report.

Our effort included interviewing agency headquarters and field officials; reviewing written procedures, regulations, and planning and budgeting documents; and examining working files (lease and permit records and withdrawal orders) and land status maps. From these records we developed independent data that illustrates the extent of withdrawals, leasing, and permitting problems for the first time. It was necessary for us to develop our own data in some cases because of unreliable or non-existent agency information. The agencies contacted included: Interiors' Bureau of Land Management, U.S. Geological Survey, Fish and Wildlife Service, Water and Power Resources Services, and National Park Service; the Department of Agriculture's Forest Service; and the Departments of Defense and Energy. (See app. V.)

We also interviewed State Government officials in Colorado, Mississippi, Nevada, New Mexico, and Wyoming; representatives of the oil and gas industry and environmental organizations; and lessees and oil and gas operators.

Our report covers Federal lands and also Federal oil and gas rights under State and private surfaces (all onshore) in the lower 48 States. (Indian lands and Alaska were excluded

---

1/"Impact of Making the Onshore Oil and Gas Leasing System More Competitive," EMD-80-60, Mar. 14, 1980.

from our review.) Our field work was done in Colorado, Mississippi, Nevada, New Mexico, and Wyoming. We selected these States because they provide broad geographic coverage, have a good cross-section of lease and permit activities, and contain a large amount of land withdrawn from oil and gas activity. In addition, these 5 States have 41 percent of the Federal prospectively valuable oil and gas lands in the lower 48 States.

We used the State of Mississippi as a sample State to indicate what development of the Eastern Overthrust Belt 1/ area may mean. Most of Mississippi's Federal land is prospectively valuable for oil and gas and has had a relatively significant amount of drilling activity. We believe Mississippi is an eastern State that has had enough drilling activity to represent typical experiences in the eastern area. In addition, both the Bureau of Land Management's Eastern States Office and the Geological Survey's Eastern District Office handle all eastern oil and gas activity in the same manner. Therefore, leasing and drilling in new areas of the East such as the Eastern Overthrust Belt would probably encounter the same processing issues as in Mississippi.

In chapters 2 and 3, we show the importance of access to Federal oil and gas lands and discuss the surface-managing agencies' missions and program requirements based on legislative mandates. We identify constraints in making these lands available and develop data on Federal lands closed to oil and gas leasing in the lower 48 States. In chapters 4, 5, and 6, discussions are based on independent data we developed in our five review States.

Our methodology for chapter 4 was to examine Bureau of Land Management withdrawal inventories as well as Park Service and Fish and Wildlife records to determine what lands had been formally closed to mineral leasing. We verified these withdrawals with surface management agencies where possible. Similarly, we reviewed Bureau environmental assessments and other records to determine where "no leasing" decisions had been made administratively. Finally, we identified Bureau and Forest Service wilderness study areas and other areas

---

1/A recently defined area of sedimentary rocks in the Appalachian region from Virginia to Alabama where geologists believe oil and gas may be abundant.

with restrictive stipulations in each State. We then recorded and mapped each identifiable withdrawn area.

Our withdrawals were matched to the Survey's designations of prospectively valuable oil and gas land. In some cases, the Survey could not provide an oil and gas evaluation if the withdrawn area was small (usually less than 640 acres). We prepared overlays of these prospectively valuable areas and estimated for each withdrawal how much acreage could be considered prospectively valuable for oil and gas.

In chapter 5, our pending lease sample selection method consisted of developing a list of pending lease applications at each of the five Bureau State offices. We verified the status of each pending application by examining serial registers, log books, and other records maintained by the Bureau. (A lease application was considered pending if filed after Dec. 31, 1969, but not issued as of Dec. 31, 1979.) Using this universe, we then generated random numbers to select a statistically valid sample. For each pending lease application sampled, case files were pulled and reviewed.

In chapter 6, we sampled approved and pending permits from all Geological Survey district offices in our review States. Our sampled permits were randomly selected, but cannot be considered statistically valid because the permit universe in three of our five States was not readily identifiable. A universe could not always be developed because files were kept differently in various Survey offices. However, we believe that our sample is representative of permits found in each review State.

CHAPTER 2

INCREASED OIL AND GAS PRODUCTION FROM FEDERAL LANDS MUST COMPETE WITH EXISTING AGENCY PROGRAMS

TRENDS IN U.S. OIL AND GAS PRODUCTION AND CONSUMPTION INDICATE CONTINUED DOMESTIC DEFICITS

Based on current trends, domestic production of petroleum from conventional sources is expected to be about 3 billion barrels a year through the year 2000. (See tables 1 and 4.)

Onshore production from the lower 48 States is expected to decrease at least 20 percent from 1985 to 2000. Domestic production of natural gas is expected to drop from about 20 trillion cubic feet in 1979 (see table 4) to about 17 trillion cubic feet per year from 1985 through 2000. (See table 1.) Again, onshore production from the lower 48 States is expected to drop significantly (18 percent) from 1985 to 2000.

Despite the potential to reduce domestic demand through conservation, oil and gas demand is expected to exceed domestic production from conventional sources at least through the year 2000. Petroleum consumption has risen from over 3.5 billion barrels per year in 1960 to about 7 billion per year since 1977. Consumption of natural gas during the same period rose from 12 trillion cubic feet per year to more than 22 trillion in 1972 and 1973, dropping to 19.5 trillion per year in 1979 as domestic production fell. (See table 2.)

TABLE 1

Estimated Trend of United States Domestic Petroleum and Natural Gas Production 1985 - 2000

Petroleum (in billions of barrels per year)	1985	1990	1995	2000
Lower 48 onshore	1.8	1.5	1.4	1.4
Alaska	.6	.5	.5	.5
Lower 48 offshore	.2	.2	.2	.2
Enhanced oil recovery	-	.1	.2	.4
Natural gas liquids	.6	.6	.6	.6
Total petroleum	3.2	2.9	2.9	3.1
Natural gas (in trillion cubic feet per year)				
Lower 48 onshore	16.5	14.8	14.0	13.5
Frontier Outer Continental Shelf and Alaska	0.6	2.0	2.8	3.1
Total natural gas	17.1	16.8	16.8	16.6

Source: Derived from our report, "Analysis of Current Trends in U.S. Petroleum, and Natural Gas Production," EMD-80-24, Dec. 7, 1979.

TABLE 2

Fuel Consumption in the United States
1960 - 1979

Year	Petroleum (in millions of barrels per year)	Natural gas (in billions of cubic feet per year)
1960	3,611	12,269
1965	4,202	15,598
1970	5,365	21,367
1972	5,990	22,429
1973	6,317	22,245
1974	6,078	21,223
1975	5,958	19,537
1976	6,391	19,947
1977	6,727	19,521
1978	6,879	19,630
1979	6,707	19,490

Source: Data for 1960-1977 from U.S. Department of Commerce, Census Bureau, Statistical Abstract(s) of the United States, 1979, 1976, and 1975.

Figures for 1978 and 1979 are based on Department of Energy statistics from the Energy Information Administration.

Natural gas consumption is related, in large measure, to availability from domestic and nearby foreign sources. However, unless domestic production of petroleum from conventional sources or from synthetics can be increased significantly, the United States will continue to be heavily dependent on foreign sources to meet domestic petroleum needs. Net imports of petroleum as a percentage of consumption rose from 16 percent in 1960 to about 43 percent in 1979 (see table 3) and could continue at this level or even increase unless significant breakthroughs are made to reduce demand and increase domestic production.

TABLE 3

Net United States Imports of Petroleum as Percentage of Apparent Consumption 1960 - 1979

Year	Percent
1960	16
1965	20
1970	21
1971	24
1972	28
1973	35
1974	35
1975	36
1976	41
1977	47
1978	42
1979	43

Source: Based on information from Energy Information Administration, Annual Report to Congress 1979, vol. 2, table 18, p. 43.

FEDERAL LANDS ARE A SIGNIFICANT POTENTIAL SOURCE OF FUTURE OIL AND GAS SUPPLIES

In recent years, about 6 percent of the Nation's oil and gas production has come from Federal onshore lands (excluding Alaska). Including the naval reserves, Federal onshore petroleum production rose from 5.7 percent in 1975 to 6.4 percent in 1979. (See table 4.) Congressionally mandated increases on production from the California naval reserves during that period offset a decline of about 8 percent in production from other areas. Lower-48 onshore Federal production from 1975-1979 appears to be a low production percentage since the Federal Government owns about 19 percent of the lands in the lower 48 States which are prospectively valuable for oil and gas. Improvement may be possible in Federal lands' contribution to national oil and gas production since some of these prospectively valuable lands are in areas where there has been relatively little oil and gas activity. (See ch. 3.)

Most of the lands prospectively valuable for oil and gas are in Alaska and are federally owned. These Alaska holdings (112 million acres) represent 30 percent of all Federal land prospectively valuable for oil and gas. However, these figures are subject to change because ownership of 149 million acres of Federal land in Alaska, including large areas prospectively valuable for oil and gas, has been transferred to Alaskan natives and to the State of Alaska under Public Law 96-487. For these and probably other reasons, onshore lands in Alaska have been producing less than one-half of 1 percent of domestic production of both oil and gas. How significant future production from onshore Federal lands in Alaska will be depends largely on how much of the potential oil and gas lands remains in Federal ownership, and how much of that land will be open to exploration and development. These Alaskan questions, however, are outside the scope of this report.

TABLE 4

Source of United States Domestic Petroleum and Natural Gas Production 1975 - 1979

Petroleum (in thousands of barrels per year)	1975	1976	1977	1978	1979
Federal:					
Alaska onshore	12,834	11,679	9,849	7,847	7,912
Lower 48 onshore	a/157,924	160,420	192,151	196,346	199,054
Offshore	330,237	316,920	303,948	292,265	285,566
Total Federal	500,995	489,019	505,948	496,458	492,532
Non-Federal:	2,255,880	2,479,161	2,503,477	2,681,597	2,622,016
Total domestic petroleum:	2,756,875	2,968,180	3,009,425	3,178,055	3,114,553
Lower 48 as percent of total domestic:	5.7	5.4	6.4	6.2	6.4
Natural gas (in millions of cubic feet per year)					
Federal:					
Alaska onshore	58,010	60,584	63,701	80,204	78,994
Lower 48 onshore (note a)	942,743	1,022,321	999,902	1,020,133	1,045,461
Offshore	3,458,693	3,595,924	3,737,747	4,385,061	4,672,979
Total Federal	4,459,446	4,678,829	4,801,350	5,485,398	5,797,434
Non-Federal b/	15,649,554	15,273,161	15,223,650	14,488,602	13,923,566
Total Domestic natural gas:	20,109,000	19,952,000	20,025,000	19,974,000	19,721,000
Lower 48 as percent of total domestic:	4.7	5.1	5.0	5.1	5.3

a/Includes Naval petroleum reserves.
b/Includes Indian lands.

INDUSTRY AND ENVIRONMENTAL GROUPS HAVE DIVERGENT VIEWS ON THE IMPORTANCE OF FEDERAL LANDS

The basic view of the oil and gas industry is that the needs of the Nation require that the industry have access to as much Federal land as possible to explore for and develop oil and gas. The industry also believes that such access should reflect the needs of the Nation for oil and gas and the need to keep costs of production down.

In general, the oil and gas industry believes the current system used by the Federal Government is wasteful and ineffective. They argue that leasing delays impede exploration by hindering the creation of land units large enough to make it attractive to invest. The multiple requirements involved with drilling, according to industry, result in the need to obtain numerous permits and approvals. These approvals cause the industry to submit volumes of information, much of which is duplicative and not needed, and which results in increased costs. Industry believes Government approval of permits on a permit-by-permit basis creates planning problems and leads to uncertainties whether a large area can be developed even if oil and gas is found. Finally, industry argues that the time required to obtain approval of leases and permits means that large investments are "tied up" for long times without any return.

Environmental groups believe that some areas should not be leased, particularly natural and wildlife areas. These groups believe that, in the longer term, the leasing of these lands will do little to solve oil and gas shortage problems. They believe that exploration and development should first take place on lands already under lease which, if developed, would have less adverse environmental impacts. They believe more attention should be directed towards developing alternative energy sources and alternative lifestyles.

Environmental groups feel the amount of oil and gas which is contained in lands being restricted is not sufficient to appreciably reduce the Nation's reliance on foreign oil and gas. They also believe the effect of not adequately protecting the environment is more costly in the long run than protecting it.

What future role Federal onshore lands will play in meeting domestic oil and gas needs depends in part on (1) access

to these lands for oil and gas exploration and (2) the efficiency of the Federal oil and gas management system. The following discussion looks into these two questions.

THE IMPORTANCE OF ACCESS TO PROSPECTIVELY VALUABLE OIL AND GAS LAND

Since minerals are "where you find them" and miners look only where minerals can accumulate in commercial quantities, studies on access to Federal lands for oil and gas exploration and development must focus on lands "prospectively valuable for oil and gas." This category was devised by the Geological Survey, the agency with Federal responsibility for leasable mineral classifications and evaluations on public lands. One way of defining "prospectively valuable" lands is to state that these are lands where accumulations of oil and gas are not impossible.

For the most part, the phrase "prospectively valuable for oil and gas" is synonomous with sedimentary basins. In such basins, it is theoretically possible that over the years organic material was deposited, converted into oil or gas, and trapped in recoverable form.

Whether part or all of a tract of land contains oil and gas in commercial quantities depends on a number of factors--such as the presence of organic materials; conditions under which the materials were laid down and subjected to heat and pressure; and how well the materials and the resulting oil and gas, if any, were trapped and retained in place. In addition, whether a targeted area with favorable accumulation conditions is economically attractive depends on such factors as depth of deposits, size of pools, chemical contaminants, and recoverability. Many of these conditions can generally be determined only through drilling. Actions preventing or impeding exploration for oil and gas thus prevent determination of the location of recoverable deposits.

Critics state that full oil and gas potential cannot be realized from Federal lands because of withdrawals

It has been known for some time that withdrawals have reduced or limited access to Federal lands for oil and gas exploration and development. However, the degree to which withdrawals have affected access and the significance of such interference to domestic oil and gas production have been

matters of controversy. Chapters 3 and 4 of this report look into the question of the relation of withdrawals of Federal onshore lands in the lower 48 States to domestic oil and gas exploration and development.

Withdrawal, for the purposes of our discussion, refers to withholding an area of Federal land from the operation of the mineral leasing laws. This means that lands are closed at a minimum to oil and gas but could also be closed to coal, oil shale, phosphate, sodium, potassium, and bitumen development. We have defined three types of withdrawals: (1) "no leasing" areas established formally either by act of the Congress, Executive or public land order, 1/ or regulation, (2) "no leasing" areas established by informal administrative decision 2/ on the part of any agency official, and (3) leasable lands where oil and gas activities are severely restricted by lease terms and conditions (stipulations).

Critics claim that achieving potential of open lands is hampered by management policies, procedures, and inefficiencies

Much criticism has been leveled at the Federal land management agencies, alleging that their policies, procedures, and inefficiencies are (1) hampering access to lands which are not withdrawn and (2) when access is granted, preventing the efficient conduct of exploration and development by industry. This report in chapters 5 and 6 looks into the validity of these accusations in identifying what basis there is for industry's criticism.

Although Federal prospectively valuable oil and gas lands and the leasing system are fairly simple in concept, the number of agencies involved, the discretion granted to them, the complexity of their goals and of legislation affecting oil and gas leasing, and other factors create considerable opportunity

---

1/Proclamations made by (1) Presidents of the United States and (2) secretaries of agencies. They affect the status of Federal lands by classification, withdrawal, or restoration.

2/Unlike public land orders, these decisions do not take the forms of formal orders but can be letters, memoranda and other means. They are generally made without an opportunity for public involvement.

for misdirection, error, and inefficiency in Federal management of oil and gas programs.

THE MINERAL LEASING ACTS AND FEDERAL PROGRAMS 1/

The Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq.), as amended, authorizes the Secretary of the Interior to dispose of deposits of oil and gas and certain other minerals 2/ in public domain lands, 3/ with certain exceptions, by lease, license, and permit. The exceptions are lands in incorporated cities, towns, and villages and lands in national parks and at national monuments. The original act also excluded all military and naval lands. However, in 1958 (43 U.S.C. 154-158) the Congress made it possible for Federal agencies to lease military lands. The Congress stated, "there shall be no disposition of, or exploration for, any minerals***" in military and naval lands, except naval petroleum and oil shale reserves, "***except under the applicable public land mining and mineral leasing laws." 4/ Further, it forbade such disposition or exploration where the Secretary of Defense determines it would be inconsistent with "military use" of the lands.

1/Since the following deposits are not within the scope of this report, this section does not discuss the laws which govern disposal of oil and gas which is (1) in naval petroleum reserves (2) in the Outer Continental Shelf, (3) subject to disposal by the General Services Administration under the surplus property acts, and (4) in lands acquired by lending agency foreclosures or for resale.

2/These minerals now include: coal, phosphate, sodium, potassium, oil, oil shale, native asphalt, solid and semi-solid bitumen, and bituminous rock or gas.

3/Lands, title to which the United States obtained during its national expansion westward (e.g., cessions by the original 13 States--1781 to 1802--and the Louisiana Purchase--1803), and which have remained in Federal ownership. The public domain does not include Texas or the original 13 colonies or their territories except lands they ceded to the United States.

4/Both Interior's and Defense's position is that the Executive or public land orders establishing military and naval reservations control their disposition. Such lands are not leasable if the orders bar their leasing.

In 1947, the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359) authorized the Secretary of the Interior to dispose of deposits of the same minerals in acquired lands, 1/ with the same exceptions. An amendment to the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1083), introduced to open lignite deposits on military lands to leasing, was phrased in a manner resulting in the opening of acquired military lands for leasing of all leasable minerals.

Some lands leasable under the two mineral leasing acts are excluded from leasing or made subject to leasing with special considerations by the laws governing their management. The most significant of these lands is the Wilderness System governed by the Wilderness Act of 1964 (16 U.S.C. 1131-1136, (See p. 20.) Also, wild river segments of the Wild and Scenic Rivers System are closed to mineral leasing by the Wild and Scenic Rivers Act (16 U.S.C. 1280).

The mineral leasing laws grant discretion to the Secretary of the Interior to lease the oil and gas in Federal lands (30 U.S.C. 226(a) and 352). Recently he has exercised this discretion twice to halt oil and gas leasing. First, in November 1979, the Secretary declared a moratorium on the leasing of minerals in acquired military and naval lands. 2/ (See ch. 4.) Then in February 1980, the Secretary suspended all noncompetitive oil and gas leasing for several months in the wake of fraud investigations in the West and pending revision of regulations. 3/ The Secretary also used this discretionary authority through regulations which have closed all Federal Wildlife Refuges to oil and gas leasing except where Federal deposits are being drained by operations on adjoining lands (43 CFR 3103.3).

The 1920 Mineral Leasing Act, as amended, vests all discretion in the Secretary of the Interior. The recommendations of surface-managing agencies (SMAs) administering public domain

---

1/Lands obtained by the United States for specific reasons or programs through purchase, gift, or condemnation.

2/44 Fed. Reg. 64085, Nov. 6, 1979.

3/Secretarial Order No. 3049, Feb. 29, 1980.

lands are advisory only (except for leasing all deposits in military and naval lands, which can only occur with the concurrence of the Secretary of Defense). However, under the 1947 act, the Secretary cannot lease acquired lands without the consent and under the terms and conditions specified by the SMAs. In practice, this difference has no significance since the Bureau of Land Management, acting for the Secretary of the Interior, as a matter of policy complies with the SMA recommendations for public domain lands, as well as for acquired lands. 1/

With some exceptions, the Secretary of the Interior has wide discretion in how he administers the mineral leasing acts for oil and gas activities. There are four major exceptions to this authority. The first is that he must lease lands noncompetitively to the first qualified applicant except where the lands are in a known geological structure (KGS) of a producing oil and gas field. For lands in a KGS, he must offer the lands competitively. The second exception is that the law sets the royalty at 12-1/2 percent for noncompetitive leases. The third major limitation controls the size of holdings of individual lessees. Finally, the Department of Energy Organization Act (42 U.S.C 7101) transferred certain functions to the Secretary of Energy, including authority to establish diligence requirements, set production rates, and set terms for acquisition and disposition of royalties. Otherwise, the Secretary has wide discretion in determining whether he is going to lease lands, in setting rentals, in establishing royalties and acceptable bonuses in competitive sales, in specifying terms and conditions in all leases, and so on.

The leasing system

Onshore Federal lands are leased for oil and gas exploration by the Bureau of Land Management. These lands are leased either competitively or noncompetitively depending on the known geological potential of the tract offered. Noncompetitive leasing is either (1) first-come, first-served (over-the-counter) or (2) by lottery if the tract has previously been leased. A brief description follows:

1/On rare occasions the Interior Secretary, upon appeal of a lease applicant, has overruled the Bureau of Land Management and the SMA.

--Competitive method. By law, land located within a KGS, is leased through competitive bidding. A KGS is essentially land with proven production. Once a producible well is "completed," the land around the well, generally about 1 square mile, is designated by the Geological Survey as a KGS. The lands identified in the KGS, if leased, must be leased competitively to the bidder offering the highest acceptable bonus. 1/

--Noncompetitive method.

Simultaneous, or lottery system. The majority of Federal land is leased under this system. As leases expire or are otherwise terminated, they are scheduled for bi-monthly drawings. Schedules are posted. Interested parties submit a drawing card together with a $10 filing fee. The winning applicant is randomly selected and required to submit rentals of $1 per acre annually.

Over-the-counter, or open filing. Land not previously leased and not subject to the lottery system is available to the first qualified applicant who submits an application along with the first year's rental ($1 per acre), and a $10 filing fee. Potential lessees can identify available land by examining maps and title data in the Bureau's offices.

Beginning fiscal year 1980, there were more than 118,000 active oil and gas leases which included over 100 million acres of Federal lands. In fiscal year 1979, about 12,000 leases were issued for slightly less than 13 million acres, of which 71,000 acres were leased competitively. Roughly 97 percent of the lands offered for leasing are outside a KGS and are therefore leased noncompetitively.

1/Because lessees usually lease areas surrounding proposed or ongoing drilling operations awaiting possible discovery of oil and gas, most Federal lands are leased noncompetitively. Competitive sales usually occur when a lessee relinquishes a lease in an established KGS.

The permit system

The Geological Survey is the supervisor of private exploration and development operations authorized by Federal oil and gas leases. Before they can enter on leased lands, operators must prepare and submit to the Survey an Application for Permit to Drill (APD), operations plans, and maps of proposed well sites. After the Survey issues a permit to drill, the operator must comply with its terms and conditions, including compliance with the surface protection and reclamation requirements specified by the SMAs. The Survey supervises that compliance in consultation with the SMAs. The Survey releases operators from performance bonds only with the concurrence of SMAs that the operators have performed as required.

CONFLICTS BETWEEN OIL AND GAS PROGRAMS AND AGENCY MISSIONS

A criticism industry makes is that these Federal agencies, in the exercise of their discretionary authority, subordinate their oil and gas work to other activities, and encumber lease and permit processing with expensive and time-consuming procedures and burdens. Our study shows that land management agencies make land use decisions on the basis of a multitude of considerations. Each agency has an overall management mission, such as multiple use and sustained-yield management (the Bureau of Land Management and the Forest Service), protection and development of national recreation areas for public use by present and future generations (National Park Service and the Forest Service), and protection of resident wildlife (Fish and Wildlife Service). Within their general missions, each agency also has a number of more specific missions--protection of watersheds, provision of timber flows, protection of wild and free-roaming horses and burros, and stability of the livestock industry dependent on the public range. These various missions are subject also to some other requirements, including protection of the quality of the human environment, protection of wildlife, and preservation of historical sites. In addition, SMAs are generally under some statutory directive for land-use planning.

Legislation establishing agency programs

Agency missions and program requirements are based on many laws which have an impact on the effectiveness of the mineral leasing laws. For example, the 1934 law authorizing

of Federal land, much of which is in Alaska, was "formally closed" to some or all leasable minerals. 1/ Some of this land is not, in fact, closed to oil and gas. We have revised these estimates for 1979 to reflect recent changes. We have also attempted to distinguish between lands closed through formal withdrawal actions and those closed by administrative decision. Of the 65 million acres that is closed, a little more than 48 million acres was closed through formal withdrawals and 16 million through administrative actions. This total underestimates administrative oil and gas withdrawals in part because it does not include "no leasing" areas designated for endangered species habitat and administrative sites which we could not compile since agencies such as the Forest Service, Fish and Wildlife, and the Bureau of Land Management do not maintain central records of such withdrawals. (See table 5.) Also, by 1984 an additional 17 million acres of existing National Forest Service Wilderness areas will be closed to new oil and gas development under the terms of the Wilderness Act.

The National Park Service, whose lands are generally closed to leasing under the Mineral Leasing laws, has jurisdiction over the largest block of formally withdrawn lands--18.8 million acres. Another 1.3 million acres, all in recreation areas, is closed administratively to protect administrative and scenic areas in units legally open to mineral leasing. (See table 5.) The Forest Service has also employed withdrawals to protect administrative sites, public recreation areas, natural areas, watersheds, and the like. In 1976 (the last year for which such data was compiled) such withdrawals represented 12 percent of the Forest Service's withdrawn areas and 1.4 percent of its lands in the lower 48 States (currently about 2.3 million acres). 2/

1/Office of Technology Assessment, Management of Fuel and Nonfuel Minerals in Federal Land, Apr. 1979, p. 216.

2/In some States, the Forest Service has had such areas formally withdrawn. However, the Service manual categorizes these as management decisions which do not require formal withdrawals. We have not attempted to distinguish between the number of these withdrawals made formally or administratively.

literature about the area will be part of these analyses. The Bureau has completed the identification process for the review and is now planning to reconcile its results with other agencies' records of withdrawals prior to analyzing each area's resources.

A variety of other laws also have an impact on access to Federal lands for oil and gas exploration and the opportunity to conduct economical development operations.

Perhaps the single most important nonmineral legislation to affect oil and gas leasing has been the National Environmental Policy Act of 1969, as amended (NEPA)(42 U.S.C. 4321 et seq.). It requires all agencies to take steps to preserve the quality of the human environment. To this end, it requires an environmental impact statement for all "major Federal actions significantly affecting the quality of the human environment."

SMAs began to evaluate oil and gas actions when the regulations implementing NEPA included as "actions" which, if major, require environmental reports: "new and continuing projects and program activities*** involving a Federal lease, permit, license, certificate or other entitlement for use" (40 C.F.R. 1500.5, 1973, emphasis added). A major Federal action now is defined as "***projects and programs entirely or partly***approved by Federal agencies," and "***projects include actions approved by permit or other regulatory decision***" (40 C.F.R. 1508.18). The Bureau has determined that in accordance with these and other regulations (40 C.F.R. 1508.9) environmental assessments must be prepared for all oil and gas leases to determine whether they would have a sufficiently significant effect on the quality of the human environment to require a more detailed environmental impact statement. The Bureau also requires the surface-managing agency to consider the environmental effects of leasing and to certify that its recommendation is based on an environmental assessment for the lands.

NEPA also comes into play with oil and gas drilling operations. The Geological Survey prepares environmental assessments for drilling projects, usually for each well planned to be drilled on a Federal lease. The Endangered Species Act (16 U.S.C. 1521-1543), the National Historic Preservation Act of 1966 (16 U.S.C., 479, et seq.), and other archaeological preservation acts and environmental laws are taken into consideration during preparation of these environmental assessments.

The Endangered Species Act of 1973 accords the highest Federal policy priorities to the protection and conservation of endangered and threatened species. (Tennessee Valley Authority v. Hill, Tenn. 1978, 437 U.S. 153.) Under this act, critical habitats for various species have been and are being identified. Federal agencies must take steps to insure that actions they approve or fund will not damage these habitats. As a result, agencies have closed areas to oil and gas development or have placed seasonal and other restrictions there. If drilling and other exploration and development activity pose no threat to a species or its habitat, the SMA can provide clearance. However, if they suspect that such activity might be damaging, SMAs must consult with the Fish and Wildlife Service before taking any agency action "***to insure that any actions authorized, funded or carried out by them do not jeopardize the continued existence of any such endangered species or threatened species or result in the destruction or modification of their habitat" (16 U.S.C. 1536).

Several acts require Federal agencies to protect cultural resources on Federal lands, such as prehistoric ruins, monuments, or other objects of antiquity. Important among these are: the National Historic Preservation Act of 1966, the Antiquities Act of 1906 (16 U.S.C. 431-433), and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.) Surface-managing agencies must comply with these acts in connection with their operations. In addition, the Survey requests cultural clearances from surface-managing or State archaeological agencies prior to drilling. These agencies in turn may require an operator to have a qualified archaeologist investigate and report on areas identified for drilling. Such a report must inventory sites, buildings, structures, and objects eligible for inclusion in the National Register of Historic Places.

Procedural impacts of balancing agency missions

The application and balancing of all these responsibilities involve the agencies in a wide variety of internal and external processes, including field examinations, special studies, consultation with Federal and State agencies and the general public, environmental impact statements, and litigation. These activities have an impact on the ability of agencies to process oil and gas applications with dispatch. Planning places a heavy procedural burden on the agencies

and creates a need for a wealth of data in sufficient detail to manage specific lands. Agencies are not likely to hold enough public-participation activities or accumulate sufficient data to satisfy themselves or various interested groups that decisions are being soundly made. In order to maintain an acceptable level of operations under these conditions, they sometimes adopt methods which in effect defer real decisions to the future.

With respect to oil and gas, both the Forest Service and the Bureau of Land Management have adopted practices which allow them to continue processing leases without committing themselves to approval of future development operations. They incorporate stipulations or statements of conditions into some leases which give the agency control over whether development will eventually be allowed under the lease. Thus, agencies may continue processing leases with limited procedures and without the data needed for a final decision.

This use of stipulations obviously raises serious problems for lessees, since they have no assurance that they will be permitted to pursue an economical exploration and development program on their leased lands. Although it is difficult to estimate and evaluate the impact of this type of practice, its significance is discussed in this report. (See ch. 4.)

CHAPTER 3

ACCESS TO FEDERAL LANDS IS SUBJECT TO A VARIETY OF CONSTRAINTS

HISTORY OF WITHDRAWALS

The practice of executive withdrawals began informally while the West was being won. 1/ The President first set aside public domain lands for frontier forts informally, sometimes in the form of a handwritten order. Later he withdrew lands for other purposes. When the President's authority to withdraw lands was finally questioned, the Supreme Court in 1915 ruled that the Congress had granted the President withdrawal authority by implied consent. Since the Congress had known what the President was doing and did not object, it had in effect granted him withdrawal authority.

Meanwhile the Congress had granted the President authority by statute to make specific types of withdrawals from the public domain, such as national forest reserves and national monuments. It also granted to the Secretary of the Interior authority to make certain other types of withdrawals, such as reclamation withdrawals. Withdrawals under these authorities often sparked public controversy. Many of the early withdrawals did not specifically address disposition of minerals. However, in those cases Interior has officially interpreted the orders and has often viewed these withdrawals as closing lands to mineral leasing. These withdrawals have often been considered to be permanent closures as well, because the orders have carried no termination dates.

1/The concept of withdrawn lands (or withdrawals) developed early in the U. S. history when all Federal or "public domain" lands were generally available for settlement or State selection, or were otherwise being acquired by the general public. To prevent tracts of land from passing out of Federal ownership or control, it was necessary for the Government to take some legal or administrative actions to "withdraw" the lands from the "public domain." Even though lands have been withdrawn, the public often has certain rights to the land. However, these rights and privileges vary and are dependent upon the type of withdrawal. In some withdrawn areas, acquisition of virtually any right or privilege is barred to the public. In others, only mining or mineral leasing is forbidden.

All this withdrawal authority, statutory and implied (except for national monuments), was delegated to the Secretary of the Interior by the President during World War II. Withdrawals of millions of acres of public domain lands in the West and Alaska for national defense purposes during World War II led to a renewal of public controversy over executive withdrawal authority, policies, and actions. The first major executive responses were to formalize policies and procedures into a comprehensive set of regulations in the 1950s--including formal applications, publication of notices of proposed withdrawals, studies, investigations, and opportunities for public hearings. Other executive responses included a series of withdrawal review programs, all of which had limited results.

Acquired lands are also effectively withdrawn when a surface-managing agency refuses to lease them. Under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), a surface-managing agency must consent to the leasing of its lands before the Secretary of the Interior can issue a lease. If the SMA refuses, then the lands are closed to oil and gas leasing.

"NO LEASING" AREAS TO BE DESIGNATED BY MANAGEMENT DECISIONS

The Congress finally legislated on public domain withdrawal authority in 1976. In FLPMA, it repealed all existing executive authority, both statutory and implied, except the President's authority to create national monuments. In place of the repealed authority, FLPMA granted the Secretary of the Interior authority to make withdrawals under certain conditions and restrictions. A major condition is a requirement that all Secretarial withdrawals of 5,000 acres or more must be referred to the Congress after issuance. The law provides for congressional veto of such withdrawals, except those for the National Wildlife System, by a majority vote of both Houses.

FLPMA's transfer of all legal withdrawal authority to the Secretary had a widespread effect on withdrawals from mineral leasing. Under the mineral leasing acts and FLPMA, the Secretary of the Interior now has full authority to open and close lands as well as their minerals to access by industry or the public. For mineral leasing, the Secretary has always had the discretion to deny access to Federal minerals. When FLPMA took the withdrawal authority away from the President and gave it to the Secretary, according to Interior, the existing

mechanisms of executive and public land orders were no longer needed to make mineral leasing closures part of a withdrawal. Executive and public land orders prior to FLPMA had served as directives to the Secretary from the President not to lease the minerals in certain lands which were being set aside.

The Bureau of Land Management has determined that "withdrawals cannot be made to segregate the public lands from the operation of the discretionary public land laws." Under the Bureau's plans, existing withdrawal orders which have closed lands to mineral leasing will be modified as they come up for review or renewal. To close lands to oil and gas leasing under FLPMA, the Secretary or the Bureau now will only make a separate "management decision" which does not have to be referred to the Congress for review and possible veto unless it affects 100,000 acres or more. 1/ As a result, it is less likely that the Congress or the Federal Government will be able to readily identify areas closed to mineral leasing in the future except where single management decisions affect large areas. However, it is unclear whether such mineral leasing decisions were meant to be governed by the Bureau's land management authority under FLPMA.

A recent Wyoming District Court decision 2/ involving RARE II (roadless area review and evaluation) lands suggests that Interior's position---that "no leasing" management decisions are exempt from formal withdrawal procedures because they are discretionary actions---may be questionable. The judge concluded that

> "***it was the intent of Congress with the passage of FLPMA to limit the ability of the Secretary of the Interior to remove large tracts of public land from the operation of the public lands laws by generalized use of his discretion authorized under such laws."

Interior has indicated that it does not plan to appeal this decision. Interior continues to maintain its position that no withdrawal under section 204 of FLPMA occurred by virtue

---

1/FLPMA, sec. 202 (e)(2).

2/Mountain States Legal Foundation v. Cecil D. Andrus et al., U.S.D.C. Wyo., No. 378-165 B, Oct. 10, 1980.

of Bureau of Land Management and Forest Service inaction during RARE II and that the discretion to issue or not issue oil and gas leases is separate and apart from FLPMA withdrawals.

MINERAL LEASING WITHDRAWALS--NATIONWIDE

The vast majority of Federal land closed to oil and gas development is in Alaska and the West. Many of these withdrawals are of unlimited duration. For the lower 48 States, we estimate that approximately 64 million out of 410 million Federal acres have been closed to oil and gas development. This estimate may not be complete since there is no consolidated, detailed official inventory of withdrawals. The Bureau is inventorying and examining withdrawals from mineral development in 11 western States as directed by FLPMA. This review program is examining Overthrust Belt mineral leasing withdrawals as an early priority. This withdrawal review does not, however, include administrative withdrawals of lands administered by the National Park Service and the Fish and Wildlife Service.

Administrative withdrawals from mineral leasing have proven to be the most elusive closures of Federal lands. They are not usually identified in agency land status records. Such withdrawals can take place at any level within an agency. They are considered to be permanent and binding closures of land. They occur often as a result of environmental assessments. For example, a local field biologist who determines an area to be a possible wildlife habitat can recommend it not be leased. The local Bureau of Land Management office may then list the area as "no leasing." These types of daily administrative decisions are not subject to much critical review, nor are they raised to departmental levels unless a lease applicant appeals. One official's decision may differ from his counterpart's assessment in another State or even another district. In the State of Nevada, for example, certain wildlife areas were closed to leasing in one district but kept leasable with special stipulations in another. This inconsistency makes it difficult for a prospective operator to know what he might anticipate in developing Federal minerals.

The last nationwide estimate of public land closed to development under the mineral leasing laws was prepared by the Office of Technology Assessment (OTA) and has been used by the Department of the Interior in testimony and official statements. OTA estimated that in 1975, 321.1 million acres

of Federal land, much of which is in Alaska, was "formally closed" to some or all leasable minerals. 1/ Some of this land is not, in fact, closed to oil and gas. We have revised these estimates for 1979 to reflect recent changes. We have also attempted to distinguish between lands closed through formal withdrawal actions and those closed by administrative decision. Of the 65 million acres that is closed, a little more than 48 million acres was closed through formal withdrawals and 16 million through administrative actions. This total underestimates administrative oil and gas withdrawals in part because it does not include "no leasing" areas designated for endangered species habitat and administrative sites which we could not compile since agencies such as the Forest Service, Fish and Wildlife, and the Bureau of Land Management do not maintain central records of such withdrawals. (See table 5.) Also, by 1984 an additional 17 million acres of existing National Forest Service Wilderness areas will be closed to new oil and gas development under the terms of the Wilderness Act.

The National Park Service, whose lands are generally closed to leasing under the Mineral Leasing laws, has jurisdiction over the largest block of formally withdrawn lands--18.8 million acres. Another 1.3 million acres, all in recreation areas, is closed administratively to protect administrative and scenic areas in units legally open to mineral leasing. (See table 5.) The Forest Service has also employed withdrawals to protect administrative sites, public recreation areas, natural areas, watersheds, and the like. In 1976 (the last year for which such data was compiled) such withdrawals represented 12 percent of the Forest Service's withdrawn areas and 1.4 percent of its lands in the lower 48 States (currently about 2.3 million acres). 2/

1/Office of Technology Assessment, Management of Fuel and Nonfuel Minerals in Federal Land, Apr. 1979, p. 216.

2/In some States, the Forest Service has had such areas formally withdrawn. However, the Service manual categorizes these as management decisions which do not require formal withdrawals. We have not attempted to distinguish between the number of these withdrawals made formally or administratively.

TABLE 5

Federal Onshore Land Closed to Oil and Gas Leasing (note a)
(As of 1979, thousands of acres)

Land use	Legal or formal withdrawal	Administrative withdrawal	Total withdrawn
Military	13,628	6,406	20,034
National parks (includes recreation areas, historic sites, national monuments, and wild and scenic rivers)	18,810	b/ 1,346	20,156
Fish and wildlife	12,237	28	12,265
Endangered species	(c)	(c)	(c)
Bureau primitive and natural areas	35	240	275
Bureau "no leasing" areas	d/ 137	d/ 3,767	d/ 3,904
National forest:			
Wilderness		d/ 851	d/ 851
Special uses		e/ 2,330	e/ 2,330
Wild and scenic rivers (excludes Park Service)	342	-	342
TVA-DOE	1,997 (DOE)	988 (TVA)	2,985
Naval petroleum and oil shale reserves	202	-	202
Other agencies' programs	d/ 720	d/ 22	d/ 742
Total	48,108	15,978	64,086

a/Lower 48 States only. These lands could also be closed to other leasable minerals.

b/Excludes about 200,000 acres of proposed closings at Lake Mead National Recreation area in Nevada.

c/NA--not available

d/GAO review States only.

e/Extrapolated using last available data (1976) which shows 1.4 percent of Forest Service lands.

As of February 1980, there were new withdrawal applications pending on an additional 4.3 million acres of Bureau land. As discussed earlier, these applications will not lead to closing lands to mineral leasing since actions taken under the discretionary public land laws will not be made through the Bureau's formal withdrawal process. However, management decisions could be made by Interior to prohibit oil and gas leasing on some or all of these lands.

LEASABLE LANDS RESTRICTED FROM OIL AND GAS DEVELOPMENT

Surface-managing agencies may prescribe conditions on use of the land by a lessee to protect the lands or the agencies' programs. These conditions take the form of stipulations to an oil and gas lease. By regulation (43 CFR 3109), offerors must consent to stipulations imposed by a surface-managing agency or relinquish their applications. This position has been upheld in several Interior Board of Land Appeals (IBLA) decisions. 1/ Industry has long argued that surface stipulations can severely restrict or even prevent exploration or development of an oil and gas lease. The most objectionable stipulations have been roadless area or wilderness protection stipulations and "no surface occupancy" stipulations. These stipulations often require operators to use directional drilling, special reclamation techniques, or special vehicles and helicopters to protect surface resources, all of which can add substantially and sometimes prohibitively to the costs of operations. However, many oil and gas operators we interviewed prefer to have a lease issued with a stipulation rather than having an area closed to leasing.

Since the application of stipulations is at the surface agency's discretion or even at the applicant's request, its use and severity varies by State. Agencies in some regions, for example, will lease special use areas with "no surface occupancy" stipulations, but in other regions the same type of areas might be withdrawn from leasing. Because of the wide variation in the use of stipulations, we have not been able to estimate their extent nationwide. We also could not determine the exact acreage affected by these stipulations because stipulations can affect either a part of a lease, or an entire one.

1/See 30 IBLA 220, 31 IBLA 69, 42 IBLA 40.

WILDERNESS PROGRAM TO PRECLUDE OIL AND GAS DEVELOPMENT

The principle behind establishing a National Wilderness System was to preserve the natural conditions prevailing in certain undeveloped lands. Uses that were incompatible with wilderness preservation were to be phased out over a reasonable period of time. Thus, lands are open to oil and gas leasing until 1984, subject to reasonable stipulations. Then, under provisions of the Wilderness Act, the minerals in lands the Congress designates as wilderness (subject to valid existing rights) will be withdrawn from further leasing under the mineral leasing laws (16 U.S.C. 1133(d)(3)). 1/

We found that management of potential wilderness areas is being treated differently by Service and the Bureau.

Forest Service

As of August 1980, the Forest Service was administering about 17.6 million acres in the National Wilderness Preservation System. In 1979 the Service completed its review of approximately 62 million acres of roadless areas and the President recommended to the Congress that 15.4 million additional acres be designated as wilderness areas. Another 10.8 million acres are undergoing further study. Many of the bills proposed to establish new wilderness areas would have made the lands subject to the same December 31, 1983, minerals leasing deadline as existing wilderness. Only one proposal in the last Congress (S. 2741), for Colorado, directly provided for access to wilderness lands for mineral exploration, development, and production beyond 1983.

Whereas the Wilderness Act of 1964 originally allowed a 20-year period for phaseout of new mineral activity, recently proposed wilderness areas having the 1983 deadline would rapidly shut down the lands for new mineral exploration. If the Service had completed both roadless review programs within a reasonable period, the mineral industry might still have had a reasonable period to explore and develop potential mineral areas before the Congress finalized wilderness legislation.

1/The Congress may extend the time allowed for oil and gas leasing in specific wilderness legislation.

Although official Service policy during RARE II was to continue to allow leasing and permitting, leasing recommendations were often withheld by field staff. Because personnel were assigned to RARE II work over normal operations, a temporary "de facto" moratorium occurred on approving oil and gas activities. Service headquarters finally directed the regions to expedite leasing decisions in October 1979. We determined that most States were making an effort to eliminate leasing backlogs. However, lands in Nevada were still closed to oil and gas leasing because of their potential for wilderness. In effect, actions on the part of the Service field staff shortened the period the Congress intended mineral activity to continue during wilderness review.

Bureau of Land Management

The Bureau has jurisdiction over 55 primitive and natural areas. FLPMA (section 603) directed Interior to study these areas for their potential wilderness value and report to the President by July 1980 (43 U.S.C. 1781). The report by the Secretary of the Interior to the President makes final recommendations only for 18 of the 55 areas since contiguous lands to the remaining 37 areas are subject to a larger wilderness study.

FLPMA also directed this larger Bureau-wide review for all roadless islands and roadless areas of 5,000 acres or more. The deadline for this review is 1991, when the Secretary of the Interior must report to the President on the suitability or unsuitability of these lands for wilderness preservation.

Under FLPMA the President will recommend to the Congress the areas of the Bureau land which he believes should be added to the Wilderness System. The Bureau's review is similar to the Forest Service's RARE programs except that the Bureau is using a phased-study approach. These phases--inventory, study, and reporting to the Congress--apply to most public lands administered by the Bureau.

As of November 1980, the Bureau had inventoried 174 million acres and proposed that about 23.8 million acres of the inventoried lands be intensively studied for wilderness characteristics. These lands were subject to the Interior's "Interim Management Policy and Guidelines for Lands under Wilderness Review" (IMP). The IMP takes as its congressional mandate section 603(c) of FLPMA, which among other directives tells the Secretary of the Interior to manage lands under review "in a manner so as not to impair the suitability of

such areas for preservation as wilderness***." The IMP is based on the so-called "nonimpairment mandate" and restricts lands from the mineral uses permitted in the Wilderness Act of 1964 because Interior believes the impacts of mining and mineral development would damage an area's wilderness characteristics. The Department believes that FLPMA and not the Wilderness Act governs what activities are permissible during wilderness review.

As a result, the IMP applies more restrictive standards to lands under consideration for wilderness than to actual wilderness areas governed by the Wilderness Act. The Department of the Interior has interpreted FLPMA to mean that oil and gas exploration, and drilling and production activities can only be guaranteed during the study period if physical impacts occurred on the leased lands prior to October 21, 1976. 1/ Lands leased after that date and subject to wilderness review may not be drilled while being studied for wilderness. Drilled lands may not be producible during the study period because necessary construction, pipelines and transportation equipment would be considered harmful to potential wilderness. 2/

The result of Interior's interpretation does not appear consistent with the special concern for minerals that the Congress demonstrated in the Wilderness Act of 1964. For example, to minimize "locking up" minerals in the wilderness system, the original act keeps Forest Service wilderness lands open to mineral development until 1984, 20 years after the enactment of the wilderness law. In connection with subsequent additions to the system, mineral lands often resulted in extended debate and eventual compromises on the time allowed for development.

An alternative interpretation of FLPMA advanced by some as more consistent with longtime congressional concern follows. The Secretary of the Interior is to manage wilderness study areas in a manner so as not to impair their suitability for

---

1/The date FLPMA was signed by the President.

2/A recent Wyoming District Court decision vacated and set aside Interior's IMP, thus putting the Bureau's wilderness review program into a state of uncertainty (see ch. 7 for further discussion).

preservation as wilderness. However, he is to permit continuance of mineral development as before, even though this continuance might mean impairment of the lands' suitability for preservation as wilderness. But (in order to minimize impairment) he can regulate (not prohibit) mineral development to prevent "unnecessary and undue degradation" of Federal lands.

DEFENSE DISPUTES NEED TO COMPLY WITH FLPMA WITHDRAWAL PROVISIONS

As an indication of congressional concern over closing prospective mineral areas to development, FLPMA places great emphasis on consideration of the resource values and alternative uses of land, with particular reference to minerals, prior to a withdrawal action. For withdrawals of 5,000 acres or more, FLPMA requires detailed reports--including information on public hearings and environmental and mineral analyses--to the Congress after the Secretary of the Interior makes a withdrawal (43 U.S.C. 1714(c) and (d)). It also calls for a review of existing withdrawals in 11 western States by 1991 (43 U.S.C. 1714(l)). This withdrawal review is currently being done by the Bureau of Land Management. On a continuing basis, withdrawals will be subject to review (43 U.S.C. 1714(f)). Thus, any past actions which may have closed lands to mineral leasing could be changed. The Secretary of the Interior or other designated official in a separate decision would then determine administratively whether a prohibition on leasing should continue.

A dispute has arisen between the Department of Defense and the Department of the Interior as to whether FLPMA's new withdrawal application procedures apply to the military. Under the Engle Act (43 U.S.C. 154-158), Defense withdrawals over 5,000 acres can be established only by act of the Congress. The procedures for a withdrawal application established by that act are less detailed than FLPMA's provisions. Specifically at issue is FLPMA's requirement for a minerals report

> "prepared by a qualified mining engineer, engineering geologist or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands." (43 U.S.C. 1714(e)(2)(12))

Defense officials argue that FLPMA does not apply to congressional withdrawals. Therefore, the Engle Act provisions would have priority for the military. Basically Defense objects to the expense of providing FLPMA mineral assessments and fears that such assessments might lead to pressures to develop energy resources on military lands.

The Bureau proposed regulations in December 1979 to set out procedures by which Interior would process withdrawal applications. 1/ This rulemaking was "also intended to implement the authority of Interior to process certain military withdrawal applications" under the Engle Act. There is nothing specifically in the Engle Act which addresses the Department of the Interior's role towards Department of Defense withdrawals. The only discussion of this role is in the act's legislative history. The Senate Report, for example, states that Defense agencies would continue to use existing procedures of filing withdrawal applications with the Bureau. It also notes that Interior would develop proposed legislation for transmittal to the Congress. 2/

The Interior solicitor's opinions concur that "the information requirements of FLPMA, section 204(c)(2), do not, as a general rule, apply to DOD military defense withdrawals." However, the Bureau indicates that it will attempt to ask for more information under broader regulatory authority in new regulations. The authority cited thus far by Interior may not be adequate to require Defense to provide more information on its proposed withdrawals since the decision power for most military withdrawals rests with the Congress and not with Interior.

Pre-Engle Act executive withdrawals for military use are subject to the FLPMA review and not subject to this dispute. An informal agreement had been discussed for Interior to do the minerals reports for 11 large post-Engle Act withdrawals which Defense wishes to renew. However, Interior has not finalized this arrangement. No agreement has been reached on any future Defense withdrawals as well.

1/44 Fed. Reg. 69863, Dec. 4, 1979.

2/Senate Committee on Interior and Insular Affairs, Report No. 857, Aug. 13, 1957.

Some military reservations have already expired because the Bureau's review of Defense's applications for their renewals has not been completed. Environmental impact statements are in process for a number of these proposed withdrawal extensions. In the interim, the military has been continuing its occupancy of the lands. Interior recognizes that Defense's occupation may be without specific authority. Interior does not feel that any useful purpose would be served in attempting to eject the military from the lands while steps are being taken to resolve the question of continued occupancy and reservation of the land.

FEDERAL POLICY AND PRACTICE AFFECT ACCESS TO NON-FEDERAL LANDS

Fgderal policies and actions in some cases have adverse effects on opportunities for oil and gas development on State and private lands, especially since Federal lands are in many places intermingled with State and private lands. If the Federal land is not leased or leasing is delayed, the assembly of units attractive to companies for exploration and development may be hindered.

In some situations, State or private land cannot be explored and developed because access to the non-Federal land is possible only through Federal lands and the Federal agency refuses to grant the needed right-of-way. Rights-of-way through national parks, Fish and Wildlife refuges, and wilderness areas are particularly difficult to obtain. For example, Interior sought court action to restrain a mining company trying to develop a mineral lease on Utah State land which was surrounded by Federal land under wilderness study. 1/ The company had begun to construct roads to gain access in wilderness study areas for exploratory drilling on the State lands. The court ruled that while the Federal Government may regulate the crossing of Federal property, it may not prohibit access to the State's land. For protection of wilderness, therefore, the court believed Interior could prescribe to the company the mode of access and the location of access roads it needed on Federal property, so long as these regulations did not deprive the company of access to its mineral claims or "render the land incapable of full economic development."

1/ State of Utah v. Andrus, 486 F. Supp. 995 (1979). The State lands in this case had originally been granted to Utah by the Federal Government.

In other situations, oil and gas exploration and development on the actual State and private land can be stymied. For example, the Federal Government condemned vast areas of the West for military purposes during World War II. The State of New Mexico leased to the Air Force about 300,000 acres intermingled with Federal lands within the White Sands Missile Range during that period. The Range is closed to the public and to mineral leasing because the military has reserved it for "exclusive military use." Although the State lands are potentially valuable for oil and gas development, they are not open to exploration or development activities. The Federal and State Governments have been unable to work out exchange agreements for this land. According to State officials, the Secretary of the Interior has not reacted favorably to exchanges of land for agencies other than Interior itself. Instead, about 10,000 acres of the State's lands and minerals have been purchased by the Government through lengthy condemnation proceedings. However, the State feels that some development of the minerals on its lands--either through shared use with the military or a temporary exploration period--would allow geologists to predict what the value of the condemned minerals might be.

CHAPTER 4

MANY PROSPECTIVELY VALUABLE FEDERAL OIL AND GAS LANDS ARE WITHDRAWN OR RESTRICTED FROM EXPLORATION AND DEVELOPMENT

Industry has long argued that Federal lands are continually being closed to future oil and gas development. While this criticism may be valid, a more important concern is whether the Federal Government has closed lands with some likelihood of containing oil and gas.

In our review, we attempted to identify Federal lands in the States of Colorado, Mississippi, Nevada, New Mexico, and Wyoming which have been closed to oil and gas leasing but have some potential for oil and gas development. Of the 20 million acres we identified as closed to oil and gas leasing, at least 11 million acres are considered prospectively valuable for oil and gas. Another 16.5 million acres in our review States could be affected by wilderness programs. At least 8.5 million of these lands have some likelihood of containing oil and gas. However, because some withdrawals were small or could not be located from the data available to us, we have not always been able to completely identify the prospective value of the withdrawn lands.

PROSPECTIVELY VALUABLE OIL AND GAS LANDS

Our analysis concentrates on leasing withdrawals for lands which the Geological Survey has identified as prospectively valuable for oil and gas. The Survey defines prospectively valuable oil and gas lands as "areas of Federal lands where geologic conditions offer some possibility for the occurrence of oil and gas, even if the presence of

hydrocarbons has not been established." 1/ This designation does not guarantee that all the lands have potential for production. Some of these lands may, in fact, have little or no value. It is recognized that these estimates have serious limitations. Without drilling, the Survey cannot prove that resources exist. However, lands designated by the Survey as prospectively valuable are the best indication we could find of where future onshore oil and gas might be found.

The following table (table 6) shows the Survey's estimates of prospectively valuable oil and gas lands. These lands account for the major part of the Federal lands in Utah, Colorado, Wyoming, and eastern States like Louisiana, Mississippi, Ohio, and Tennessee. As of July 1, 1980, there were 261 million acres of prospectively valuable Federal land in the lower 48 States.

1/The basic criteria used by the Survey to delineate prospectively valuable oil and gas lands include: A section of sedimentary rocks either marine or nonmarine, 1,000 feet or more in thickness; the sedimentary rocks strata have not been metamorphosed to the extent that any oil or gas has been driven off; the sediments have not been intruded by igneous rocks to the extent that there are no prospects for oil and gas.

TABLE 6

Lands Prospectively Valuable for Oil and Gas
(as of July 1, 1980)
(acres)

State a/	Federal land	Federal prospectively valuable oil and gas lands
Alabama	1,122,288	877,385
Arizona	32,014,276	12,498,848
Arkansas	3,358,291	3,042,675
California	46,702,125	17,022,651
Colorado	23,607,947	20,950,445
Delaware	40,852	38,150
Florida	4,040,945	3,710,362
Georgia	2,277,361	1,217,382
Idaho	33,759,572	14,575,189
Illinois	606,597	460,923
Indiana	496,648	455,501
Iowa	227,448	125,948
Kansas	733,015	684,536
Kentucky	1,414,351	1,370,198
Louisiana	1,098,595	1,149,025
Maryland	203,010	126,013
Michigan	3,467,376	2,556,198
Mississippi	1,730,568	1,649,164
Missouri	2,195,583	1,952,072
Montana	27,740,572	19,219,719
Nebraska	712,173	691,954
Nevada	60,506,114	38,073,529
New Jersey	151,530	53,896
New Mexico	25,873,745	21,793,224
New York	245,915	153,594
North Carolina	2,050,852	485,882
North Dakota	2,386,385	2,106,618
Ohio	345,309	316,585
Oklahoma	1,589,953	1,485,055
Oregon	32,313,688	18,680,388
Pennsylvania	732,565	435,325
South Carolina	1,176,390	436,128
South Dakota	3,492,309	3,158,026
Tennessee	1,853,936	1,700,498
Texas	3,408,655	1,459,356
Utah	33,529,967	33,045,897
Virginia	2,409,748	688,131
Washington	12,472,704	6,293,011
West Virginia	1,097,058	1,004,993
Wyoming	30,329,556	25,202 221
Total	403,515,972	260,946,695

a/Table does not include those lower 48 States in which no Federal lands are prospectively valuable for oil and gas.

Source: U.S. Geological Survey and General Services Administration.

OUR DEFINITION OF WITHDRAWALS

Withdrawal, for the purposes of our analysis, means withholding an area of Federal land from the operation of the mineral leasing laws. 1/ We have defined three types of withdrawals: (1) formal withdrawals--"no leasing" areas formally established by act of the Congress, executive or public land order, or regulation, (2) administrative withdrawals--"no leasing" areas established informally by administrative decision on the part of an agency official, and (3) leasable lands where oil and gas activities are severely restricted by stipulation. 2/

During our review we also found that another form of withdrawal exists. As discussed on p. 61, the Bureau of Land Management has withheld land from re-leasing through the simultaneous system.

FORMAL WITHDRAWALS WITH OIL AND GAS POTENTIAL

In the States sampled, we found that 14.2 million acres had been formally withdrawn from oil and gas leasing. Of these, 7.8 million acres, or 55 percent, are considered to be prospectively valuable for oil and gas. Most of these withdrawals had no termination dates. Nevada, the State with the largest Federal acreage in our review, had the most acreage both formally withdrawn and with potential. New Mexico, with 3.8 million acres withdrawn, was the second largest State. Mississippi, with its small Federal acreage had the fewest acres closed to oil and gas leasing. The Geological Survey considers all lands in Mississippi to be prospectively valuable for oil and gas. (See table 7).

1/This means that lands could be closed not only to oil and gas but also to coal, oil shale, phosphate, sodium, potassium, and bitumen development. In this report we are concerned only with the impact of withdrawals on oil and gas development.

2/A stipulation was considered severely restrictive if it was for wilderness protection or would prohibit surface occupancy on some or all of a lease for at least 6 months each year.

TABLE 7

Federal Land Formally Closed to Oil and Gas Leasing in GAO Review States
(acres)

State	Formally withdrawn lands	Withdrawn lands with oil and gas potential
Colorado	746,000	268,000
Mississippi	91,000	91,000
Nevada	6,925,000	3,960,000
New Mexico	3,802,800	2,957,000
Wyoming	2,625,000	539,000
Total	14,189,000	7,815,000

Many agencies were responsible for closing these lands to oil and gas leasing. The Department of Defense and the Fish and Wildlife Service controlled the most withdrawn lands considered to have oil and gas potential. Appendix VI shows potential oil and gas lands withdrawn by agency for each review State.

Department of Defense

About 4.7 million acres of Defense-controlled public domain lands formally withdrawn for military reservations in the review States have been identified as prospectively valuable for oil and gas. (See table 8). Most of this land is the Nellis Air Force Base in Nevada and White Sands Missile Range in New Mexico. McGregor Range in New Mexico is also considered prospectively valuable. All the Defense withdrawals in Wyoming, primarily small Army and Air Force bases, have oil and gas potential.

Most Defense withdrawals in the West were created by Executive order prior to the passage of the Engle Act. Almost all of these withdrawals have no termination dates. They are not subject to Interior's dispute with Defense

discussed in chapter 3. 1/ They will be subject to FLPMA's withdrawal review to evaluate their minerals potential and determine whether the military's use of the land should continue. However, no priorities have been established to evaluate Defense's or any other agency's lands during the Bureau's review.

There are some Defense withdrawals which we were unable to quantify due to records problems. For example, the Corps of Engineers has withdrawn from leasing civil lands (1) subject to reconveyance, (2) within 2,000 feet of major structures, and (3) on which oil and gas activity would interfere with the purposes of a Corps project. However, Corps official were unable to provide us with the amount of withdrawn acres because the Corps keeps no inventory of such areas and will notify the Bureau whether lands are available for leasing only after an actual application is filed for such lands.

Some military withdrawals in Mississippi, were also unidentifiable. We determined that some Federal lands, particularly islands in the Gulf of Mexico and the Mississippi River, were withdrawn for military and navigational purposes in the late 1800s. Many of these islands have been made part of the National Park Service's Gulf Island National Seashore. Those in the Mississippi River itself remain withdrawn, but in many cases have never been surveyed. It was impossible for us to estimate how much land is involved and whether these lands would now be claimed by the States of Mississippi, Arkansas, or Louisiana rather than the U.S. Government.

Fish And Wildlife refuges

A total of 1.5 million acres of Fish and Wildlife refuges closed by regulation involve prospectively valuable oil and gas lands. (See table 8.) The bulk of these lands are again in Nevada. However, each of our sample States showed Fish and Wildlife refuges with oil and gas potential--23,000 acre in Colorado, 79,000 in Mississippi, 262,000 in New Mexico, and 3,000 in Wyoming. 2/

1/Nellis Air Force Base and McGregor Range are subject to the Defense and Interior dispute because the withdrawals for these expired and are subject to renewal.

2/Some wildlife lands in Wyoming were not completely evaluated for oil and gas potential.

The only exception to the leasing prohibition on wildlife refuge lands is where oil and gas is being or would be drained from the lands. The Fish and Wildlife Service can then allow the Bureau of Land Management to put the drainage area up for competitive bid in order to protect U.S. interests. Leases and other operations would be subject to the approval of Fish and Wildlife and to any of its conditions for protection of the lands. According to Fish and Wildlife Service officials, drainage sales have been made in North Dakota and Oklahoma. No protective leasing has taken place in any of our sample States.

National Park Service

As discussed in chapter 2, national parks and monuments are closed to mineral leasing by the mineral leasing acts. However, where Federal oil or gas is being drained from beneath a park, protective leasing is allowed, as in wildlife refuges. In addition, some units of the national park system (other than parks and monuments) are open to leasing because the unit's enabling legislation allows it. At least seven national recreation areas in the West fall into this category.

For our sample States, we found that about 3.4 million acres managed by the National Park Service are closed to oil and gas leasing. Only 741,000 acres, however, were identified as having oil and gas potential. (See table 8.) A large portion of these lands are in Wyoming, where 370,000 acres of Yellowstone and Grand Teton National Parks were identified as prospectively valuable for oil and gas.

Nevada was the only State in our sample where some National Park Service lands, namely the Lake Mead National Recreation Area, were open by law to mineral leasing. The Lake Mead Area, approximately 1.48 million acres in Nevada and Arizona, was established in 1964. Much of this Federal land, however, has been or is proposed to be administratively withdrawn from leasing and development. (See p. 53.) Much of the Lake Mead Area is believed to border or lie in the same geologic trend as the Overthrust Belt.

Approximately 2,809 acres of National Park Service lands on the Natchez Trace Parkway in Mississippi are leased. In 1951 the Department of the Interior decided to open the parkway to oil and gas leasing, subject to a restriction requiring directional drilling. This stipulation, while prohibiting surface structures or drilling on the parkway lands, allows

the lessor to drill for oil and gas within the parkway from lands adjacent to it. Interior believed that providing such access, rather than prohibiting leasing, would "protect the interests of the United States in the event oil is drained from underneath the parkway and scenic easement lands."

Forest Service

None of the formally withdrawn Forest Service lands in our sample were identified as prospectively valuable for oil and gas. About 64,000 acres have been formally withdrawn--15,000 in Colorado, 44,000 in New Mexico, and 5,000 in Wyoming. (See table 8.) The Colorado withdrawals are municipal water supply reserves. The New Mexico areas are Service ranger stations, administrative sites, and one "wilderness" area established in 1953. The Wyoming withdrawals are for service ranger stations and date as far back as 1906.

Bureau of Land Management

Bureau lands have been formally closed to leasing, primarily by public land orders, in three of our review States--72,000 acres in Nevada, 33,000 acres in New Mexico, and 32,000 acres in Wyoming.

All of the Nevada acreage has been identified as prospectively valuable for oil and gas. The lands are part of a Pickett Act withdrawal originally proposed as a National Park Service unit which became the Lake Mead National Recreation Area. The Park Service now controls about 80 percent of the original 480,000-acre withdrawal. The remaining acreage remains closed under Bureau control outside the recreation area. The Nevada Bureau plans to revoke this withdrawal order since it duplicates the existing Park Service withdrawal.

In New Mexico, the Bureau has withdrawn lands from leasing for a variety of reasons: natural areas, a watershed project, a college research project and some Bureau lands in the vicinity of the White Sands Missile Range. About 12,000 acres, which the Bureau obtained through land exchanges, have also been closed to mineral leasing. The New Mexico Bureau had not yet opened these lands to entry by an opening order.

About 25,486 acres of the Bureau's withdrawn lands in Wyoming are the 1-mile protective area surrounding the naval petroleum reserve. While these lands have oil and gas potential, they have been closed to leasing by regulation

(43 C.F.R. 3101.1) to protect the reserve from drainage. At least 4,000 additional acres of Bureau withdrawals have been identified as prospectively valuable for oil and gas. Some of these lands were small tracts sold under the Public Land Sale Act of 1964. The minerals in these lands were reserved to the United States and withdrawn by the act from appropriation under the mineral laws.

Department of Energy

The Department of Energy has about 930,000 acres of formally withdrawn lands in the five States of our review. (See table 8.) Nevada again had the largest share of these withdrawals, with about 815,000 acres closed to oil and gas leasing. These lands are former Atomic Energy Commission lands used for nuclear research and testing. About 652,000 acres are considered to be prospectively valuable for oil and gas.

In Colorado and Wyoming the Department of Energy withdrawals of about 64,000 acres are known oil and gas repositories, namely the Naval Oil Shale Reserves (Nos. 1 and 3) and the Naval Petroleum Reserve (No. 3). 1/ These reserves, which are not subject to the mineral leasing acts, are operated under contract with private companies. During fiscal year 1979, oil production from the Wyoming Naval Petroleum Reserve totaled 1.5 million barrels.

In New Mexico, about 51,000 acres administered by Energy have been closed to oil and gas leasing. Most of these lands are nuclear research and testing areas in Los Alamos and Alamagordo. Energy has also applied for about 19,000 acres for a proposed nuclear waste plant withdrawal. This Waste Isolation Pilot Plant will be closed to mineral leasing and has been closed since the withdrawal was applied for in 1976. Energy failed to provide an environmental report during this time. As a result, the Bureau did not complete processing two applications which expired in 1978 and November 1980, respectively. Energy has resubmitted a new application for only 9,000 acres of the original proposal. An understanding with the Bureau, however, is that none of the remaining 10,000 acres will be leased until the facility is finally approved.

1/The Department of Energy Organization Act transferred these reserves from the Department of the Navy to Energy in 1977.

Other agencies

Approximately 17,000 acres have been withdrawn from oil and gas leasing for other Federal agencies in Colorado and New Mexico. In Colorado, the Agricultural Research Service of the Department of Agriculture has about 14,500 acres for an experimental range closed to leasing. All of this area is considered to be prospectively valuable for oil and gas. Small withdrawals have also been made for the General Services Administration and Veterans Administration.

In New Mexico, the Department of State has several withdrawn tracts totaling 880 acres for the Rio Grande Canalization Project. The Bureau of Indian Affairs administers another 919 acres closed to mineral leasing in New Mexico for schools.

Table 8

GAO Review States Prospectively Valuable Oil and Gas Lands Withdrawn From Oil and Gas Leasing (in thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS (note a)	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	b/ 137	64	3,361	b/ 6,231	b/ 930	b/ 2,746	703	17	14,189
With oil and gas potential	102	0	741	4,661	717	1,468	112	14	7,815
Administrative withdrawals (agency administrative decision)	b/ 3,767	b/ 1,519	490	215	0	b/ 7	5	17	6,020
With oil and gas potential	1,836	1,067	196	177	0	(c)	0	17	3,293
Total withdrawn with oil and gas potential	1,938	1,067	937	4,838	717	1,468	112	31	11,108

a/Interior's Water and Power Resources Service.

b/Not Completely Evaluated for Oil and Gas Potential.

c/NA-Not available.

ADMINISTRATIVE WITHDRAWALS WITH OIL AND GAS POTENTIAL

Except for Mississippi, each of our sample States had large areas closed to leasing through agencies' administrative decisions. We were unable to completely identify all SMAs' "no leasing" areas because neither SMAs nor some Bureau of Land Management State offices have records with which to readily identify these areas. In some States SMA decisions are made on a case-by-case basis and no complete inventory of closed areas exists. In Colorado, for example, we were only able to evaluate one Resource Area's 1/ environmental assessment to get some indication of the acreage and reasons lands are closed. Other Resource Areas in the State did not have such specific data.

We identified at least 6 million acres which have been closed administratively. (See table 9.) Nevada again had the largest area with oil and gas potential closed administratively. (See app. VI.)

TABLE 9

Federal Lands Closed Administratively to Oil and Gas Leasing in GAO Review States

State	Administratively withdrawn lands	Withdrawn lands with oil and gas potential
Colorado	362,000	158,000
Mississippi	29,000	29,000
Nevada	4,745,000	2,598,000
New Mexico	84,300	(a)
Wyoming	800,000	508,000
Total	6,020,000	3,293,000

a/NA--not available

1/A Resource Area is an administrative unit within a Bureau district.

The Bureau was responsible for closing the largest areas of Federal land administratively. Of the 6 million acres we identified as administratively withdrawn, 3.8 million had been closed by the Bureau.

Bureau of Land Management

Of the 3.8 million acres closed by the Bureau in our review States, 1.8 million acres or 49 percent, has potential for oil and gas development. (See table 8.) These lands were located in Colorado, Nevada, and Wyoming. 1/

The Nevada State Office has a statewide environmental assessments that describe closed areas in each township. This system was the most complete of any Bureau office we visited. In Nevada we found that 3.4 million acres had been administratively closed to oil and gas leasing, 1.78 million of which contained prospectively valuable oil and gas lands. The Bureau had closed these lands for a variety of reasons: 259,000 acres for their recreational value, 1 million acres for their ecological value, 138,000 acres for their scenic value, etc. A large portion of the 3.8 million acres is ' pending further environmental study.

According to the Bureau, any prohibition of leasing must be based on a reasoned analysis supporting the contention that the land requires special protection. This does not apparently occur in all cases. We identified a number of situations in Nevada in which either the Bureau's State office requested additional work from the Bureau districts because the environmental assessment was judged inadequate, or the Interior's Board of Land Appeals sent a rejected and appealed application back for analysis after finding the Bureau's position unsupported. We were unable to determine the extent to which "no leasing" decisions in other States may be used in a manner unsupported by environmental assessments.

In the Colorado Grand Junction Resource Area (the only data for Colorado available to us), the Bureau has closed about 150,000 acres. Most of these areas are under study as

---

1/About 313,000 acres in Colorado, New Mexico, and Wyoming could not be evaluated for oil and gas potential because we did not have legal descriptions from which to map the withdrawals.

wildlands, designated wild horse ranges, or potential national historic sites. Another 15,000 acres elsewhere in Colorado were closed for watershed protection.

In New Mexico, about 80,700 acres have been closed to oil and gas leasing at the request of Bureau district managers. The largest of these areas were wildlife areas, special use areas, potash areas, and botanical and ecological study areas.

The Wyoming Bureau office has been inventorying "no leasing" areas in the State since 1976. At that time, Bureau officials determined that "oil and gas lease offers were being rejected without proper consideration of minerals policy and without any common direction from the State office." About 799,000 acres were identified as areas where the Bureau was not accepting lease offers. By April 1980, the Wyoming Bureau office had reduced these areas to 115,000 acres. The Wyoming State office is now requiring that the Districts provide adequate justification for the areas they have administratively closed to leasing. Any future "no lease" decisions must consider an evaluation of the area's oil and gas resources.

Like Nevada, the Wyoming lands had been closed for a variety of reasons: scenic and recreational values; bighorn sheep, elk, and deer habitats; shallow soils, etc. We determined that at least 48,000 acres of the remaining 115,000 acres of "no leasing" areas contain prospectively valuable oil and gas lands.

Forest Service

The Forest Service had administratively closed the second largest areas in the States we reviewed. Approximately 1.5 million acres in Nevada, New Mexico, and Wyoming have been identified as "no leasing" areas. Over 1 million acres were identified as prospectively valuable for oil and gas. (See table 8.)

In Nevada, 837,000 acres had been closed by the Service, primarily for wilderness areas. District Service staff informed us that no leasing was allowed in the RARE II potential wilderness areas of Toiyabe and Humboldt National Forests (810,000 acres). About 75 percent of the Service's administrative withdrawals have potential for oil and gas. Another 27,000 acres had been closed for their ecological value including the Lake Tahoe study area and two natural areas.

In New Mexico, about 3,200 acres in the Mt. Taylor Roadless Area have been closed to leasing since 1974, at the Service's request. This area was recommended for nonwilderness after the RARE II process, but remains closed under this earlier request.

The Service lands closed in Wyoming have been a continuing source of controversy. In 1947, Secretary of the Interior J. A. Krug wrote a letter directing the Bureau of Land Management and the Geological Survey that lands north of the 11th standard parallel in Wyoming would continue to be "temporarily withheld from leasing under the oil and gas provisions of the Mineral Leasing Act." These lands are within the Teton National Forest. Exceptions would only be made for lands outside Jackson Hole National Monument and the Teton Wilderness which were necessary "to establish or complete a logical unit area." The Bureau and the Survey have consistently interpreted this language to mean that operators must need the lands for an approved drilling unit before they can be leased. The area closed by Secretary Krug's action is approximately 633,000 acres in size. We estimate that about 460,000 acres are prospectively valuable for oil and gas.

Many applicants have attempted to lease these lands since 1947. IBLA has upheld the Bureau's interpretation and ordered that applications be rejected until Secretary Krug's order is revised or revoked. Currently, Interior has agreed to reconsider Secretary Krug's decision. Interior's review will consider both historical material on the intent of the withdrawal and updated resource potential data from the Park Service, the Survey, Fish and Wildlife, and the Forest Service. Then the Secretary of the Interior will determine if resource uses in the area justify a continuation of the withdrawal. No decision is anticipated until Spring of 1981.

About 46,000 additional acres in Wyoming have been closed by the Forest Service, based on multiple-use land plans. The Wyoming Bureau office has maintained a file of lease offers to which the Service has objected. In many cases, no record was kept of why the Service refused to lease. Where records were available, we found the Service had recommended against leasing in bighorn sheep ranges, wilderness, water influence zones, etc. Many of these areas had been previously leased, but the Service objected to reoffering the lands.

National Park Service

The only review State where National Park Service lands had been administratively closed to leasing was Nevada, primarily in the Lake Mead National Recreation Area. As mentioned earlier, Lake Mead by law is subject to oil and gas leasing. However, Park Service officials have administratively closed 385,000 acres (223,000 in Nevada) to leasing for management areas and corridor roads, and for protection of springs, the lake's surface, and border areas surrounding the lake. We estimate that proposed administrative closings at Lake Mead for Nevada alone will eventually total 432,000 acres. Lake Mead officials believe that these additional areas need to be formally listed as "no leasing" to ease the burden of repeating site-specific assessments on lease offers the Park Service will not approve. About 196,000 acres in the Nevada section of the Lake Mead Recreation Area are prospectively valuable for oil and gas.

Another 58,000 acres have been closed at the Park Service's request for scenic areas around Wheeler Peak and Lehman Caves National Monuments in Nevada.

Department of Defense

Defense-acquired lands have also been closed administratively to leasing. The Secretary of the Interior in November 1979 declared a moratorium on leasing acquired military and naval lands pending study on how these lands should be leased. Controversy had arisen after the Bureau of Land Management's over-the-counter leasing of lands in Fort Chaffee, Arkansas, following passage of the Coal Leasing Amendments Act of 1975. (See ch. 2.)

The Secretary cancelled these leases as having been prematurely filed because regulations opening military-acquired lands to leasing were not in effect until September 21, 1978. The Secretary further stated that "the substantial acreage made available by the 1978 regulatory change, land never before leased, requires the Department to consider the fairest and most responsible method of leasing these important resources."

Interior officials have hoped that congressional passage of a proposed expansion of the competitive leasing system (S.1637) would allow these lands to be leased competitively. In the absence of such legislative changes, the Bureau's

simultaneous leasing regulations have been revised to provide for other lands not within a known geologic structure (e.g., acquired military and naval lands) to be leased through the lottery system. Thus, if the Secretary of the Interior lifts his moratorium, acquired military lands could be leased in this way. The Bureau is studying the issue of whether or not to open such lands to leasing and will soon be making recommendations to Interior.

Most Defense-acquired lands should be considered administratively withdrawn because few military commanders agree to allow leasing on their installations. Without their consent, the Secretary of Defense will generally not permit the Bureau to lease the lands. In some areas where Defense has refused to lease, such as Eglin Air Force Base in Florida, seismic or exploratory work has been permitted.

At the time of the Interior Secretary's moratorium, over 800 applications to lease acquired military lands had been filed at the Bureau's Eastern States Office. Ten of these were for installations in Mississippi. Military commanders have consented to only three of these applications--all on the same base. All 19,000 acres of Defense lands in Mississippi have oil and gas potential.

Colorado was another State where acquired military lands are closed. Of the 196,000 acres of acquired military land in Colorado, at least 158,000 acres are considered prospectively valuable for oil and gas. Much of this land is at the Fort Carson Army base.

Other agencies

Several other Federal agencies and one State agency in the five States we reviewed have closed lands administratively to oil and gas leasing. In some cases, the acreage could not be mapped and evaluated for its oil and gas potential. For example, the Fish and Wildlife Service administers about 7,000 acres in the review States as coordination lands. These are Federal lands cooperatively managed between Fish and Wildlife and the State game commissions. By regulation, these lands could be leased, but in practice little effort has been made by Fish and Wildlife and the Bureau to negotiate leasing arrangements with the States. Many of these areas are small and could not be readily evaluated for their oil and gas potential.

The Interior's Water and Power Resources Service has administratively closed about 5,000 acres in Nevada to protect water resources. These lands, however, have no known potential for oil and gas.

Another 7,000 acres in Nevada have been closed to oil and gas leasing by the Nevada Division of State Parks. The Federal Government owns the mineral rights to these lands, but prefers to lease only with the consent of the surface managing agency, Nevada State Parks. No explanation was given in the Bureau of Land Management's environmental assessment as to why the Nevada Division of State Parks has closed about 6,400 acres. The remaining 640 acres are a national historic site. All 7,000 acres have been identified as prospectively valuable for oil and gas.

In Mississippi, the Tennessee Valley Authority (TVA) has in effect closed to oil and gas leasing the 10,300 acres it manages. The TVA Board has withheld its consent to lease any TVA lands for oil and gas. (See table 5.) This is an agency decision which, according to the provisions of the Mineral Leasing Act for Acquired Lands, is sufficient to close these lands to oil and gas development (30 U.S.C. 352). Recently, however, TVA decided to make exceptions to this prohibition and consider on a case-by-case basis, lands which an operator may need to complete a drilling unit. If an applicant can prove that he needs a lease to meet State well-spacing requirements, for example, the Board may consider approving a lease. In no case, however, will TVA allow actual drilling to take place on its lands. All 10,300 acres under TVA's management are considered prospectively valuable for oil and gas.

Another provision of TVA's new policy is to require title work and environmental assessments for an approved lease to be done "at the applicant's expense." TVA's power program is self-supporting and TVA officials do not believe that Valley customers should have to pay for work done for oil companies, especially since TVA will allegedly not benefit from any oil or gas development.

LEASABLE LANDS WHERE OIL AND GAS DEVELOPMENT IS SEVERELY RESTRICTED

Although agencies are now leasing more lands than may have been available in the past, they are requiring lessees to accept special conditions on leases to ensure protection of surface resources. Each surface-managing agency has the authority and responsibility to limit the use of the land under its control to insure the land uses are consistent with the intent of the Congress. As a consequence, each agency with leaseable land has created a number of lease conditions

which they believe will ensure the land will be used consistently with their interpretation of the Congress' desires. Both the National Aeronautics and Space Administration (NASA) and the Forest Service, for example, require lessees to take special precautions in the use of explosives or the burning of rubbish or trash. The National Guard prohibits oil and gas activity during training seasons on land it uses. The National Guard also specifies that it will have no liability for any "unexploded and dangerous bombs, shell-rockets, mines and charges either upon or below the surface * * * " of a lease.

The following text from a common surface disturbance stipulation illustrates the restrictive character of such conditions. 1/

> "Surface occupancy on these lands for the purpose of oil and gas exploration or development is prohibited. The underlying oil and gas resources may be developed so long as no portion of the surface of the described lands are occupied or disturbed. The provisions of this stipulation may be modified only with mutual consent of the Lessee, Surface Management Agency, and Area Oil and Gas Supervisor."

We were unable to completely identify lands restricted by stipulations in some States because no central records containing such information exist. At least 998,000 acres in the States of Colorado, Nevada, and Wyoming are affected by various "no surface occupancy" restrictions. The manner in which the Bureau of Land Management offices approach environmental assessments reflects directly on the amount of land known to be unavailable for oil and gas development. States like Nevada which have completed statewide assessments show a significantly higher portion of the Federal land as closed. Nevada's statewide assessments are specific to each township and identify both "no leasing" areas and areas under special stipulations. Other States like Colorado which often perform assessments as lease applications are filed have so far identified fewer areas where leasing will be restricted. No master inventory is usually kept of such case-by-case decisions.

1/Such stipulation seek to distinguish between "casual" and other uses of the land. Casual use is defined as not ordinarily leading to any appreciable disturbance or damage to lands--for example, activities which do not involve use of heavy equipment or explosives (43 C.F.R. 3045.0-5).

Where records were available, we determined that 92,000 acres in Nevada were subject to surface occupancy stipulations which severely restricted use of the land. The Nevada Bureau uses 48 special stipulations to protect the surface of a lease. We determined 15 of these to be highly restrictive. Most of these stipulations were "no surface occupancy" for natural areas, wildlife areas, archaeological sites, and potential wilderness. (See table 10.)

In Wyoming, we also estimated surface occupancy stipulations for one Resource Area--Kemmerer, Wyoming. A critical winter range stipulation for big game restricts occupancy on leases from October 15 to May 15 (7 months) annually. This stipulation affects about 744,000 acres in the Kemmerer Resource Area. We determined that at least 345,000 acres subject to this restriction lie within the Overthrust Belt. Much of this same acreage is also subject to wilderness protection stipulations for Bureau of Land Management wilderness study areas.

In the Grand Junction Resource area, Colorado, 162,000 acres would be subject to "no surface occupancy" restrictions. Another 245,000 acres identified in the Grand Junction environmental assessment could be subject to "no surface occupancy" when drilled. These areas are deer, elk and falcon ranges where the Bureau determined road construction and the timing of drilling activities would have an adverse effect on the wildlife. These are the only cases we found where an operator would not be informed of possible surface use restrictions until an APD was filed.

Our data indicates that the practice of restricting surface use on a lease or drilling permit is likely to be widespread. Data and time constraints permitted us to evaluate only 2 Resource Areas out of 21 in the States of Colorado and Wyoming. However, these areas represent lands where industry is actively interested in oil and gas development. To the extent surface occupancy restrictions inhibit industry actions in these areas, oil and gas production will be, at a minimum, delayed.

Table 10

Leasable Lands Subject To "No Surface Occupancy" Stipulations
(acres)

State	On a lease	On an APD
Colorado (note a)	162,000	245,000
Nevada	92,000	-
Wyoming (note a)	744,060	-
Total	998,060	245,000

a/Data reflects only one Resource Area in the State. Total for the States would be greater since Colorado has 11 Resource Areas and Wyoming has 10.

For Mississippi, no acreage records of areas under restrictive stipulations exist. We therefore sampled leases to determine the extent of this practice in the East. We examined 749 leases issued between 1962 and 1979 on Forest Service lands. We found that 28 percent of the leases carried "no use or surface occupancy" restrictions. Most of these Forest Service stipulations were to protect the viewing areas of roads, floodplains of creeks, highly erosive soils, and fire tower areas, and nature centers. In all cases, lessees were authorized to employ directional drilling to exploit the mineral resources in such areas.

For Mississippi, these Service stipulations represented additional limits to the special stipulation carried by all Service leases in the State. The Mississippi Forest Supervisor developed a stipulation to put lessees on notice that should their lease contain any of the sensitive areas defined in the 1976 environmental assessment report for Mississippi forests, use of the lease surface would be restricted. This stipulation basically repeats information which is attached to all Service leases. Mississippi is the only eastern State in which this extra stipulation is used by the Service.

In addition, we identified nine leases issued by the Bureau of Land Management which contained special stipulations different from those requested by the Service. These restrictions were developed to be applied to "no surface occupancy" in the the floodplain of a small creek in western Mississippi, but the Bureau placed them erroneously on leases in eastern and southern Mississippi.

Wilderness areas severely restricted to oil and gas development

Oil and gas activity after leasing is likely to be restricted also in existing and prospective wilderness areas. In addition, for Forest Service wilderness areas, no new mineral leasing will be allowed after 1983. For Bureau of Land Management wilderness study areas, oil and gas activity is practically impossible unless an operator had been physically working on a lease prior to October 1976. (See ch. 3.)

For our five review States, about 16.5 million acres of wilderness area--existing, proposed, or under study--are subject to these types of restrictions. (See table 11.) We determined that at least 8.5 million acres are considered prospectively valuable for oil and gas. Wyoming had the largest percentage of wilderness land with oil and gas potential. Of the 581,000 acres the Bureau is studying for wilderness characteristics, 483,000 acres are considered prospectively valuable. Out of 3.4 million acres the Forest Service has recommended for wilderness in Wyoming, 1.3 million have oil and gas potential.

In Nevada 62 percent of the Bureau areas recommended for wilderness study are prospectively valuable for oil and gas. Over 5.2 million acres of Bureau land and another 810,000 acres of Forest Service land have been restricted for wilderness considerations. As discussed earlier, the Service wilderness areas have already been closed administratively to leasing by Nevada District staff.

TABLE 11

Leasable Lands Where Oil and Gas Development Is Restricted for Wilderness Considerations (acres)

State	Bureau wilderness		Service wilderness	
	Wilderness	Oil and gas potential	Wilderness	Oil and gas potential
Colorado	807,000	a/326,952	3,409,959	896,896
Mississippi	-	-	7,875	7,875
Nevada	5,223,000	a/3,242,033	b/-	-
New Mexico	1,033,000	a/875,043	2,012,086	1,408,932
Wyoming	581,000	483,062	3,434,137	1,282,316
Total	7,644,000	4,927,090	8,864,057	3,596,019

a/Excludes acres which could not be identified for potential.

b/This acreage has already been listed in administrative withdrawals because the Forest Service has actually denied leasing on these lands.

Over 3 million acres in New Mexico are existing, proposed, or study wilderness areas and 75 percent of these lands are considered to be prospectively valuable oil and gas lands. The Bureau's wilderness study areas have particular potential, with 875,000 acres out of 1,033,000 identified as prospectively valuable for oil and gas.

Colorado also has over 1 million acres recommended or under study for wilderness in prospectively valuable oil and gas areas, but this represents only about 28 percent of Colorado's lands under wilderness consideration. The Bureau had a higher proportion of potential land, with 327,000 prospective valuable acres out of 807,000 acres under study.

BUREAU IS WITHHOLDING LAND FROM THE SIMULTANEOUS LEASING SYSTEM

During our review, we determined that a fourth category of withdrawn lands exists through the Bureau's failure to reoffer expired leases. The Bureau's administration of its simultaneous lease system is withholding large areas of land from leasing. Once land has been leased over-the-counter, and the lease is cancelled, relinquished, or terminated, the land becomes eligible for the next drawing. For an acquired lands lease, the Bureau will consult the surface-managing agency again to confirm that the agency still agrees to leasing the lands. Additional stipulations can be added to a parcel at this time.

At least 1,070 leases which had terminated by December 31, 1979, had not been reoffered by the Bureau at the time of our review. Normally, reposting a simultaneous lease can be done in 60 days. Many of the leases we found withheld were 2 or 3 years old. In Wyoming, some leases have been withheld since 1973.

TABLE 12

Leases Temporarily Withheld From Simultaneous Lease System (note a)

State	Leases being held	Acres
Colorado	137	(b)
Mississippi	375	325,483
Nevada	30	(b)
New Mexico	71	82,671
Wyoming	457	421,753
TOTAL	1,070	829,907

a/Prior to Secretary Andrus' moratorium on noncompetitive leasing.

b/NA - not available.

In the eastern States, large backlogs of expired and terminated leases of lands have not yet been posted for re-leasing through the simultaneous system. We identified 325,483 acres in Mississippi alone (375 noncompetitive leases). (See table 12.) The Forest Service, as the surface-managing agency, consented to the reoffer of many of these lands in 1976 and 1977, yet the Bureau never offered them to the public. All of this acreage is considered prospectively valuable for oil and gas. In Wyoming, 421,753 acres (457 noncompetitive leases) have not been reoffered. Much of this land is also likely to be prospectively valuable for oil and gas. In New Mexico, 82,671 acres (71 leases) were withheld. In Colorado and Nevada, lands from another 167 leases were withheld.

Bureau officials in the West often maintain a separate file of terminated, expired, or relinquished leases where lands were not reoffered for leasing. The reasons for withholding these lands are not always apparent. Sometimes, the reason for not reoffering is that the SMA did not respond to the Bureau's request for consent to lease. In other cases, the SMA had objected for environmental considerations, and therefore the land was not reoffered. Industry has indicated interest in leasing many of these lands.

Because these areas appear "open" on Bureau records, many applicants are filing over-the-counter for these unleased lands. The Bureau must, according to regulation (43 C.F.R. 3112.1-1), offer these lands through the simultaneous system. It must reject offers filed in any other form. Delays in offering these lands for lease can cause not only delays in exploration of a tract for possible oil and gas but also unnecessary duplication of time and effort by Bureau staff in processing and rejecting improper applications.

WITHDRAWALS COULD CAUSE LOSS OF POTENTIAL OIL AND GAS PRODUCTION

Federal agencies have limited the oil and gas industry's access to much Federal land for energy development. For our review States, we identified over 20 million acres where oil and gas leasing has been prohibited. Many of these withdrawals have no termination dates. Thus, industry cannot begin to assemble units for development and eventual production on these lands. At least 55 percent of these closed lands have been identified by the Survey as prospectively valuable for oil and gas. New Mexico had the highest percentage of with-drawn lands with oil and gas potential. Of the 3.9 million

acres closed to leasing in New Mexico, 3 million acres, or 76 percent, are considered to be prospectively valuable for oil and gas. Nevada, with 6.6 million acres withdrawn, has more valuable oil and gas acreage closed than New Mexico, but this is a smaller portion of total withdrawals in the State.

Wilderness areas--existing, proposed, or under study--also limit industry's access to Federal lands for oil and gas development. In our sample States, about 16.5 million acres of Federal land are under consideration for preservation as wilderness. At least 8.5 million acres have some likelihood of containing oil and gas.

Any estimates of resource potential in withdrawn areas is speculative at best. Using existing Geological Survey estimates of recoverable resources, we developed a measure to quantify the possible production effects of the withdrawals we found. For each State, we calculated an average resource estimate relating the State's prospectively valuable land to Survey's resource estimates.

Based on these per acre resource figures, we estimate that 312.6 million barrels of oil and 156 billion cubic feet of gas could be involved in the withdrawn lands in our review States. (See table 13.) Another 387.4 million barrels of oil and 162.4 billion cubic feet of gas could be affected by Bureau of Land Management and Forest Service wilderness programs. (See table 14.) However, only exploration and drilling will identify how much oil and gas is really affected by withdrawal actions.

TABLE 13

Possible Production Affected by Withdrawals in GAO Review States

State	Total acreage closed to leasing	Prospectively valuable oil and gas acreage closed to leasing	Potential oil production affected (bbls)	Potential gas production affected (cu. ft.)
Colorado	1,108,000	426,000	17,508,600	87,543,000
Mississippi	120,000	120,000	976,000	10,140,000
Nevada	11,670,000	6,558,000	20,329,800	1,226,989,800
New Mexico	3,886,000	2,957,000	150,215,600	109,113,300,000
Wyoming	3,425,000	1,047,000	123,546,000	45,813,579,000
Total	20,209,000	11,108,000	312,576,000	156,251,551,800

Source: General Accounting Office. Production estimates derived from Geological Survey/American Petroleum Institute resource estimates as of 1978.

TABLE 14

Possible Production Affected by Wilderness Study Programs in GAO Review States

State	Potential wilderness areas	Prospectively valuable oil and gas wilderness areas	Potential oil production affected (bbls)	Potential gas production affected (cu. ft.)
Colorado	4,216,959	1,223,848	52,990,885	251,500,764
Mississippi	7,875	7,875	57,487	665,437
Nevada	5,223,000	3,242,033	10,050,302	590,050,006
New Mexico	3,045,000	2,283,975	116,025,930	84,278,677,500
Wyoming	4,015,137	1,765,378	208,314,604	77,247,645,146
Total	16,508,057	8,523,109	387,439,208	162,368,538,853

Source: General Accounting Office. Production estimates derived from Geological Survey/American Petroleum Institute resource estimates as of 1978.

CHAPTER 5

FEDERAL AGENCIES SIGNIFICANTLY DELAY OIL AND GAS LEASING

Federal oil and gas leasing is important to the national effort to minimize dependence on foreign energy sources. It provides substantial revenues to the Federal Government and the States, which share in the revenues. Lease-issuance delays complicate industry's search for oil and gas and reduce State and Federal revenues.

In 1979, a total of 5,961 lease applications were issued in our five review States of which about 67 percent were issued in 4 months or less. However, the time required for lease issuance varied greatly by State. In Nevada, for example, 331 of 1,582 applications issued in 1979 (21 percent) were less than 4 months old. In Wyoming, 93 percent of the applications issued in 1979 were less than 4 months old.

In the five review States, about 7,223 lease applications which had been applied for during the years 1971 through 1979 were still pending on December 31, 1979. Most of these applications were for over-the-counter leases. Federal agency practices accounted for most of the delays in issuing leases. We found lease processing at the Bureau of Land Management accounted for 52 percent of the delays in the States of Colorado, Mississippi, New Mexico, Nevada, and Wyoming. Other delays included preparing environmental assessments and title work, deferring lease issuance in study areas, and appeals and litigation. Delays deferred possible production of 164.6 million barrels of oil and 59 billion cubic feet of gas and caused a loss of $5.7 million in rental income in calendar year 1979.

The outlook for eliminating delays in the near future is not promising. The Bureau's lease application backlog is expected to more than double from Oct. 1, 1978, to Oct. 1, 1981. The Forest Service's backlog is expected to about triple. The agencies do not expect to receive sufficient funds to remedy the situation.

LEASES ISSUED IN 1979

In fiscal year 1979, the Bureau issued 11,758 onshore oil and gas leases nationwide. In calendar year 1979, our analysis

shows the Bureau issued 5,961 leases in our review States of Colorado, Mississippi, New Mexico, Nevada, and Wyoming. Of these, 1,862 were over-the-counter, 3,896 were simultaneous, and 203 were competitive. 1/ About 67 percent (or 3,992) were issued in 4 months or less after filing. However, the time required for lease issuance varied greatly by type of lease and by State. (See table 15.)

About 90 percent of the simultaneous leases and nearly 89 percent of the competitive leases issued in 1979 were issued in 4 months or less after filing. However, only 16 percent of the over-the-counter leases were issued in 4 months or less. 2/ The main reason for this difference is that over-the-counter lease applications go through more processing steps after being filed; steps that are performed for simultaneous and competitive leases before applications and bids are filed. For example, before an application can be filed for simultaneous and competitive leases, it has already been determined that the land can be leased and under what terms and conditions. The remaining steps are largely procedural and, for a simultaneous lease, include

--holding a drawing and identifying the winner and alternatives,

--confirming with the Survey that the lands are not within a KGS, and

--securing signature and rental from the lottery winner and issuing the lease.

With competitive leases, the remaining steps include

--holding the sale and determining the highest qualified bidder,

--determining whether the highest bid was acceptable, and

--securing the applicant's signature, collecting the bonus and rental, and issuing the lease.

1/For definitions, see ch. 2.

2/Over-the-counter lease applications involve essentially new areas of "wildcat" interest, since lands in terminated leases are leased through the simultaneous or competitive systems.

TABLE 15

Analysis of Time Required To Issue a Lease--
Leases Issued During Calendar Year 1979

State	Lease type	Number of leases						
		0-4 months	5-8 months	9-12 months	13-24 months	25-36 months	37-over months	Total
Colorado	Over-the-counter	29	17	6	28	7	11	98
	Simultaneous	293	84	5	1	-	3	386
	Competitive	28	13	-	-	-	-	41
	Total	350	114	11	29	7	14	525
Mississippi	Over-the-counter	-	-	-	4	7	16	27
	Simultaneous	61	24	8	2	3	51	149
	Competitive	-	5	-	-	-	-	5
	Total	61	29	8	6	10	67	181
Nevada	Over-the-counter	3	456	371	269	135	3	1,237
	Simultaneous	328	11	3	3	-	-	345
	Competitive	-	-	-	-	-	-	-
	Total	331	467	374	272	135	3	1,582
New Mexico	Over-the-counter	1	20	3	127	-	-	151
	Simultaneous	511	38	6	11	8	-	574
	Competitive	43	-	-	4	-	-	47
	Total	555	58	9	142	8	-	772
Wyoming	Over-the-counter	272	19	22	16	7	13	349
	Simultaneous	2,314	93	14	15	2	4	2,442
	Competitive	109	-	-	-	-	1	110
	Total	2,695	112	36	31	9	18	2,901
Review States	Over-the-counter	305	512	402	444	156	43	1,862
	Simultaneous	3,507	250	36	32	13	58	3,896
	Competitive	180	18	-	4	-	1	203
	Grand Total	3,992	780	438	480	169	102	5,961

In contrast, in the case of an over-the-counter lease, the following determinations are made after the application is filed:

--Whether the land can be leased, i.e, that it is open Federal land and is not currently leased.

--What provisions should be attached to the lease, including those specified for environmental protection.

--Whether the provisions are acceptable to the applicant.

--Whether the lands are still outside a KGS.

In our discussion, an oil and gas lease application is considered "delayed" if, as of December 31, 1979, it had been in process for more than 4 months. Although the Bureau of Land Management has not established a specific time standard for lease processing, Bureau officials have stated that the average lease application should not require more than 4 months to process. We accepted the Bureau's average for our review. In many cases, there was more than one cause of "delay." For the purpose of this review, the cause which took the greatest amount of time was identified as the "primary" delay.

Our study gives a more accurate picture of delays involved in over-the-counter applications than those involved in simultaneous and competitive lease applications. The reason for this is that our methodology used data available from Bureau public records to measure the time elapsed after an application is filed. Pre-lease determinations for simultaneous and competitive leases can be difficult and time consuming but are not accounted for in Bureau records. It was not feasible for us to attempt to account for them. However, since over-the-counter applications involve essentially all the basic problems in Federal oil and gas leasing, the study reflects realistically the causes of delays in such leasing.

PENDING LEASES

In the five review States, about 7,223 lease applications which had been applied for during the years 1971 through 1979 were still pending on December 31, 1979. These pending applications are about 10 percent of the roughly 86,000

applications 1/ these States received during fiscal years 1971 through 1979.

The exact number of pending lease applications cannot be determined. The Bureau does not have a reliable system to identify them. For example, to count the cases in Mississippi, we had to examine three sets of records--land status books, serial registers, and lease case files. 2/ In many instances, the land status books and serial registers, the primary public records, failed to accurately reflect the status of lease applications. For example, the land status books disclosed that 505 lease applications were pending in Mississippi. A check of other records showed that 106 of these had been processed to completion. In addition, the serial register did not reflect the current status of many lease applications. Also, issuance dates and land descriptions were not always recorded in the register.

In all States reviewed, determining events or the status of pending leases was sometimes difficult because lease case files could not be located or did not contain all relevant correspondence. The latter was often true where correspondence applied to more than one lease application. Despite these difficulties, the results of our study in determining the number of pending cases and their status are believed to be highly accurate.

1/Mississippi's lease applications are not included in the figures because the Bureau's Eastern States Office does not maintain separate statistics on each of the 31 States. Oklahoma, Kansas, Nebraska, and parts of Texas are included in this number because the responsible Bureau offices--New Mexico and Wyoming--did not report separate statistics by States during this period.

2/Land status books show, by township and range, lease applications and issued leases. Serial registers are books which have a separate page for each mineral application, land exchange, special use permit, etc., for Federal land arranged in the order they were filed. Lease case files are maintained for each application and contain copies of the applications, issued leases, correspondence, etc. They are the "working" files of the Bureau.

Pending oil and gas lease applications

There were 7,223 oil and gas lease applications pending as of December 31, 1979 (see table 16), which had been filed during calendar years 1971-1979 in the five review States. Fifty-five percent of these pending applications had been pending for more than 4 months. Of these lease applications pending for more than 4 months, 2,016 were filed in 1979 and 28 were filed in 1971.

Legislative proposals have been introduced to put processing limits on the amount of time required to issue a Federal lease. Using a limit that would require leases to be issued within 12 months from filing, we found that 1,979 pending leases in our five States have exceeded that limit. Of these, the largest number in any one State was 738 pending applications in New Mexico, filed prior to 1979.

Out of the 7,223 pending applications, we selected a sample of 1,448 cases. Of this sample, 868 cases had been pending for more than 4 months. (See table 17.)

TABLE 16

Lease Applications Pending as of 12/31/79

State	Lease type	Year filed: 1979 Sept.-Dec.	1979 Jan.-Aug.	1978	1977	1976	1975	1974	1973	1972	1971	Total
Colorado	Over-the-counter	315	98	149	45	28	14	20	46	32	19	766
	Simultaneous	193	68	6	1	--	--	--	--	3	1	272
	Competitive	--	--	1	--	--	--	--	--	--	--	1
	Total	508	166	156	46	28	14	20	46	35	20	1,039
Mississippi	Over-the-counter	4	52	68	14	13	6	10	35	1	--	203
	Simultaneous	59	60	7	7	7	14	19	10	8	4	195
	Competitive	--	--	1	--	--	--	--	--	--	--	1
	Total	63	112	76	21	20	20	29	45	9	4	399
Nevada	Over-the-counter	657	612	285	42	11	--	3	--	--	--	1,610
	Simultaneous	57	73	9	1	--	--	4	--	--	--	144
	Competitive	--	--	--	--	--	--	--	--	--	--	--
	Total	714	685	294	43	11	0	7	--	--	--	1,754
New Mexico	Over-the-counter	550	635	643	25	--	8	5	1	--	2	1,869
	Simultaneous	459	168	10	20	23	--	--	--	--	--	680
	Competitive	30	4	1	--	--	--	--	--	--	--	35
	Total	1,039	807	654	45	23	8	5	1	--	2	2,584
Wyoming	Over-the-counter	109	199	82	31	54	2	28	4	4	--	513
	Simultaneous	795	45	38	26	13	2	--	--	10	2	931
	Competitive	--	2	--	1	--	--	--	--	--	--	3
	Total	904	246	120	58	67	4	28	4	14	2	1,447
Review States	Over-the-counter	1,635	1,596	1,227	157	106	30	66	86	37	21	4,961
	Simultaneous	1,563	414	70	55	43	16	23	10	21	7	2,222
	Competitive	30	6	3	1	--	--	--	--	--	--	40
	Grand Total	3,228	2,016	1,300	213	149	46	89	96	58	28	7,223

TABLE 17

Pending Oil and Gas Lease Applications

State	Total pending leases		Sample pending leases	
	Total pending as of 12/31/79	Number pending over 4 months	Total leases in sample	Number pending over 4 months
Colorado	1,039	531	249	134
Mississippi	399	336	399	324
Nevada	1,754	1,040	250	132
New Mexico	2,584	1,545	300	194
Wyoming	1,447	543	250	84
Total	7,223	3,995	1,448	868

In Mississippi, we sampled 100 percent of all leases pending over 4 months, except where files could not be located. In the remaining States--Colorado, Nevada, New Mexico, and Wyoming--the leases reviewed were selected by random sample.

Although all lease applications have certain processes and sources of delay in common, some processes are peculiar to certain types of cases. For example:

--In fiscal year 1979, 1,999 lease applications were filed in the Bureau of Land Management's Eastern States Office. Nearly 92 percent, or 1,839 of the applications, involved acquired lands. In the same year, 770 lease applications were filed in Colorado. However, 693, or 90 percent, of the Colorado applications involved public domain lands. The Bureau determines the legal title to minerals in public domain lands from its own records, but must rely on the SMA

for determining legal title to acquired-lands minerals because the SMA keeps real estate records on all lands it acquires. Mississippi, one of the States served by the Eastern States Office, has title checks as one of its major delays in issuing leases. Over 99 percent of the Federal lands in Mississippi are acquired lands. Title checks cannot be such an important delay in Colorado since only 5 percent of the lands in that State are acquired.

--Our sample of pending leases included 67 simultaneous leases delayed more than 4 months in Colorado, New Mexico, and Wyoming. The principal cause of delay for 41 or 61 percent were actions initiated outside the agencies, such as protests by people who did not win leases in the lottery or by failure of winners and their alternates to accept leases after the lottery drawing. These are events which do not occur with over-the-counter leases.

Types of delay

The study identified the following as the major sources of delays in the processing of oil and gas lease applications. The delays fall into two categories, (1) those attributed to Federal agencies and (2) those caused by other than Federal agencies (see table 18):

--Attributable to Federal Leasing Agencies--lease processing in the Bureau (453 cases); environmental analyses (153 cases); deferral of leasing in study areas (95 cases); title work by SMAs (49 cases); and other Federal agency activity (34 cases).

--Other than Federal Agencies--appeals, litigation (54 cases); applicant inaction (16 cases); and miscellaneous--non Federal (14 cases).

Of the 784 cases of delay attributable to Federal agencies, the study identifies the following as the agencies primarily responsible for delay (see table 19):

--The Bureau of Land Management (602 cases).

--The Forest Service (134 cases).

--Defense (42 cases).

--Other (6 cases).

TABLE 18

Primary Delays Experienced By Pending
Oil and Gas Lease Applications
Sampled By CAO (Sample Size 1,448) (note a)

	States					
	CO	MS	NV	NM	WY	Total
Leases Considered To Have Not Experienced Delay	115	70	116	106	166	573
Leases Considered To Be Delayed:	134	324	132	194	84	868
Lease Delays Caused by Agencies:						
Lease processing delays at Bureau (note b)	18	172	86	159	18	453
Environmental analysis:						
Bureau	11	71	20	0	12	114
Forest Service	8	12	2	1	16	39
Total environmental analyses	19	83	22	1	28	153
Deferral of leasing in study areas:						
Bureau	7	0	0	0	0	7
Forest Service	63	9	0	0	16	88
Total deferral of leasing in study areas	70	9	0	0	16	95
Title work:						
Bureau	0	0	1	0	0	1
Forest Service	0	7	0	0	0	7
Defense	4	36	0	0	0	40
NASA	0	1	0	0	0	1
Total title work	4	44	1	0	0	49
Other:						
Bureau	1	8	3	13	2	27
Survey	0	1	1	0	1	3
Defense	0	0	0	0	2	2
Water and Power Resources	1	0	0	0	1	2
Total other	2	9	4	13	6	34
Total leases delayed by agencies	113	317	113	173	68	784
Lease Delays Not Caused by Agencies:						
Suspended pending decision or study:						
Appeals or litigation	10	7	14	13	10	54
Miscellaneous	5	0	5	0	4	14
Total suspended pending decision or study	15	7	19	13	14	68
Applicant inaction	6	0	0	8	2	16
Total delays not caused by agencies	21	7	19	21	16	84

a/Seven lease application files could not be located.
b/Lease processing delays at Bureau include inaction, lack of followup, and mailing errors.

TABLE 19

Agencies Responsible for Delays Experienced by Pending Oil and Gas Lease Applications

Type of Delay	Bureau	Service	Defense	Other (note a)	Total
Lease processing delays at BLM	453	-	-	-	453
Environmental analysis	114	39	-	-	153
Deferral of leasing in study areas	7	88	-	-	95
Title work	1	7	40	1	49
Other	27	0	2	5	34
Total	602	134	42	6	784
Percent of total delayed (note b)	76.8	17.1	5.4	.8	100

a/Other agencies include NASA, Water and Power Resources Services, and the Geological Survey.

b/Figures do not add due to rounding.

LEASES DELAYED BY AGENCIES

Bureau of Land Management lease processing delays

The largest number of the sample's delayed oil and gas lease applications met delays in the Bureau (453) during its leasing procedures as shown by the following chart.

Applications Delayed During Bureau's Lease Process

State	Total number of delayed applications	Applications delayed in lease processing	Percent of applications delayed
Colorado	134	18	13.4
Mississippi	324	172	53.1
Nevada	132	86	65.2
New Mexico	194	159	82.0
Wyoming	84	18	21.4
Total	868	453	52.2

The problem of delays during lease processing at the Bureau is even more widespread than these numbers indicate. Lease processing delays involved lack of followup, inaction, and mailing errors by Bureau staff. In many cases where some other action was the primary processing delay, lease processing delays occurred after all other actions were accounted for and become secondary delays.

The extreme examples of lease processing as a secondary delay are 12 applications primarily delayed during the Forest Service's environmental assessment for the Mississippi National Forests. (See p. 85.) In these cases, the Service was responding to the Bureau's Eastern States Office's 1974 and 1975 requests to re-lease previously expired leases. When the Service completed the assessment and consented to lease these lands (1977 and 1978), its correspondence carried the expired lease numbers. These responses were filed at the Eastern States Office in the old lease files. The cases were then archived to the Federal Records Center by Bureau staff. As of the date of this report, the mixup has yet to be resolved so that these leases can be reoffered.

Colorado

In Colorado, 18 lease applications were delayed in the Bureau's leasing process. These delays were caused by

--inefficient processing of simultaneous leases (9 cases),

--failing to request reports from SMAs (3 cases); and

--oversight or processing error (6 cases).

Inefficient simultaneous-lease processing accounted for 9 of the 18 delayed leases. The Bureau was not prompt in notifying successful "drawees" in the lottery and requesting payment of rentals. In these cases, the Bureau waited about 2 months to notify the applicants and then another month to request payment of rentals. Bureau officials informed us they no longer follow this practice. They now send requests for rentals with the notices of success in the drawing.

In the remaining 9 delayed cases, the Bureau failed either to request reports from SMAs, overlooked the cases, or made a processing error. Why these processing errors occurred could not be determined. For example, the Bureau State Office took no action on one case for 4 months after requesting a district to report its recommendations for stipulations to be included in the lease. It took the district 4 months to point out that the stipulations were already specified in an existing environmental analysis report.

Mississippi

In Mississippi, 172 lease applications were delayed during processing by the Bureau's Eastern States Office. Awaiting action or followup at the Bureau was the single largest delay affecting Mississippi applications--157 cases.

Many of these applications were forwarded to SMAs for comments and the resulting reports had been received but were not processed. In many cases, no notation of the need for further action was made in or on the case file. In contrast to this situation, we found that none of the 45 pending over-the-counter applications filed in 1979 had received any processing attention from the Eastern States Office other than a land-status check. Even though many of these cases were already 12 to 15 months old at the time we examined them, no requests for reports had been forwarded to any other agency.

In addition, seven simultaneous offers drawn in 1978 had never been awarded. The first winner had not forwarded the rental within 15 days as required, yet the Bureau had failed to notify the second or third alternates of their right to the leases. Eastern States Office officials explained that the person who had processed the cases had retired and no one had followed up on her work.

Of the total of 172 delayed cases, 15 applications suffered from misdirected mail. The Eastern States Office staff forwarded six lease applications to the Corps of Engineers (Corps), instead of the National Aeronautics and Space Administration, for title reports. Nine applications were sent to the wrong Corps regions and other agencies.

Officials at Bureau's Eastern States Office acknowledged that the recent increased interest in oil and gas leasing in the East has placed a burden on their staff. The Management Services area has been particularly hard hit. During our review, lease applications were piled in boxes or on the floor throughout the office. Clerical backlogs to keep serial records current or to transmit correspondence to other agencies and lessees were evident.

One of the major weaknesses in the Bureau's management of the eastern area oil and gas leasing program is the lack of operating procedures for staff. Personnel cannot be held accountable for their work or the responsibilities of others when these lines of effort have not been clearly defined. During our review, it was apparent that the backup systems for monitoring active case files have not been successful. Old cases which had not been processed lacked any identification to distinguish them from issued cases. Recent filings had not been checked in a timely manner. Even the color coding systems to distinguish the age of cases and assist in 6-month audits were not uniformly used.

Nevada

In Nevada, 86 lease applications were delayed during the Bureau's lease processing. All of these were awaiting attention or followup action by the Bureau's State Office. Seventy-eight of the applications had been filed in 1979, 4 in 1978, and 4 in 1977. Recent filings have been neglected because of a backlog of cases awaiting final processing at the Bureau's State Office. According to Bureau officials, the backlogs were created by

--rush of oil and gas filings in late 1976 and early 1977 when oil was struck in Railroad Valley,

-a shortage of adjudicators and draftsmen, and

--a shortage of adequate clerical personnel beginning in October 1979.

As a result of these backlogs, a 5- to 8-month wait for final processing was not unusual.

Because of the small amount of drilling that has occurred to date in Nevada, Bureau officials tend to minimize the impact of delays in processing lease applications. We identified many cases which the Bureau's State Office failed to close. For example, several simultaneous leases, refused by all successful drawees, remained open on Bureau records. Four other cases were suspended by the Bureau awaiting revocation of a 1929 Executive order withdrawing the lands. The Bureau's State Office intends to recommend the withdrawal be revoked and had suspended these applications until the lands become available. This action by Bureau officials is inconsistent with Bureau regulations (43 C.F.R. 2091.1) which state that applications "must be rejected and cannot be held" when lands have been withdrawn or reserved.

New Mexico

In New Mexico, all 159 lease applications delayed in the Bureau lease processing were, according to the Bureau, delayed by a lack of experienced employees combined with a staffing shortage and increased workload. One hundred-fifty of these lease applications simply "sat" at the Bureau with little or no processing attention.

In May 1978, the Minerals Branch of the Bureau's New Mexico State Office was reorganized. Before reorganization the Lands and Minerals Operations Branch contained two sections--minerals (oil, gas, geothermal, and mining) and lands. The Branch was reorganized into three sections, including a separate mining section. This left the new oil and gas section with the highest workload and the least experienced employees. The Bureau has not determined whether staffing is now adequate to efficiently process the workload but the Chief of the section believes the section is not adequately staffed, particularly in clerical support positions. Workload has been increasing, as shown by the following chart.

Oil and Gas Lease Application
Activity of the New Mexico
State Bureau's Office for FY 1977-79 (note a)

	Applications on hand at beginning of fiscal year	New applications received during fiscal year	Applications on hand at end of fiscal year
1977	951	1,738	808
1978	808	2,332	1,633
1979	1,633	2,495	2,524
Increase from 1977 to 1979	682	757	1,716

a/Statistics are included for those portions of the States of Texas and Oklahoma serviced by the Bureau's New Mexico State Office.

The 2,524 applications on hand at the end of fiscal year 1979 represented, according to the chief of the section, about a 16-month backlog.

Included in the 159 New Mexico cases were 9 lease applications delayed because they were for land withdrawn by Executive Orders 6143, 6276, and 6583, entitled "Withdrawal of Public Lands to Aid the State in Making Exchange Selections." There are at least 48 pending leases in New Mexico (9 of the 48 fall in our sample) that involve this withdrawn land. A question exists whether the lands were actually withdrawn from oil and gas leasing by those Executive orders. The Bureau waited a year before requesting clarification on the status of these lands. The cases have been suspended pending a ruling on that question.

Wyoming

In Wyoming, 18 lease applications were delayed in the Bureau's lease processing. In these cases, the Bureau failed to

--promptly act to reject lease applications for withdrawn land (11 cases);

--promptly determine and notify applicants of stipulations (3 cases);

--request SMA concurrence, to check on requests lost in the mail or at the SMA, or to promptly request a KGS determination (4 cases).

In 11 of these 17 delayed cases, the Bureau failed to reject lease applications for land "temporarily" withheld from leasing since August 15, 1947, by order of the Secretary of the Interior. Finally, after headquarters failed to respond to a request for instructions, the State Office rejected the applications pursuant to regulations requiring rejection of applications for withdrawn lands. The applicants appealed.

In one case, the Bureau took 3 months to send stipulations to the applicant for acceptance. In two other cases, the Bureau failed to decide promptly what stipulations should be part of the leases because of inconsistencies between the Bureau's districts.

The four remaining lease applications were delayed because a request for SMA reports was either not made or lost (one case each) or because the Bureau failed to promptly request a KGS determination from the Geological Survey (two cases).

Environmental assessment delays

In the five review States, 153 lease applications were delayed awaiting environmental assessments from the SMAs. The time taken for these assessments ranged from less than 4 months in Colorado and Wyoming to over 3 years in Mississippi and Wyoming. As discussed in chapter 2, the National Environmental Policy Act requires environmental analyses to determine whether a proposed Federal action is environmentally acceptable and under what conditions. Preparation of environmental assessments for leasing actions constituted the second largest source of delay. (See table 18.)

Colorado

In Colorado 19 lease applications were delayed awaiting environmental assessments, 11 from Bureau offices and 8 from the Forest Service.

Of the 11 Bureau delayed cases, the oldest application was filed in 1977 while 6 were filed in 1979. The cases were delayed because the Bureau's district offices had not completed environmental assessments and recommended stipulations for the leases.

The eight lease applications delayed by the Forest Service's Rocky Mountain Regional Office were all filed in 1979. In May 1979 the Regional Office instructed its districts to send in all existing environmental assessments for review. In the meantime, all lease applications were to be held. The Regional Office decided to prepare a single environmental assessment report, except for wilderness areas, for the entire region, which includes lands in Colorado, Wyoming, South Dakota, Nebraska, and Kansas. The region-wide environmental assessment was completed in November 1979, at which time lease application processing was resumed. By April 1980, the backlog of lease applications from previous years and those resulting from the 1979 lease processing suspension had been greatly reduced from over 1,100 cases to 248. More than half (177) of the remaining applications involve wilderness areas. In these wilderness areas, leasing has to be approved or disapproved by the Chief of Forest Service, based upon individual environmental assessments submitted by the Regional Forester. None of these environmental assessments had been completed as of April 1980.

By Federal Register Notice on December 12, 1980, the Forest Service proposed draft standards, criteria, and guidelines for environmental assessments of wilderness leasing. When the standards, criteria, and guidelines are finalized, the Service intends to establish procedures for processing applications in these areas.

Mississippi

Eighty-three Mississippi cases were delayed during the environmental assessment process including cases with the longest delays (1971 and 1972). Twenty-seven of the cases involve public domain lands managed by the Bureau. Because the cases involved dispersed and isolated tracts, the Bureau's Eastern States Office gave them low priority. The Bureau is now proposing that leasing actions on public domain lands in

the Eastern States be excluded from NEPA review requirements. 1/ Because so few Federal leases have been drilled in the East, the Bureau believes that the environmental effects of leasing are negligible. The Bureau also believes that lease stipulations and environmental assessments prior to exploration or drilling will allow the Bureau to control potential surface impacts.

Forty-four of the Mississippi applications, dating back to 1973, are still pending, primarily because of a dispute between the Army Corps of Engineers and the Bureau ower which agency had responsibility for preparing environmental assessments of oil and gas leases on Corps lands. The Corps argued that the Bureau should do the environmental assessments because under the Council on Environmental Quality's NEPA guidelines the Bureau is listed as the Federal agency "with jurisdication by law or special expertise to comment on petroleum development, extraction, refining, transport, and use for the public lands." The Corps, however, has been unable to document the basis for its position to us.

The Bureau argued that the SMA charged with managing and protecting particular lands should analyze the environmental impact of oil and gas leasing. The Forest Service, for example, has always done its own environmental analyses. Only for agencies with small, incidental land management responsibilities, such as the Veterans Administration, has the Bureau completed the assessments.

In 1979, the Bureau decided to resolve the impasse by taking responsibility for the environmental assessments on Corps lands--both military and civil projects. The Bureau did not seek to raise the lead agency dispute with environmental officials at the Interior Department nor did it seek the assistance of the Council on Environmental Quality, as provided by regulation, to resolve this question sooner. The Bureau's decision was based on a 1974 IBLA decision which recognized the Bureau as the "lead agency" responsible for oil and gas leasing and thus its environmental impacts. The Bureau noted," since such leasing is discretionary, the BLM is solely responsible for supporting its leasing decisions regardless of surface jurisdication and land status." Thus

---

1/After our proposed report was sent to Interior for comment, the Bureau expanded its proposed exclusion to all leasing actions.

the Bureau, because of the Corps refusal, felt it had no alternative but to perform the assessments. When asked why the Bureau waited 5 years from the IBLA decision to settle this question with the Corps, one Bureau offical explained that his agency disagreed with the IBLA's opinion and would have preferred to work cooperatively with the SMA.

The remaining 12 Mississippi cases were delayed during the Forest Service's preparation of an environmental assessment from 1974-1976 for the Mississippi National Forests. Final recommendations by the Service on these cases were not sent to the Bureau until 1977.

Nevada

Environmental assessments caused delays in issuing 22 cases in Nevada. Twenty of these cases were held awaiting the completion of the Bureau's District environmental reports.

Las Vegas District Office officials informed us that the Bureau's State Office had not allocated the district the necessary work months to complete the required studies. However, the District's budget staff gave oil and gas a low priority and did not request adequate funds. The District estimates it will take 6 years to complete environmental assessments for the lands in its area where oil and gas interest is now high.

The Forest Service delayed two applications for preparation of an environmental assessment. In one case, the local forester consented to lease twice in 1978. However, the Regional Office has yet to forward these reports to the Bureau's State Office. In the second case, the Service took a year to respond with an assessment.

New Mexico

Only one case in New Mexico involved delay for environmental assessment. This lease application was filed in 1977 for National Forest lands. The Bureau had requested a report on four separate occasions. The requested report was finally sent in April 1980.

Wyoming

The environmental assessment process was the primary reason 28 lease applications were delayed in Wyoming, 12 by the Bureau and 16 by the Forest Service.

Ten of the 12 Bureau cases were delayed awaiting the Buffalo Resource Area environmental assessment and the Bad Water-South Big Horn Mountain Area Wildlife habitat inventory and environmental assessment. The Buffalo Resource Area environmental assessment was published in June 1980 and Bad Water-South Big Horn Mountain Area was approved on October 12, 1979.

One lease application in the East Fork Winter Elk Range was delayed because the environmental assessment report was deferred for higher priority work. The 1978 date for completing the report was changed to August or September 1979, but as of March 1980, this environmental assessment had still not been completed.

The remaining delayed case was held up by the need to conduct ground field checks to complete the environmental assessment report.

Nine of the 16 Forest Service cases, all filed in 1979, were delayed by the Rocky Mountain Regional Office while the Inter-mountain Regional Office delayed 7 cases, one of which was filed in 1972. The Rocky Mountain Regional cases, in Wyoming (nine cases) were delayed by the events described on page 82 for Colorado.

In the Intermountain Regional area, the oldest lease application (filed in 1972) was held up by a Service decision that no recommendations would be given for leasing within the Flaming Gorge Recreation Area of Ashley National Forest until a land use plan and environmental statement were completed. In 1973, the Service estimated this plan would take about 2 years. In 1977, the Service reported further delay. A preliminary environmental assessment statement was completed in late 1978; however, it had not been reviewed and approved by the Regional Office as of March 1980. The remaining Inter-mountain lease applications, two filed in 1978 and four filed in 1979, were delayed for an environmental assessment report on the Bridger-Teton National Forest lands. An assessment for lands in parts of the Bridger-Teton National Forest was completed in late 1979.

Delays resulting from deferral of leasing in study areas

Major delays were caused on 95 pending lease applications because leasing was not being allowed while possible

wilderness areas were being studied. Of these, the Service delayed 88 cases (63 Colorado, 16 in Wyoming, and 9 in Mississippi) involving lands being studied for possible inclusion in the Wilderness System. The Bureau delayed the remaining 7 cases (all in Colorado) pending its wilderness study of the Skull Creek area. (See table 18.)

The delays in proposed Service wilderness involved a number of processes. The roadless area review and evaluation process was the first of these. Upon completion of the RARE studies, leasing continued to be delayed because environmental statements for wilderness and proposed wilderness areas had not been completed in Colorado and Wyoming.

Colorado and Wyoming

Of the 79 delayed cases in these two States, the Service's Rocky Mountain Regional Office was responsible for delays in 72 cases (63 in Colorado and 9 in Wyoming). The Regional Office, during the period 1971 to 1976, followed a practice of requesting the Bureau to hold in abeyance lease applications for lands inventoried as roadless. This followed a court suit brought by the Sierra Club to stop actions in roadless areas until environmental analyses were conducted. To settle the suit, the Forest Service agreed, pending environmental assessment, to avoid actions in roadless areas which could detract from existing wilderness characteristics. After April 1976, according to a memorandum dated March 12, 1979, the Regional Office changed its practice by agreeing to lease, provided stipulations were attached to prevent deterioration of existing wilderness characteristics. However, it did not send the required stipulations and recommendations for pending lease applications to the Bureau. During most of 1976 and until Feburary 1977, the Regional Office did not respond at all to lease applications involving RARE lands and responded slowly to other lease applications. During 1977 the Regional Office transferred responsibility for lease recommendations from the Recreation Lands Use Staff to Watershed, Soils and Minerals Area Management Staff. This reorganization added to delays, partly because employees familiar with the work were not in charge. During 1977 and until September 1978, the Regional Office was involved with the RARE II process, identifying lands suitable for wilderness areas which further caused delays. The Rocky Mountain Office justified its lack of action on these cases due to (1) unclear national direction on how to recommend leasing lands which might be included in wilderness, (2) incomplete work on developing stipulations,

(3) consideration by the Chief of the Forest Service of the policy for leasing existing wilderness lands, or proposed wilderness lands, and (4) preparation of environmental assessments for these lands which had to be sent to the Chief for approval. In addition, the environmental assessments could not, according to Service officials, be prepared because of lack of guidance from the Chief. As discussed on page 83, the Service anticipates finalizing their procedures for processing these applications in early 1981.

The Service's Intermountain Regional Office caused delays in the remaining 7 lease applications in Wyoming. These lease applications were filed in 1976 when the lands were in the Palisades Wilderness Candidate Study area. The Service's Regional Office, in 1977 and again in October 1978, recommended that no leases be issued in this area until the study was completed. In the RARE II final Environmental Impact Statement, the Palisades Study Area was identified as a further planning area. An environmental assessment for the area was completed and approved in June 1980.

The seven cases filed during 1976 through 1978 and delayed by the Bureau in Colorado involve the Skull Creek Study Area. This has been identified as a primitive area to be studied for special values, such as wildlife, wilderness, primitive areas, outstanding recreation, etc. In 1974, the Bureau's State Director decided to hold in abeyance any leasing in the area for 5 years or until 1979. Leasing had not been resumed in the area as of December 1979 because the study had not been completed. The primitive area study is now programmed for funding and completion in fiscal year 1981.

Mississippi

Nine lease applications filed from 1974 to 1976 were suspended awaiting final determination of the Forest Service's RARE II program. At about the time the Bureau's Eastern States Office was prepared to issue these leases, it consulted the Service's Southeast Regional Office to determine if any of the applications were subject to the wilderness review. According to the Bureau's staff, the Service determined they were and asked the Bureau not to issue the leases until a final determination was made on each case. The Bureau subsequently suspended these cases.

The decision to suspend the Service's leases in potential wilderness areas was reached informally among members of the Eastern States Office and the Service's Regional staff. No written requests were ever made, and the Service's Regional Office officials stress they were unaware that such action was taken.

Title work delays

Forty-nine lease applications were delayed awaiting title work from SMAs in three of our States--Mississippi, Colorado, and Nevada. Mississippi was the major review State where 44 lease applications were delayed because SMAs (mainly Defense) delayed determining title to minerals in acquired lands. Such work is important and required by the SMAs in Mississippi, where most Federal lands are acquired lands and there are no centralized mineral ownership records for acquired lands. This generally holds true for all States under the Eastern States Office umbrella. Mineral title information for acquired lands is normally available through SMA real estate records, as well as in county recorders' offices.

The Corps of Engineers was responsible for delaying 30 of the 44 Mississippi lease applications through lack of prompt review of title records. Navy processing delayed six applications, the Forest Service seven, and NASA one.

The 30 Army applications had experienced the longest Department of Defense delays (since 1978). Many of the Corps staff feel that the oil companies or applicants should do the necessary title search. Often, Defense owns only a small portion of the lands, yet staff must check records and deeds for all the acreage requested in a lease application. Corps personnel believe that if the applicant were required to first check land records of the appropriate County Recorders Office, much Government effort and time could be saved.

Officials at some District Corps offices do not consider oil and gas leasing to be priority work for the Corps. Staff are assigned title work as they become available. As a result, title work for these 30 applications took until March 1980--16 months to complete. During our review we found that Corps staff did not understand the different types of leases or consent requests from the Bureau. Headquarters officials have stressed that they have had no reports of problems or delays in field offices.

Operations at Defense to process an oil and gas lease application do not differ from other Defense real estate programs. The responsibility for leasing has been delegated to each separate branch of the armed services. No overall leasing policy has been developed by Defense to specifically address minerals. As a result, military agencies are basing leasing decisions on a variety of considerations.

In Colorado four lease applications, all filed in 1979, have been delayed by Defense. In one case, the Bureau of Land Management was awaiting a report from the Air Force. In three cases, the Bureau was awaiting recommendations from the Corps. Bureau officials stated that they had not actively followed up on these lease applications because of the moratorium on leasing Defense-acquired lands.

Only one application in Nevada experienced its longest delay because of public domain title work. For each lease application for public domain lands in the West, the Bureau's staff prepare a plat or map showing the location of the lease offer. This plat indicates the responsible SMA and any applicable withdrawal orders or stipulations on use of the land. Before Bureau personnel request surface agency reports or prepare an environmental assessment, this document must be prepared. The Nevada application waited almost 4 months for completion of this title record.

Other delays by agencies

In addition to the delays discussed previously, Federal agencies were responsible for 34 other lease application delays for a variety of reasons. (See table 18.)

Colorado and Wyoming

Eight lease applications were delayed in Colorado and Wyoming for a variety of other reasons. In Wyoming, one lease application had been delayed because Interior's Water and Power Resources Service had not responded to a Bureau of Land Management request made in September 1978 for consent and recommended lease stipulations. The Bureau made a second request for the information in April 1980. Two Wyoming cases were awaiting reports from the Air Force. Another Wyoming application was delayed during Geological Survey clearance.

Two lease applications in Wyoming and one in Colorado were suspended because they had been "top filed" 1/ on prior offers. Another Colorado application was awaiting an SMA report from WPRS.

Mississippi

Nine lease applications in Mississippi were delayed for miscellaneous reasons. Most of these applications involved title disputes and were awaiting Bureau decisions on mining claim conflicts (one case), applications for private title to certain lands (color-of-title) (two cases), and boundary questions (three cases). Two applications were top-filed on prior offers and awaited Bureau action on these offers before they could be processed. One case was delayed while the Geological Survey reviewed whether the land was within a KGS. This 1976 application was found to be within the area of a new KGS, but the Survey did not send its formal notification to the Bureau's Eastern States Offices until April 1980--2 years after the Bureau's request for clarification--following our inquiries about the case.

Nevada

Four lease applications in Nevada were delayed for varied reasons. One application experienced a delay in getting KGS clearance from the Survey. Another application was delayed for clarification of ownership of an abandoned airstrip disputed by city and Federal Aviation Administration officials. A third application was suspended when the Fish and Wildlife Service proposed lands be added to the National Desert Wildlife Range. The remaining application was top-filed on a prior offer.

New Mexico

The Bureau in New Mexico was responsible for the delay of 13 cases. Five of the 13 had to await identification of property boundaries to determine the application's exact location

---

1/A top-filed application is an application that conflicts with an existing offer because a prior applicant has filed for the land. Top-filed cases must be suspended until the prior offer is resolved.

and acreage. The applications were for acquired lands which were described by metes and bounds rather than townships and ranges.

The remaining eight New Mexico cases were "top-filed" and had to wait action on the prior-filed cases for the same lands.

DELAYS NOT CAUSED BY LEASING AGENCIES

In the five review States, the sample of delayed oil and gas lease applications disclosed that many delays were occurring which could not be directly attributed to the Federal agencies involved with the leasing process. These delays were usually of such a nature that the agencies could do nothing to prevent or reduce them because the action causing the delay had to be performed by someone other than agency employees.

The number of pending leases experiencing delays not attributed to the agencies is listed as follows, by State:

	Pending Lease Applications Delayed By			
State	IBLA/legal	Applicant	Other	Total
Colorado	10	6	5	21
Mississippi	7	0	0	7
Nevada	14	0	5	19
New Mexico	13	8	0	21
Wyoming	10	2	4	16
Total	54	16	14	84

APPENDIX V

Thermopolis District Office	-	Thermopolis, WY
Newcastle District Office	-	Newcastle, WY
Rock Springs District Office	-	Rock Springs, WY
Casper District Office	-	Casper, WY
Salt Lake District Office	-	Salt Lake City, UT
Roswell Area Office	-	Roswell, NM
Artesia District Office	-	Artesia, NM
Farmington District Office	-	Farmington, NM
Hobbs District Office	-	Hobbs, NM
Eastern Area Office	-	Washington, D.C.
Western Area Office	-	Menlo Park,CA
Jackson District Office	-	Jackson, MS
Bakersfield District Office	-	Bakersfield, CA
Department of Defense	-	San Francisco, CA
Headquarters	-	Washington, D.C.
Corps of Engineers		
Headquarters	-	Washington, D.C.
Mobile District Office	-	Mobile, AL
Jackson District Office	-	Jackson, MS
National Park Service		
Minerals Division	-	San Francisco, CA
Fish and Wildlife Service		
Headquarters	-	Washington, D.C.
Regional Office	-	Portland, OR
Department of Energy		
Headquarters	-	Washington, D.C.

lands. The State has refused, however, to prepare an environmental assessment on which to base its leasing decision due to a lack of "*** authorization, budget, staff *** expertise to write an Environmental Assessment." Nevada State Parks has asked the Bureau to prepare it instead. The Bureau is able legally to lease these lands without the State's consent, but prefers to act on the owner's recommendations.

In addition, three pending lease applications in our sample (which were part of a filing of 15 lease applications in Colorado) were all filed by a single individual in November 1977, knowing that they would be delayed because they were top-filed on pending mining claims under litigation in the courts.

Inadequate Environmental Coordination Among SMAs May Affect Future Oil and Gas Development

The treatment of environmental assessments for oil and gas activities has not been adequately coordinated among various responsible agencies. In our opinion, Interior is responsible for this coordination in order to assure that the leasing of Federal minerals is promoted.

We found that one possible alternative to doing environmental assessments prior to leasing would be to wait until some actual surface disturbance is proposed. 1/ To defer these assessments until after a lease is issued does not mean that environmental considerations would be ignored in determining whether or not to lease. When an SMA makes a decision on program considerations, i.e., whether issuance of a lease would be incompatible with its programs, it has to consider the environmental values which are relevant to its programs. For example, for wildlife program areas, the SMA must consider all environmental factors related to the wildlife involved. If it decides to approve a lease, it does so on the basis that development will be permitted unless site-specific analyses later prove proposed development totally incompatible with environmental and other program values.

An advantage of relying on program decisions at the leasing stage is that SMAs are generally well-informed as

---

1/Our alternative has been partially accepted by the Bureau and was finalized as an exclusion to NEPA requirements in 46 Federal Register 7495, Jan. 23, 1981.

to program matters and are in a position to make an early decision. On the other hand, if SMAs have to make an environmental assessment, they have to consider all relevant environmental factors. Many of these factors really cannot be adequately evaluated until specific actions and their locations are identified by the operator. Especially when one considers that a large proportion of leases never reach the development stage, much of the environmental assessment work at the pre-leasing stage is wasted effort insofar as oil and gas are concerned.

The Bureau has proposed procedures to exclude oil and gas lease issuances from environmental reports. The Geological Survey and the Bureau have proposed that geophysical exploration for oil and gas also be excluded. Finally, the Survey would exempt APDs from environmental reviews until confirmation drilling to develop an oil or gas field occurs.

The Forest Service, on the other hand, recently proposed new standards, criteria and guidelines for environmental analyses of leasing in wilderness areas. The Service believes that its responsibilities for the management of the surface of National Forests requires it to ensure that NEPA is complied with to protect the surface resource aspects of all Federal activities. Thus, even if the Bureau wants to exclude environmental assessments on leasing decisions, the Service is likely to continue to do EAs on its lands. Such a diversified approach is likely to require more time to approve or disapprove leases on the Service lands than on Bureau lands.

IMPACT OF LEASING DELAYS

Using the Bureau's 4-month average for processing leases, major delays have occurred in our five review States. Concerns from the oil and gas industry are that leasing delays (1) prevent or hinder assembling lands into a viable unit for exploration and development, (2) increase the costs of holding leased Federal and non-Federal lands while a unit is being assembled, and (3) result in a spread of termination dates for leases in a unit that will reduce the time actually available for drilling.

Projecting our findings to total leases pending in the review States, 3,484 applications out of 3,995 would be delayed due to Federal actions. Bureau lease processing delays would affect 2,310 applications; environmental assessments, another 524 applications; and deferral of leasing in

study areas, 390 cases. 1/ These three types of delays would account for 81 percent of all the pending applications in Colorado, Mississippi, Nevada, New Mexico, and Wyoming. (See app. VII.)

Bureau lease processing delays require administrative actions to establish operating procedures, track applications, and ensure that followup is given to cases.

The problem of deferral of leasing in study areas has largely been remedied with the completion of the Forest Service's wilderness (RARE II) program. However, environmental assessments must now be completed for any of these Service lands recommended for wilderness. Thus some of the 362 applications delayed during RARE II will require such assessments. In addition to the 524 applications primarily delayed during preparation of environmental assessments, these leases demonstrate that such assessments continue to be a major impediment to timely issuance of oil and gas leases.

Leasing delays defer potential oil and gas production

Assuming that the lands applied for by lease applicants are as prospectively valuable as total Federal lands in the State, we estimated the possible production that could be deferred due to leasing delays. These estimates should be considered speculative at best. We used Geological Survey estimates of recoverable resources in each State to develop these figures. Only with eventual drilling on the leases involved could a more accurate assessment of the possible production affected by leasing delays be developed. For our review States, production of approximately 164.6 million barrels of oil and 59 billion cubic feet of gas could be affected by leasing delays. Bureau lease processing delays could affect 61.9 million barrels of oil and 38 billion cubic feet of gas; environmental assessments could delay another 20.7 million barrels of oil and 6 million cubic feet of gas.

New Mexico had the most potential production deferred, with a possible 59.4 million barrels of oil and 42 billion cubic feet of gas affected. Wyoming had the second largest

---

1/Sampling error could be ± 100, ± 122, ± 85, and ± 57, respectively.

production affected, with a possible 46.5 million barrels of oil and 17.3 billion cubic feet of gas delayed. (See app. VII.)

Leasing delays result in the loss of Federal and State revenues

In addition to deferring possible oil and gas production, leasing delays result in a loss of Federal and State revenues. Whenever a lease issuance is delayed, rental income for the lease coverage is lost. Since the Bureau considers 4 months to be a reasonable lease processing time, we attempted to determine how much revenue could be delayed when this time is not met. Using this 4-month standard, for calendar year 1979 lost rental income from oil and gas leases delayed was at least $5.7 million for our five review States. (See table 20.)

Assuming that all delayed applications pending December 31, 1979, in the review States had been approved within 4 months of their filing and were still in effect as of December 31, 1979, rental revenues collected by the Bureau would have been $4 million greater in fiscal year 1979. If all the leases issued in 1979 had been processed in 4 months, and were still in force at the end of 1979, another $1.7 million would have been collected in our review States.

Our study did not yield enough information for us to determine how much of this "loss" was avoidable and at what cost in additional expenditures. We attempted to account for normal processing time in estimating these losses. Our figures also reflect the 1977 changes in rental from 50 cents to $1 per acre.

Besides Federal Government revenue losses, leasing delays cause States to lose revenue because rentals collected are shared with the States. Prior to October 1976, the review States received 37-1/2 percent of the lease rentals collected for lands within their boundaries. This was increased to 50 percent by FLPMA.

In addition, as discussed in chapter 4, if terminated leases had been promptly offered and released at simultaneous drawings, rental revenues would have been still greater. For Mississippi, such "lost" simultaneous rentals would have amounted to over $325,000 in 1979. For Wyoming, another $422,000 would have been collected.

TABLE 20

Oil and Gas Lease
Rental Income Lost in
Calendar Year 1979

State	Rental lost from delayed pending applications	Rental lost from delayed issued leases	Total
Colorado	$ 634,175	$ 40,773	$ 674,948
Mississippi	113,391	21,498	134,889
Nevada	1,113,509	1,486,099	2,599,608
New Mexico	1,727,562	119,687	1,847,249
Wyoming	445,271	(a)	445,271
Total	$4,033,908	$1,668,057	$5,701,965

a/No attempt was made to determine this loss since Wyoming issued about 93 percent of its leases in 4 months or less and 97 percent of all its leases in 8 months or less.

AGENCIES' WORK BACKLOGS HAVE BEEN INCREASING

The decade of the 1970s witnessed a generally intensifying interest in Federal oil and gas lease application filings. (See table 21.)

About 7,000 to 8,000 tracts were offered annually through the simultaneous filing system. The data in table 21 represent more closely the number of simultaneous leases offered annually rather than public interest in leasing the lands.

The number of drawing cards filed for these tracts rose dramatically during the period 1971-1980 but the exact increase is unknown because of a lack of statistics.

Over-the-counter filings during the period varied from a low of 7,078 per year in 1971 to a high of 14,243 in 1974. Since 1976, applications have amounted to about 10,000 to 11,000 annually. Over-the-counter applications are generally for "new" wildcat areas and, as discussed on page 67, usually involve more work and processing problems than simultaneous and competitive cases. Bureau productivity in lease issuances during the same period did not keep pace with new applications. (See table 22.) Bureau backlogs increased from about 13,700 cases at the beginning of the period to about 27,000 at the end of fiscal year 1980. 1/ A big increase in backlogs occurred in 1974 when new over-the-counter applications nearly doubled over the previous year. (See table 21.)

The outlook for the near future is for increasing work backlogs in the Bureau and the Service. (See table 23.) The Bureau's lease application backlog is expected to more than double from October 1, 1978 to October 1, 1981 (16,708 to 39,556 cases). The Service's lease backlog is expected to about triple (3-824 to 11,632 cases). This follows from an expected continuing surge in incoming casework (see table 24) on top of existing backlogs, without a compensating increase in casework production. (See table 25.)

The Bureau's and the Forest Service's workload stem from applications received and leases issued by the Bureau. The Bureau expects to receive about 26,000 new applications in fiscal year 1980 and 23,000 in 1981, an increase of 37 percent and 21 percent over 1979, respectively. On the other hand, the Bureau expects its total oil and gas case production to increase only 2 percent in 1980 and 8 percent in 1981 over 1979.

The Service expected its new casework to decline in 1980 and 1981 compared to 1979, largely because Interior moratoriums stopped some cases from being referred to the Service. Even under these conditions, the Service estimated a total new new caseload of 16,182 cases during the 3-year period and an output of only about one-half of that number (8,375 cases) during the same years.

1/The Bureau reports its backlogs as follows: July 1, 1970, 13,687 cases; July 1, 1974, 15,455 cases; and Oct. 1, 1980, 27,000 cases.

TABLE 21

Applications Filed
Onshore Oil and Gas Leases
1971 - 1979

Fiscal year	Over-the counter	Simultaneous (note a)	Competitive	Total
1979	10,400	8,181	514	19,095
1978	10,864	7,999	369	19,232
1977	9,891	8,396	375	18,662
1976	9,588	6,935	336	16,859
1975	7,367	6,740	443	14,550
1974	14,243	7,056	379	21,678
1973	9,277	7,393	371	17,041
1972	9,295	8,444	441	18,180
1971	7,078	7,344	269	14,691

a/Number of tracts offered in drawings during the year. Accurate statistics are not available on the number of drawing cards filed for these tracts.

Source: Bureau of Land Management, Public Land Statistics.

TABLE 22

Comparison of Applications Filed to Onshore Leases Issued 1971 - 1979

Fiscal year	Total leases applied for	Total issued (note a)
1979	19,095	11,758
1978	19,232	10,637
1977	18,662	10,714
1976	16,859	9,470
1975	14,550	13,759
1974	21,678	11,587
1973	17,041	13,349
1972	18,180	12,060
1971	14,691	11,505

a/Leases issued are not a total measure of Bureau work productivity because these numbers exclude cases rejected, withdrawn, or offered but not leased.

Source: Bureau of Land Management, Public Land Statistics.

TABLE 23

Number of Pending Oil and Gas Cases

	10/1/78 actual	10/1/79 actual	10/1/80 actual	10/1/81 estimated
Oil and gas lease applications pending in Bureau:				
Number (note a)	16,708	20,726	27,882	39,556
Percent change over previous year		+ 24%	+ 63%	+ 17%
Oil and gas lease applications pending in Forest Service:				
Number	3,824	9,325	10,250(est.)	11,632
Percent change over previous year		+ 143%	+ 10%	+ 13%

a/Includes an unknown number of "reactivated" cases which are not open applications to lease. The proportion of such cases is estimated by the Bureau to be small. Includes number of simultaneous filing tracts as follows: 1978, 2472; 1979, 2821; 1980, 5372; 1981, 6235.

Source: Estimated by the agency concerned.

TABLE 24

New Oil and Gas Cases

	FY 1979 actual	FY 1980 estimated in part	FY 1981 estimated
Lease applications received by Bureau	19,029	26,126	23,101
Lease applications received by Forest Service	7,625	3,775	4,782

Source: Submitted by the agency concerned.

TABLE 25

Oil and Gas Cases Completed

	FY 1979 actual	FY 1980 estimated in part	FY 1981 estimated
Lease applications completed by Bureau (note a)	40,587	41,404	43,651
Lease applications completed by Forest Service	2,125	2,850	3,400

a/Includes "reactivated" cases in addition to "new" cases. Reactivated cases generally require only clerical processing.

Source: Submitted by the agency concerned.

OUTLOOK FOR ELIMINATING BACKLOGS IS LIMITED

The agencies (as of June 1980) were not sanguine about the near future. They did not expect to become current in their work by the end of 1981, chiefly because they did not expect sufficient funds to clear up their backlogs. They indicated generally in our discussions that alternatives to an overall budget increase to enable them to become current do not appear to promise substantial relief over the short term. These alternatives include:

--Increased productivity.

--Shifting of funds among oil and gas accounts.

--Shifting of funds among mineral accounts.

--Shifting of nonmineral funds to oil and gas.

--Revised oil and gas allocation system.

Increasing productivity

Although no attempt was made in this study to measure efficiency of agency operations, it became apparent during our review that opportunities for increased productivity exist through better management of policies and operations. At the same time, there was evidence of some effort to cope with workloads though innovation, streamlining, and adjustment. For example, the Bureau is experimenting with computer processing of simultaneous-filing applications with the goal of reducing costs.

Both the Bureau and the Service have adopted a general policy which permits greater "efficiency" in the process of approval of leases. (See ch. 4.) Both agencies incorporate general stipulations in leases, which allow the agency to control fully all operations on the leases. Since a large proportion of leases never ripen into drilling operations, this practice sometimes avoids detailed investigations until prior to drilling, and thus saves money which would have otherwise been expended. However, for the minority of leases which do go on to development, the practice (1) merely puts off detailed tract studies to the APD stage, and (2) may cause lessees, after the lease is issued and rentals paid, to face unexpected burdensome terms and conditions.

Finally, savings through increased productivity in issuing leases do not necessarily decrease needs for appropriations since new leases generate their own requirements for additional funds for detailed site studies, plan development and supervision of operations. The significance of post-lease operations is suggested by table 26. For example, in FY 1979,

--in the Bureau, "compliance and use adjustment" (supervising lease activities) consumed 39.8 percent of its oil and gas funds compared to 17.5 percent for "use authorization" (lease approvals), and

--in the Forest Service, "operation plans" took 68.6 percent of the funds.

Based on our sample States, the relationship between incoming work and total funding also suggests that most of the Service's actions come after lease issuance.

TABLE 26

Distribution of Expenditures--FY 1979

	Percent of total
Bureau:	
Compliance and use adjustment	39.8
Use authorization	17.5
Inventory	14.1
Environmental analysis	12.9
Field examination	10.2
Studies and research	4.8
Other	0.7
Total	100.0
Forest Service:	
Operating plans	68.6
Approved lease applications	17.8
Environmental analyses and statements	7.2
Research and development	2.5
Appeals and lawsuits	1.8
Inventory	1.4
Other	0.7
Total	100.0

Source: Submitted by the agencies concerned.

Shifting oil and gas funds

Although short-term adjustments may be made among the various oil and gas accounts, opportunities for major or longer term adjustments appear limited. The agencies appear to be willing to shift some funds allocated for general overall oil and gas work, such as "inventories" and "environmental analysis," into case-backlog reduction. They appear reluctant to draw money from site-specific oil and gas work.

For example, in fiscal year 1979, the Bureau appears to have sharply reduced its planned "inventory" goals for the year (from 19.8 million acres to 12.8 million acres) in favor of increasing "use authorization" goals (from 33,000 to 38,229 cases). However, it did not adjust its original "compliance and use adjustment" goals. In the same year, the Service reduced planned expenditures for "research and development" and "environmental analysis and statements" to favor increased planned expenditures for "operating plans" and "approved lease applications."

Shifting mineral funds

Competition among mineral programs for scarce mineral funds reduces agency flexibility in putting more funds into oil and gas. Pressures have been strong on these agencies to get on with programs for coal and geothermal steam, as well as phosphate and other minerals. Also, Interior is now planning new initiatives in oil shale and tar sands. In fact, there is always a possibility that circumstances may require increased allocations to another mineral program despite oil and gas backlogs.

Because of current congressional and other interest in oil and gas, the Bureau is now planning to raise oil and gas to a line item in the budget. This will permit the Bureau to maintain and report more detailed data on its oil and gas work. It will also tend to shield oil and gas funds from drainage to other programs. On the other hand, it will tend to limit oil and gas expenditures to those specifically appropriated for those minerals.

Shifting nonmineral funds

Both the Bureau and the Service resist suggestions that additional funds needed for oil and gas operations come out of other resource programs. This is because of (1) their commitment to the concepts of multiple-use, sustained yield, and resources protection, (2) pressures on them to progress with competing programs, (3) specific statutory directives, and (4) particularly in the Bureau, longstanding substandard resource conditions. The transfer of more funds, merely to step up issuance of oil and gas leases, is complicated by uncertainty on the extent to which increased leasing activity will result in increased development. With other programs, the agencies see a more direct relationship between expenditures of money and effort, and measurable program results.

Revision of the oil and gas system

Although for many years the Department of the Interior has recommended revision of the Mineral Leasing Acts to reduce or eliminate noncompetitive leasing, legislation to this end has not been favorably considered in the Congress. Legislation (S. 1637) introduced in the 96th Congress at the request of the Department of the Interior would have expanded the extent of competitive leasing by redefining KGSs and by introducing competition in a new type of area to be called a "producing geologic province". After review of two versions of S.1637, 1/ we recommended against their enactment because we believed they would have negative impacts on the timely production of oil and gas. 2/

Another proposal, S.2424, would have expanded competitive leasing to acquired land military reservations. This provision was proposed to eliminate "giveaways" of potentially productive oil and gas lands formerly closed to oil and gas leasing.

The proposed Energy Mobilization Board legislation (S.1308) contained provisions to streamline approvals of onshore oil and gas activities on Federal lands. It would have required Federal approval of exploration permits and development leases no later than 12 months from filing of a completed application for such approval (sec. 507). We have used the 12-month time frame in our analysis in this report.

Another proposed measure was a joint resolution to direct the President to set energy resource leasing on Federal lands as a national priority (S.J. Res. 184, H.J. Res. 573). It also required identification and removal of any administrative restrictions not required by law which may impede oil and gas leasing.

1/The Department of the Interior's general proposal.

2/See EMD-80-60, Mar. 14, 1980, "Impact of Making the Onshore Oil and Gas System More Competitive," and EMD-80-79, June 2, 1980, "Impact of an All Competitive Onshore Oil and Gas Leasing System."

The Energy Security Act (P.L. 96-294), on the other hand, has been enacted. Section 262 clearly states the Congress' intent that lease and permit approvals should continue during the preparation of Forest Service land management plans.

STATE LEASING PRACTICES

Procedures for leasing State-owned lands in Colorado, Mississippi, Nevada, New Mexico, and Wyoming are much simpler than Federal procedures. Each State has somewhat different procedures, but in general they result in much more rapid issuance of leases. (See app. IX.)

CHAPTER 6

SIGNIFICANT DELAYS OCCURRING IN FEDERAL APPROVAL OF PERMITS TO DRILL

Timely approval of lease applications is important to encourage domestic oil and gas production. However, the timely approval of geophysical permit applications and applications for permits to drill is more significant because applicants actually intend to explore and produce. In contrast, many lease applicants seek leases for speculation only.

We found that geophysical permits have not been a real problem for the operators. Drilling permits, however, are not always issued within a reasonable period of time. Based on a criterion we developed--that the total processing time for drilling permits should be within 30 days of filing--almost one-half (47 percent) of the 1,749 APDs the Geological Survey approved in the five review States were "delayed" in 1979. In addition, almost two-thirds (63 percent) of the 533 permits pending as of December 31, 1979, were more than 30 days old.

We found that delays occurred at all stages of the Survey's APD processing. The most common delays involved obtaining information from applicants to complete APDs, securing archaeological clearances from SMAs or State agencies, and receiving surface protection recommendations from SMAs on the operator's drilling plans.

The outlook for the Survey to eliminate approval delays in the near future is not promising. Survey permit backlogs will more than triple from Oct. 1, 1978, to Oct. 1, 1981. The Survey is not optimistic in terms of increasing staff and funds to meet their projected workload.

EXPLORATION PERMITS HAVE NOT CAUSED MANY PROBLEMS FOR OPERATORS

Prior to actually choosing a well site, most companies will obtain geophysical and seismic data on the prospective area.

Geophysical permits are issued to operators to conduct geophysical exploration on Federal lands. These approvals are given by the responsible surface-managing agencies--for

example, the Bureau of Land Management grants the approvals on its public domain lands. Since each agency handles geophysical permits, it is necessary to meet individual needs. For Bureau lands, an operator must file a "Notice of Intent to Conduct Oil and Gas Exploration Operations." Unless notified otherwise by the Bureau, the operator can assume that his operations are acceptable. Regulations are being developed to give the Bureau greater approval and veto authority over geophysical and seismic activities.

Forest Service procedures for approving geophysical permits require active consent and the actual issuance of a special use permit. Fees are charged for any operations

--conducted on leased lands but not for the benefit of the lessee,

--conducted on unleased lands, or

--conducted on Service lands with private mineral rights.

According to Service officials, geophysical plans are only questioned if an area has special environmental characteristics.

The Bureau requires environmental assessments prior to any geophysical work. If an operator is proposing geophysical exploration activities on leased lands, it is likely that the lease's environmental assessment covered the environmental impacts of geophysical activities. If the proposal is for nonleased lands, according to Bureau officials, an environmental assessment should be done on the area in question. 1/ It is unclear whether this has actually occurred. In some areas, regional environmental assessments have been done to cover the impacts of geophysical activities on the Bureau lands. In other areas, environmental assessments may not have been done.

NATIONAL STATISTICS INDICATE FEW LEASES ARE DRILLED

The Department of the Interior has long argued that about 80 percent of the Federal leases issued expire without being

---

1/The Bureau has recently proposed a categorical exclusion from NEPA for geophysical exploration on nonleased lands (45 Federal Register 82369, Dec. 15, 1980).

drilled. Information directly showing the number of leases which are drilled is not maintained. However, statistics kept tend to support Interior's position. For example, the Bureau issued about 12,000 oil and gas leases in fiscal year 1979, while the Survey received only about 4,000 APDs in calendar year 1979, for all leases issued both in 1979 and prior years. Furthermore, actual drilling occurred on only 79 percent of the permits issued by the Survey during calendar years 1977-1979. (See table 27.)

TABLE 27

APD Activity - 1977-1979

	CY 1977	CY 1978	CY 1979	Total
Number of APDs received	3,674	4,056	3,879	11,609
Number of APDs approved without modification	2,568	3,025	2,713	8,306
Number approved with modification	676	528	506	1,710
Total APDs approved	3,244	3,553	3,219	10,016
Number of APDs rejected	150	264	369	783
Number of exploratory wells	477	512	430	1,419
Number of development wells	2,129	2,188	2,147	6,464
Number of wells actually commenced	2,606	2,700	2,577	7,883

SOURCE: U.S. Geological Survey.

The number of APDs rejected by the Survey has been increasing as shown above. During our review it was impossible to determine why these rejections occur because case files are destroyed or returned to applicants when applications are withdrawn or rejected by the Survey.

Processing Permits to Drill

Before lessees or their operators can drill a Federal lease, they must secure from the Survey advance approval for all proposed drilling operations and related surface disturbance activities. To secure such approval, they must submit a completed APD to the appropriate Survey district office.

The APD must be accompanied by a detailed surface use and operations plan and must comply with (1) lease stipulations, (2) the regulations in title 30 C.F.R., part 221, and (3) the instructions in Notice to Lessees No. 6 (NTL-6) issued by the Survey effective June 1, 1976. This APD package must be filed at least 30 days prior to the operator's anticipated operations date if he wishes to assure that drilling commencement dates will be met.

Upon receipt of an APD, the Survey examines it for completeness and accuracy. If the APD is not acceptable, the Survey will reject it or request additional information from the operator. If the APD is not rejected, a copy will be sent to the SMA. The Survey is responsible for scheduling joint site inspections made by representatives of the Survey, SMA, and the operator. The operator may also invite the earth-moving contractor who will be working on the site. Agreements between the Survey and SMA call for the Survey to schedule inspections not less than 7 days after the SMA has received the APD. The SMA is responsible for giving agency clearance and specifying any site-specific stipulations which it deems necessary to protect the surface of the lease for endangered species, archaeological artifacts, and historic sites. The SMA is also required to recommend the rehabilitation which should be carried out to restore surface resources. This SMA report should be provided within 10 days of the joint inspection, if one is held, or within 10 days of receiving a copy of the APD from the Survey. Until recently, the Survey was responsible for writing an environmental assessment based on this SMA input. The Survey is proposing that only the first well to develop a known field will require preparation of an environmental assessment in the future.

Only after the above activities have been completed can the Survey approve an APD, with or without modifications. If this process takes more than 30 days, an applicant is supposed to be notified by the Survey of the delay. This process is illustrated in figure 1.

CONDITIONS AFFECTING TIMELY APPROVAL OF APDS

Various conditions or circumstances can affect APDs, making them easier (by taking less time) for the Survey to process or for operators to prepare. For example:

--If the lessee is the operator on the lease, a designation of operator does not have to be filed. Obtaining a designation of operator for a non-lessee can be time consuming, particularly when several people share in lease ownership.

--If the lease is not part of a unit, an approved unit agreement 1/ does not have to be obtained.

--On the other hand, leases which are part of units enjoy certain advantages because many requirements on the multipoint surface use and operations plans are already known and approved. Most of the access roads as well as sources of water and water disposal are likely to have been approved, and geological and environmental features known.

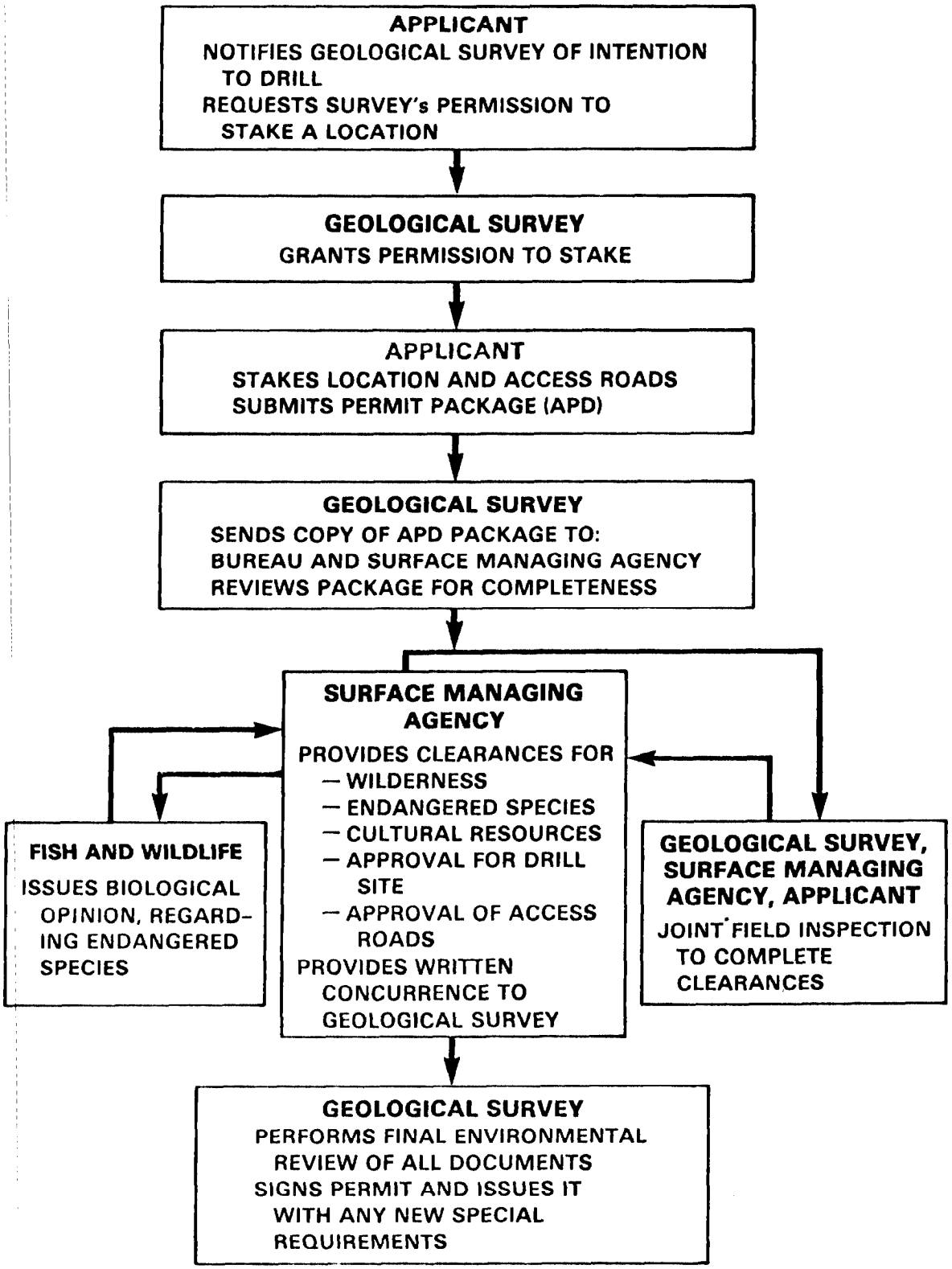
Most APDs we reviewed experienced more than one extended processing step or delay. To identify the primary delay, we used the process taking the greatest amount of time. An APD was considered delayed if it was not approved within 30 days of filing. The Survey considers an APD delayed if more than 30 days pass after it is technically complete. An APD is technically complete when the operator has complied fully with regulations and instructions governing its filing. However, the Survey's determination differs between officials and between regions. For example, one Survey official may record

---

1/A unit agreement is a Survey-approved plan of development and operation for the purpose of properly conserving the resources of an oil and gas pool or field.

FIGURE 1

PERMIT APPLICATION PROCESS



an application as complete when all the administrative considerations have been met. Another official may consider technical factors and wait for results of site inspections or changes before considering the application complete. We used the 30-day criterion because (1) the Survey and the SMA normally perform many processing steps even though the APD is not technically complete, (2) legislation had been introduced in the 96th Congress to make a 30-day deadline mandatory from date of APD filing, and (3) we found some districts where applicants were not informed their application was incomplete until late in processing. In addition, for scheduling and planning purposes, industry has considered the Survey's 30-day period to begin with the APD filing.

WIDE DIFFERENCES OCCUR IN APPROVAL TIMES FOR DRILLING PERMITS

Based on our five review States, the time taken to approve APDs varies considerably. In the review States, 1,749 APDs were approved in 1979 and at least 533 were still pending as of December 31, 1979. New Mexico and Wyoming were the only States where a majority of the permits were approved in 30 days or less. In Nevada, most permits were approved in 90 days. The longest delays occurred in Colorado where 55 percent of the APDs approved were over 120 days old. (See table 28.)

Of the 533 pending APDs, about 338 were over 30 days old. For Colorado, about 56 percent of its delayed pending APDs were over 4 months old. All four of the pending Nevada permits were over 1 year old, but as will be discussed later, had been suspended at the request of the applicants. In New Mexico and Wyoming, on the other hand, most delayed permits had been pending less than 90 days. (See table 29.)

Out of the 1,749 approved and 533 pending APDs, we selected a sample of 126 and 58, respectively, for detailed analysis. All cases sampled were over 30 days old. Appendix X shows the number of approved and pending APDs sampled, by State and primary delay.

TABLE 28

Days to Approve Drilling Permits
Which Were Issued in 1979

Number of days, receipt to approval	Number of permits					
	Colorado (note a)	Mississippi	Nevada	New Mexico (note a)	Wyoming	Total
1 - 30	5	3	7	410	510	935
31 - 60	13	8	14	178	274	487
61 - 90	19	7	1	34	61	122
91 - 120	33	0	0	14	11	58
121 - 365	83	5	2	25	27	142
Over 365	2	0	0	3	0	5
Total	155	23	24	664	883	1,749

a/Because of recordkeeping differences this figure does not include producing wells.

TABLE 29

Age of Pending Permits
as of December 31, 1979

Number of days, permits pending as of Dec. 31, 1979	Number of permits					
	Colorado	Mississippi	Nevada	New Mexico	Wyoming	Total
1 - 30	(a)	0	6	103	86	195
31 - 60	15	0	0	85	47	147
51 - 90	17	1	0	29	15	62
91 - 120	10	0	0	15	6	31
121 - 365	48	1	0	7	25	81
Over 365	5	0	4	5	3	17
Total	95	2	10	244	182	533

a/NA--not available.

TYPES OF DELAYS

The primary types of delays (see table 30) identified in our sample 1/ were

--time taken by applicants to submit information requested by the Survey (49 cases);

--difficulties securing archaeological information and clearances from SMAs or State agencies (41 cases);

--delays by SMAs in submitting reports with stipulations (36 cases);

--survey processing delays (24 cases);

--difficulties in arranging and scheduling site inspections (21 cases); and

--other reasons (13 cases).

No one type of delay overshadowed the others in terms of frequency and importance. However, communications problems in general prevented or increased the time needed to approve APDs in most cases. Moreover, Survey officials are not normally notifying applicants when APD approvals are delayed.

1/Our sample consisted of 184 approved and pending permits.

TABLE 30

Primary Delays Experienced
by Oil and Gas Drilling Permits
Sampled by GAO

Longest process	Colo.	Miss.	Nev.	NM	Wyo.	Total
Obtaining information from applicant	10	3	0	19	17	49
Archaeological clearance	19	8	0	6	8	41
SMA report with stipulations	2	2	16	10	6	36
Survey processing delay	4	2	1	13	4	24
Arranging for site inspection	5	0	0	1	15	21
Other	6	2	4	1	0	13
Total	46	17	21	50	50	184

Incomplete application delays

The most prevalent delay in the sampled cases was securing information from applicants to complete their APD packages. Twenty-seven percent of the permits sampled were delayed while awaiting information from applicants--24 approved and 25 pending permits.

Survey officials consider incomplete applications to be a major factor in the delay of approvals. Although we found that many applications are incomplete when filed, the Survey often contributed to the resulting delay by not promptly requesting the missing information. It was often impossible for us to determine how and when an applicant responded with

the additional data or if it was ever requested by the Survey because logs and records were not maintained consistently. Some cases revealed that the Survey did not find an application incomplete until late in processing. For example, rather than first checking APD completeness, as outlined in the Survey's operations manual, Eastern District staff started with requests for SMA input. In his final review of the package, the District Engineer later found operator data missing. Since it frequently takes applicants at least 30 days to furnish missing items, total elapsed time could have been reduced if the Survey had initiated requests to the applicant at the same time it contacted the SMA.

The Survey has also contributed to delays because its guidelines to operators on requirements for permits are unclear. Information often omitted from applications involves records to prove an operator's right to proceed with drilling. Such records include landowner/operator agreements and a designation of operator by the lessee. Bonding of lessees as well as other items would also have to be obtained. These requirements are identified in title 30 C.F.R., Part 221, but have not been described in the Survey's Notice to Lessees No. 6. NTL-6 only states that an operator must comply with Title 30. Although all this information should be part of the APD package when submitted, most Survey district offices will accept applications without it and later contact the applicant about missing items.

One Mississippi APD was filed in January 1979 without a surface use and operations plan. By letter, the Survey informed the applicant in March 1979 that a surface use and operations plan was needed, but received no response. The plan was requested again in November 1979. Monthly well reports revealed, however, that the applicant had reentered the old well without the Survey's consent. The applicant finally resubmitted the complete APD package in December 1979.

In another Mississippi case, an operator was requested to supply additional information about the technical description of some drilling equipment. The company repeatedly responded with information which did not address the concerns of the Survey requests. This process delayed the application for 4 months. In addition, the applicant had failed to supply three originally signed APDs as required by NTL-6. A third application was pending because a structural map with data on the proposed well was needed from the applicant for SMA reviews. In addition, the Survey determined in February 1980 (3 months after filing) that the operator's bond was missing.

In our western States, the most frequent item omitted from APD packages was a landowner/operator agreement. Such an agreement is required for surface rehabilitation when the surface is owned by someone other than the Federal Government, i.e., private parties, or States. Twelve (26 percent) of the 46 applications delayed by the applicant in Colorado, New Mexico, and Wyoming were because of a lack of landowner/operator agreements. Seven APDs were delayed for this reason in Wyoming alone.

The landowner/operator agreement is a requirement set forth in NTL-6. In those cases where the surface of a Federal lease is privately owned, the notice requires each APD to contain information concerning the private surface owner's rehabilitation requirements. If it is impossible or impractical for the lessee or operator to obtain such an agreement, a letter must be provided explaining the situation. If an agreement is furnished it will be reviewed by the SMA giving full consideration to the preferences of the landowner. If an agreement is not reached, the SMA will recommend the necessary surface restoration requirements.

In five other cases, the lessees had not designated who the operator was to be. Since the lessee often does not file the APD, the Survey needs such a designation to insure that the operator has the lessee's permission to drill and to maintain lessee responsibility for any operations which may disturb the lease surface. Obtaining such designations can be time consuming because leases frequently have a number of owners who have to be contacted.

Four APDs were delayed, all in Wyoming, because bonding requirements were not met. One delayed application was for a lease which had 11 owners who had to be bonded. Accordingly, a unit bond was obtained, but a mistake was made when the bond was prepared that had to be corrected by the surety. Another of the delayed applications involved a lease with nine owners who had to be bonded because they had just acquired ownership of the lease. One Survey official in Wyoming stated that APDs are frequently held up because the lessees are not bonded. The official believes that bonding only the operator rather than the lessee would simplify matters.

Archaeological clearance delays

Another major cause of delays in the sample cases was obtaining archaeological clearances from SMAs. Forty-one

permits (22 percent) were delayed at this stage--31 approved permits and 10 pending permits. (See table 30.)

An archaeological clearance is required for compliance with various historic preservation acts (such as the National Historic Preservation Act of 1966, as amended). 1/ The SMA is responsible for sending this clearance to the Survey. Usually, investigations of archaeological values require a full ground survey by a qualified archaeologist. The Bureau and some other SMAs require the operator to obtain such archaeological surveys at their own expense. The Bureau and the Forest Service usually require such surveys for all drilling actions in the West. For acquired lands in the East, the Survey consults State Historic Preservation Officers who will notify the district engineer if an archaeological survey is needed.

The archaeological survey can be completed prior to APD submission if an operator anticipates a drilling site may require detailed archaeological study. In some cases, the SMA may require one before the proposed well site can be surveyed and its location staked. In the Farmington, New Mexico, district, operators often have an archaeologist present at the on-site inspection to give preliminary clearance at that time. In this way, clearances can also be given to alternative site or road locations if the original locations are not acceptable to the SMA. This reduces the need for additional or revised archaeological surveys and thus can reduce processing time.

Determining the cause of archaeological clearance delays from agency records was not always possible, because archaeological studies are performed for the operators. Industry representatives frequently cited archaeological studies as being delayed because of weather and in some cases due to shortages in availability of approved archaeologists.

In Colorado, 19 APDs (12 approved and 7 pending) were delayed because they lacked archaeological clearances. Four of these clearances were delayed because of heavy snow cover at the drilling site. One Bureau of Land Management office in Meeker, Colorado, was involved with 16 of the 19 delayed applications. When we visited the office in April 1980, its records showed 113 pending APDs on hand. Lack of an

---

1/16 U.S.C. 470, et seq.

archaeological clearance was cited as a delaying factor for 61 of the applications; for 37 of these, it was the only factor.

The Bureau plans to provide archaeological investigations and clearances in the West covering large land areas (blanket surveys). However, little progress has been made due to a lack of qualified personnel and funds for this program.

The archaeological clearance process delayed eight cases in Mississippi. Our review of these case files showed only one case where the Mississippi State Department of Archives and History required an archaeological survey prior to granting its clearance. The other seven delays were for clearances alone without any indication that a full ground survey was needed. Although we could not precisely determine what delayed these seven clearances at the State Department of Archives, we believe simultaneously processing six related well applications from one operator could have been a contributing factor.

Determining the importance of an archaeological site or finding and what measures should be taken to protect sites present a problem. For example, in New Mexico, a well site was cleared by one archaeological study. However, another study performed on a pipeline identified the same site as having significance. A Bureau archaeologist looked at the site and agreed that the site was significant.

SMA reporting delays

Thirty-six cases involved delays caused by the SMA's failure to respond promptly with reports to the Survey. These were a particular problem in Nevada (16 of the 21 delayed cases) and New Mexico (10 of its 50 delayed cases). (See table 30).

The survey's operations manual and the cooperative agreements between surface agencies and the Survey provide for SMAs to furnish surface protection and reclamation requirements to the Survey within 10 working days after a joint inspection or after receipt of the APD (if no inspection is made). We found staff at one New Mexico Bureau office were under the impression they had 30 days instead of 10 to provide reports with stipulations. This office was responsible for 3 of the 10 SMA-delayed cases.

In Nevada, only one APD received SMA comments within the 10-day period. Bureau responses took from 1 to 6 months in 16 cases. Survey files, in most instances, did not explain the delays. However, in two cases where the Bureau had taken 6 months to respond, its reports depended upon completion of a wilderness inventory. In another case which took 2 months for the Bureau to reply, the delay resulted from a need to resolve a potential safety hazard at the proposed well site.

A potential for longer delays exists when SMA investigations indicate the possibility of significant adverse environmental impacts from development and the need to prepare an environmental impact statement. Few of these have actually been required prior to approval of a permit. One ongoing environmental impact statement at Cache Creek, Wyoming has been the center of public and political controversy. The Forest Service and Interior have agreed to examine several potential drilling units in this area in one environmental impact statement to speed resolution of potential environmental conflicts.

Geological Survey Processing Delays

Geological Survey processing was the primary delay in 24 sample cases, 13 of which occurred in New Mexico. Staff shortages and turnover were cited by Survey officials as being the basic cause of these processing delays.

New Mexico's Farmington district office accounted for 6 of the 13 cases. Officials there stated that the delays resulted from several changes in personnel including six changes in the District Engineer, which occurred following the retirement of one engineer on June 1, 1979. A permanent replacement was assigned in October 1979.

Delays in the Survey's processing of APDs occurred most often either before an application was forwarded to the SMA or after all recommendations had been received. For example, one Nevada case was delayed when the Survey used 19 days to complete the environmental assessment and approve the permit after receiving the SMA's comments. In Mississippi, two permit application approvals were delayed by Survey inaction. One approval was delayed when the Survey took over 5 months to request that the operator change well site plans. New plans were needed because the well location was environmentally unsafe. For the other permit, the Survey took over 2

months after receipt of all necessary information to prepare the environmental assessment.

Survey processing was responsible for 4 applications delayed in Colorado. In these cases the Survey used as much as 3 months for its processing. This did not include SMA time. The Survey's processing time delayed the drilling of a producible well by nearly 2 months. After receipt of all documents, the Survey took over a month to issue the permit. This well was one of four successful wells which, according to the operator, are capable of producing 4.5 million cubic feet of gas and 20 barrels of oil daily. However, these wells are not currently producing because they are awaiting additional approvals for a pipeline and a pumping unit.

The Survey's District Engineer for Colorado as well as Utah is located in Salt Lake City, Utah. The engineer explained that the large area his office serves creates delays in the time spent getting to well sites. He also told us that in 1979 several new and inexperienced clerks were hired. This, along with the fact that his office has to work with a large number of small operators who submit incomplete applications, contributes to delays.

Onsite inspection delays

Of the 21 sample APDs delayed because of joint onsite inspections, 15 were in Wyoming where personnel turnover resulted in a shortage of qualified personnel at the Survey to participate in inspections. (See table 30.)

Two Survey offices (Casper and Newcastle) in Wyoming were responsible for 12 of these 15 delays. Survey officials in both offices said they were understaffed. For example, in Casper, the Survey had only 50 percent of its authorized engineers and technicians. Survey officials in Newcastle directly attributed delays in scheduling onsite inspections to a staff shortage. In Newcastle, the delayed permits required 3 to 4 weeks for the onsite inspections. However, one inspection in Newcastle was delayed 46 days at the operator's request.

Other delays

Thirteen sample cases were delayed for a variety of other reasons. In Nevada, for example, processing on four pending permits had been suspended at the request of the

applicant. One of these had been pending for 31 months. Survey officials noted that the APDs was suspended by a company with 12 other approved permits undrilled.

Six permits were delayed in Colorado due to wilderness studies. As of December 31, 1979, five of these permits were still pending. One APD was filed in late August 1979. After the October onsite inspection, only minor modifications were requested in the proposed surface use plan. However, the Bureau informed the Survey that the APD should be held up until September 30,1980, because the area was being studied for possible wilderness. The Bureau determined that the development called for by the APD would have a significant impact on the natural, roadless state of the unit. Another APD, filed in February 1979, was for work in early July. However the Bureau informed the Survey that the APD could not be approved because it was in an area being studied for wilderness. On October 23, 1979, nearly 9 months after the APD was filed, the area was released from wilderness consideration.

Two Mississippi permits were delayed due to other reasons. One Mississippi permit revealed the longest processing stage to be the receipt of a geologic evaluation report from the Survey's Conservation Division in Washington, D.C. This geological evaluation took 38 days. Another Mississippi application received its longest delay because the APD package lacked the necessary lease assignment data. 1/ The Bureau's Eastern States Office, which is responsible for issuing assignments and maintaining assignment records, sent the Survey the missing data 8 months after filing of the APD. Survey officials believe delays at the Eastern States Office are a problem since information on assignments, designations of operator, lease extensions, etc., are prerequisites to approving an APD. They also feel some priority should be given to processing items an operator must have approved to meet drilling regulations. Bureau officials informed us that priorities are not assigned by type of action, Cases are equally handled on a first come, first served basis regardless of whether it is a lease, assignment, or bond application.

1/A lease assignment is an agreement between the lessee and a second party by which the second party has been granted rights to the lease or a portion of that lease.

Our sample of delayed APDs indicates that many applicants are unsure as to what information is needed in the application package sent to the Survey. When APDs are received, Survey offices generally were not timely in notifying applicants of additional information needs. Our sample also identified delays caused by the SMAs failure to respond promptly with reports and archaeological clearances to the Survey. These delays have contributed to the Survey's and SMAs' drilling permit backlogs.

SURVEY TO SIMPLIFY PERMIT PROCESSING

The Survey feels important savings could be realized through better coordination of industry's drilling plans and APD filings. To this end, the Survey is initiating discussions with industry to better pinpoint industry drilling plans for the public lands. Better coordination could enable the Survey to concentrate its resources in areas where early drilling is planned, allowing for more efficient operations. Since the Survey reports that industry fails to drill on about 20 percent of approved APDs, the Survey may be able to realize savings from identifying real industry interest.

The Survey has already taken steps to eliminate the requirement that an environmental assessment be prepared for every well an operator plans to drill. Under new implementing procedures for NEPA proposed in November 1980, only APDs for the first confirmation drilling of an oil or gas field would require an environmental assessment. This modification will still require the Survey to provide archaeological, wildlife, and other clearances for APDs, but will likely reduce the paperwork required to approve a well site.

The preparation of environmental assessments actually ended 5 months before the Survey's categorical exclusion procedures were finalized. In August 1980, field staff at the Survey were directed to stop writing assessments for most APDs. A new "checklist" environmental review process was initiated. The Survey's action contradicted Interior's official policy, set forth in July 1979, to use existing procedures until new NEPA review procedures had been promulgated. Furthermore, the Survey's premature actions were not in compliance with existing Federal regulations.

OUTLOOK FOR IMPROVEMENT IS LIMITED

As discussed in chapter 5, Federal agencies are not optimistic about getting ahead of their oil and gas workloads in the next few years.

Drilling permit backlogs at the Survey will more than triple by fiscal year 1982, from 335 cases in fiscal year 1979 to 1,184 cases. (See table 31.) The Survey estimates that filings of permit applications will increase steadily during this period. (See table 32.) However, the Survey does not believe projected staffing will meet this increased workload. Moreover, the Survey expects more modest increases in new work than the leasing caseloads at the Bureau and the Service, discussed in chapter 5.

Budgets are not expected to be sufficient. In addition, alternatives to larger oil and gas budgets may not be enough to improve the situation significantly in the near future.

The Survey's flexibility in balancing its funds among different oil and gas work areas is somewhat limited by the fact that about 40 percent of its oil and gas funds are allocated to "royalty accounting" and "inspection" of oil and gas operations. (See table 33 .) These are high priorities in many areas. Royalty accounting deficiencies were the subject of one of our 1979 reports which pointed out that serious problems exist, caused in part by understaffing. 1/ The Survey has a further problem in that increased SMA productivity increases the Survey's workload.

1/"Oil and Gas Royalty Collections--Serious Financial Management Problems Need Congressional Attention," FGMSD-79-24, Apr. 13, 1979.

TABLE 31

Number of Pending Oil and Gas Cases

	10/1/78 actual	10/1/79 actual	10/1/80 estimated	10/1/81 estimated
Applications for drilling permits pending in the Survey				
Number	335	587	877	1,184
Percent change over previous year		+75%	+49%	+35%

Source: U.S. Geological Survey.

TABLE 32

Oil and Gas Cases Received vs. Oil and Gas Cases Completed

	FY 1979 actual	FY 1980 estimated in part	FY 1981 estimated
APD's received by the Survey	3,861	4,080	4,500
APD's completed by the Survey	3,609	3,790	4,193

Source: U.S. Geological Survey.

TABLE 33

Distribution of Expenditures--FY 1979

	Percent of expenditures
Geological Survey:	
Permit and lease plan review	32.9
Royalty accounting	31.2
Inspections	12.2
Environmental analyses	8.8
Research and development	7.0
Legal document interpretation, etc.	4.4
Environmental statements	2.1
Environmental inspections and investigations	1.4
Total	100.0

Source: U.S. Geological Survey.

Revision of the oil and gas system

Legislative proposals in the 96th Congress for Federal oil and gas system revisions (see ch. 5) would not affect the Survey's ability to speed up its operations, except to the extent they would

--reduce environmental assessments and other nominal requirements; and

--set time limits for the issuance of APDs.

The Energy Mobilization Board legislation specifically provided a maximum of 90 days for Federal approval of drilling permits after an application is filed with a goal of 30 days

for approval. It would also have required only one environmental assessment for all drilling on a Federal lease (section 506). These proposals were not enacted by the 96th Congress.

STATE OIL AND GAS DRILLING PERMITS

States require oil and gas companies to have permits to drill oil and gas wells on State and private lands. We contacted State officials responsible for issuing permits in 4 of the 5 States where we performed our review. Permitting officials in New Mexico were not contacted. (See app.XII.)

In the four States, permits usually took less than a week to be issued. Due to backlogs, Wyoming approvals were taking about a month. In addition, the permit requirements oil and gas companies had to meet were much less extensive than those of the Federal Government.

CHAPTER 7

CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

CONCLUSIONS

The Nation is facing continuing prospects of large gaps between consumption of oil and gas and domestic production from conventional sources. A series of measures are needed in order to reduce U.S. dependency on foreign energy sources. Among these are intensified exploration for and development of oil and gas deposits in Federal lands.

Such an effort might indeed yield additional domestic production since the Federal Government owns 19 percent of the lands in the lower 48 States which are prospectively valuable for oil and gas, but those lands yield less than that percentage of domestic production. This review has disclosed some reasons why the Federal lands in the lower 48 States are not producing their proportionate share of oil and gas and some ways Federal agencies are falling short in meeting the President's objectives.

The Federal lands are not, in fact, producing all the oil and gas they could. Agencies for various reasons are not managing their programs in a manner to secure optimum exploration and development effort on Federal lands. In part, this is due to the fact that Federal oil and gas programs are in competition with other resource management programs for scarce funds and manpower. We found that the three agencies (Bureau of Land Management, Geological Survey, and Forest Service) do not have and do not expect sufficient funds to prevent increasing backlogs of lease and permit applications in the immediate future. Also, goals of the oil and gas program to some extent are in conflict with the goals for other resource management and environmental programs.

The Congress has long shown a serious concern over minerals development on Federal lands. In addition, the courts have noted that the Secretary of the Interior must take a positive role in administering the mineral leasing acts. He is to provide some incentive for, and to promote

the development of, oil and gas deposits in all publicly owned lands of the United States through private enterprise. 1/

Thus, we believe there is opportunity to increase exploration for and production of oil and gas from Federal lands in the lower 48 States, even without any significant changes in the basic resource and environmental laws. For the most part, the Secretary of the Interior and the heads of other agencies have ample authority to make this increase possible. However, in some cases, legislation would be helpful to clarify other laws, particularly with respect to congressional intent.

We have examined three issues affecting the exploration for and development of oil and gas on Federal lands--availability of lands for leasing, imposition of stipulations on leases, and the time required to approve leases and drilling permits. It is our judgment that the first two issues are more significant because of (1) the indefinite duration of actions which have closed lands, (2) the severeness of stipulations on leases, (3) the large acreage involved, and (4) their substantial oil and gas potential. Congressional consideration is required to expedite "opening" of these lands and to oversee agency actions. On the other hand, lease and permit delays usually have a temporary, one-time impact on a particular operator's oil and gas development plans. Improvements in these areas can generally be accomplished through agency administrative adjustments to the present leasing and permitting programs.

WITHDRAWALS INVOLVE MORE "LOST" POTENTIAL OIL AND GAS PRODUCTION THAN DELAYS IN FEDERAL APPROVALS

The effects of withdrawals of Federal lands from oil and gas exploration are very large. Closing lands or keeping already withdrawn lands closed without adequate justification or without determination and consideration of their oil and gas resources is not consistent with approaches needed to deal with energy problems.

Only recently, advances in geophysical exploration techniques, new geologic theories, and increasing energy prices

---

1/Harvey v. Udall, 348 F. 2d 883 (10th Cir. 1967). Mountain States Legal Foundation v. Cecil D. Andrus, et al., U.S.D.C. Wyo., No. C78-165B, Oct. 10, 1980.

have led to better assessments of the potential of new areas such as the Western Overthrust Belt. However, such data takes investments of both time and money to develop. Lands that have been withdrawn from exploration may never have an opportunity to be evaluated unless changes are made in the status of "no leasing" areas.

We have identified at least 64 million out of 410 million Federal acres (16 percent) in the lower 48 States which have been closed to leasing. Another 33 million acres of Service land could be closed to new mineral development by 1984 in accordance with the Wilderness Act. Further study of 34 million acres of both Bureau of Land Management and Forest Service lands will determine whether even more lands are added to the wilderness system.

These withdrawals could have no effect on oil and gas production in these States. On the other hand, withdrawals may very well affect substantial amounts or even all the potential production in a given State. The scarcity of information on how much oil and gas has been affected makes the relative magnitude of the problem very difficult to determine in the absence of exploration or drilling.

For our review States, we estimate up to 5.1 billion barrels of oil and 20,799 billion cubic feet of gas 1/ could be affected by withdrawals. (See table 34.) An average estimate for the five States, based on per acre resources using 1978 Geological Survey estimates of recoverable resources, 2/ could be about 312.6 million barrels of oil and 156.3 billion cubic feet of gas foreclosed from development by formal and administrative withdrawals. Most of these lands have been closed for indefinite periods. Another

---

1/Total for Federal lands in the States of Colorado, Mississippi, Nevada, New Mexico, and Wyoming based on 1978 Geological Survey estimates. Assumes all potential oil and gas resources have been withdrawn.

2/These Geological Survey estimates were one-time figures by State developed in cooperation with the American Petroleum Institute. They have not been updated, and are the only resource estimates available which distinguish Federal lands from all lands.

387.4 million barrels of oil and 162.4 billion cubic feet of gas in the review States could be affected by closing wilderness areas to new oil and gas development. (See table 34.)

Any such estimates of the resource potential of withdrawn areas must be considered speculation at best. The minimum amount of exploration that has occurred around many of these areas makes reliable resource estimates impossible. Only drilling and exploration in many of these areas will provide better information on the amount of resources "lost." However, we believe any deferred or inaccessible production no matter how small is detrimental to the needs of the Nation.

The long-term outlook for increased oil and gas production in the United States is limited. However, untapped conventional sources of oil and gas, such as those in withdrawn areas, are critical to help meet the country's interim needs.

On the other hand, leasing delays are estimated to have delayed possible development of only 164.6 million barrels of oil and 59.5 billion cubic feet of gas. (See table 34.) However, most of this production is only delayed or deferred for a relatively short period by Federal actions. Unlike withdrawals, leasing delays have not closed lands to development for long periods. Moreover, the prevalence and length of delays varied among the Bureau's State Offices. We found some delays of less than 1 month and others of more than 3 years. Development of oil and gas in new areas of the East is probably subject to more potential leasing delays than any of our western review States.

Delays in approving drilling permits affect production most directly. We have not attempted to estimate how much production could be involved in such delays. When APDs are filed, operators are demonstrating real interest in developing Federal land. Therefore, any delays in the Geological Survey's approval of APDs defers potential production, if only temporarily, from Federal lands.

TABLE 34

Possible Production Affected by Withdrawals and Leasing Delays

	Type of action	Cause	Duration	Range of possible production affected	
				Oil (MMB)	Gas (Bcf)
GAO review States *	Withdrawals	Law, regulation, executive policy, & admin. actions	Indefinitely (some 20 yrs)	0-312.6-5,071	0-156.3-20,799
	Wilderness	Law	Post 1983-Infinity	0-387.4-5,071	0-162.4-20,799
	Leasing delays	Executive policy & admin. actions	0 - 36+ months	0-164.6-5,071	0-59.5-20,799

*For breakdown by individual States, see app. VIII.

Source: General Accounting Office. Production estimates developed from Geological Survey/American Petroleum Institute compilation of estimated oil and gas resources by State for 1978.

Even though in total, oil and gas resources withdrawn or subject to leasing delays may represent only a small proportion of long-term national requirements, they can help bridge the gap until alternative energy technologies can be developed. Our study indicates that, for this reason, the Nation should review its policies and programs relating to Federal oil and gas development.

LANDS CLOSED TO OR RESTRICTED FROM OIL AND GAS DEVELOPMENT DESERVE CONGRESSIONAL ATTENTION

The extent to which lands holding promise for oil and gas development should continue to be closed or restricted needs to be examined. We recognize the value of and need to protect other resources, such as wildlife, and natural, scenic, and recreational values. However, we found that the Federal agencies are not able to consistently apply policies in these areas because priorities have been given to differing interests in legislation.

Federal agencies have limited the oil and gas industry's access to much Federal land for energy development. For our review States, we identified over 20 million acres where oil and gas leasing has been prohibited. Many of these withdrawals have no termination dates. Thus, industry cannot begin to assemble units for development and eventual production on these lands. At least 55 percent of these closed lands have been identified by the Geological Survey as prospectively valuable for oil and gas. New Mexico had the highest percentage of withdrawn lands with oil and gas potential. Of the 3.9 million acres closed to leasing in New Mexico, 3 million acres, or 76 percent, are considered to be prospectively valuable for oil and gas. Nevada, with 6.6 million acres withdrawn, has more valuable oil and gas acreage closed than New Mexico, but this is a smaller portion of total withdrawals in the State. Our data suggests that the total area of Federal prospectively valuable lands withdrawn from leasing may involve more than 35 million acres in the lower 48 States.

We determined that large areas of prospectively valuable oil and gas lands have been formally withdrawn from mineral leasing for Defense and the Fish and Wildlife Service. Over 6 million acres of prospectively valuable oil and gas lands were closed to leasing for these agencies in our review States. To the extent these Federal lands have been closed

to oil and gas development, they deserve early consideration on being reopened. The FLPMA withdrawal review program, moreover, does not include Fish and Wildlife Service lands. Therefore, no formal requirements exist for the Interior Secretary to review these withdrawals.

Defense Department procedures do not consistently provide for oil and gas development. Although military and naval lands are open to mineral leasing, the armed services generally have not favored oil and gas development. The Secretary of Defense has left the responsibility for leasing to each individual service. Installation commanders often have final control over whether a military base can be leased, and staff responsible for leasing have sometimes given the effort low priority. No criteria or policy exists to provide positive guidance to Defense personnel as to their responsibilities toward mineral leasing. Since the Engle Act was passed in 1958, neither Interior nor Defense have made an effort to evaluate whether more military installations could be opened to oil and gas exploration. At a time when the Nation needs development of Federal oil and gas, greater effort should be shown by the Department of Defense.

Defense and Interior have been debating their respective responsibilities for providing mineral reports on public domain land withdrawal applications. Defense withdrawals over 5,000 acres can be established only by act of the Congress, according to the Engle Act. This act also established application procedures for Defense withdrawals. The more detailed withdrawal data required by FLPMA is valuable and important if the Government is to get as much data as possible on minerals potential before lands are set aside. However, Defense officials argue that FLPMA does not apply to congressional withdrawals. Since the decision power in Engle Act cases rests with the Congress and not the Secretary of the Interior, there may be a question whether the authority cited thus far by Interior is really adequate to require Defense to provide more minerals information on its proposed or renewable withdrawals.

We have shown that existing Defense withdrawals have affected large areas of prospectively valuable oil and gas lands (4.7 million acres). As these withdrawals come up for renewal or as new Defense withdrawals are proposed, the mineral information provided by Defense should be closely examined.

A fundamental change has taken place in the way that Interior is closing lands to oil and gas development. In the

past, withdrawals from mineral leasing were made by formal orders and subject to congressional and public review. Interior is now making only management decisions to close minerals to leasing. Under FLPMA, management decisions which affect 100,000 acres or more are subject to congressional review and possible veto. This consequence of FLPMA, namely, precluding the Congress from some reviews, may not have been anticipated by the Congress. The Congress should have an opportunity to review and veto mineral leasing closures under 100,000 acres.

In our review States, the Bureau of Land Management has administratively closed more areas with oil and gas potential than other surface management agencies. At least 1.8 million acres of prospectively valuable oil and gas lands have been closed to leasing in our review States. Some States such as Colorado do not have an inventory of "no leasing" areas on a statewide basis. These areas have been closed for a variety of reasons to protect scenic, recreational, and other values. The Bureau has made no attempt to identify these withdrawals on a Bureau-wide basis.

The Bureau has probably closed lands administratively without adequate justification. For example, we determined that in Nevada, rejected applicants have appealed Bureau decisions, which IBLA then sent back for analysis after finding the Bureau's position unsupported. The Bureau's Wyoming State Office has also questioned the lack of their own supporting documentation for "no leasing" decisions and are attempting to correct the situation. However, we believe that similar situations may exist in other States, since other Bureau offices keep no inventories of these actions.

The Bureau's withdrawal review program under FLPMA is trying to identify unnecessary and antiquated withdrawals made by acts of the Congress, public land orders and Executive and Secretarial orders. Such withdrawals do exist and revising their prohibitions on mineral leasing may indeed open more lands to development. However, the Bureau's program is scheduled for completion in 1991 and will have then reviewed only 11 of the lower 48 States. Since prospectively valuable oil and gas lands exist elsewhere in the United States, a timely review of withdrawals in the remaining States would also be beneficial. It is likely that antiquated withdrawals may have affected some of these lands. In Mississippi, for example, some withdrawals for military and navigational purposes date back to the 1800s.

We also question whether different priorities should be established for the Bureau's FLPMA withdrawal review program.

The Bureau's withdrawal review program is addressing Overthrust Belt mineral leasing withdrawals as an early priority. However, by asking agencies in all States with lands closed to mineral leasing if they are willing to modify this prohibition now, steps could be taken to open more oil and gas lands long before the 1991 scheduled completion of the Bureau's withdrawal review program.

Wilderness areas--existing, proposed, or under study--also limit industry's access to Federal lands for oil and gas development. In our sample States, about 16 million acres of Federal land are under consideration for preservation as wilderness. At least 8.5 million acres have some likelihood of containing oil and gas. Actions on the part of both the Forest Service and the Bureau have deferred exploration for oil and gas in wilderness areas. As discussed in chapters 5 and 6, both leases and APDs have been delayed during wilderness studies.

The Wilderness Act of 1964 provides for mineral activity in Service wilderness areas until 1984. However, the Service caused oil and gas leasing to halt temporarily during RARE II. Furthermore, the Congress has not yet designated many of these lands as wilderness areas. The minerals industry may need additional time to use the best available technology to explore areas for a reasonable period prior to closing them for wilderness preservation.

The Mountain States Legal Foundation sued both the Departments of the Interior and Agriculture over lack of leasing actions during the Service's RARE II program. In this decision, 1/ the Wyoming district court pointed out that if the Congress had intended for wilderness areas to be withdrawn during their study, it would have so provided. It did not. Rather, according to the court, Interior's failure to lease RARE II lands constituted a withdrawal as defined by FLPMA. Even though the decision of the Wyoming court may have implications for other Interior "no leasing" actions, neither the Secretary of the Interior nor of Agriculture has recommended appeal. A final decision by the Justice Department whether to appeal is anticipated shortly.

1/Mountain States Legal Foundation, op. cit., p. 134.

The Bureau's nonimpairment standards for wilderness study areas (based on section 603 of FLPMA) apply more restrictive standards towards mineral activities in lands under wilderness consideration than to actual wilderness areas governed by the Wilderness Act. Moreover, because the Bureau lands are generally located in sedimentary basins, its wilderness program could have a potentially greater impact on closing valuable lands than the Service wilderness program. Interior's interpretation of section 603 of FLPMA has been overturned in a recent court case 1/ which supports our analysis. The Court ordered Interior to set aside its Interim Management Policy and Solicitor's opinions on wilderness. It found these guidelines to be "clearly erroneous" and thus declared them to be inoperative. Interior may recommend an appeal of this decision.

Surface management agencies have been able to defer decisions on allowing oil and gas development through the use of stipulations. Such restrictions can be attached either to leases or to drilling permits. "No surface occupancy" stipulations often require an operator to employ directional drilling and other expensive techniques to extract minerals. However, it is unclear whether lands always need the degree of protection provided by these special stipulations. In Mississippi, for example, the Forest Supervisor has placed a stipulation on leases which the Service does not use in any other State. This stipulation basically repeats general restrictions already attached to Service leases. Furthermore, some leases in Mississippi were issued with a stipulation that bore no relationship to the lands leased.

We found at least 998,000 acres in the States of Colorado, Nevada and Wyoming, which were subject to "no surface occupancy" stipulations. Another 245,000 acres in Colorado could be subject to "no surface occupancy" restrictions once a drilling permit is applied for. In our other review States, records were not available to enable us to develop estimates of areas where oil and gas development might be restricted. There is no data system to inform Bureau management nationwide of the number, type, and extent of stipulations placed on leases.

1/Rocky Mountain Oil and Gas Association v. Andrus et al., U.S.D.C. Wyo., No. 78-265-K, Nov. 7, 1980.

During our review, we found additional lands which were not available for leasing through the Bureau's simultaneous system. At least 1,070 expired or terminated leases on over 800,000 acres in our review States had not been reoffered for leasing as called for by Bureau regulations. Backlogs, mismanagement, and refusals of SMAs to allow re-leasing the lands have contributed to these withholdings. Operators have been filing incorrectly over-the-counter for these "open" lands, which requires the Bureau to spend additional time and effort rejecting their applications. In addition, the Federal Government and the States have been deprived of revenue which would have been earned through simultaneous lease rentals for these lands.

ADMINISTRATIVE ACTIONS COULD IMPROVE TIMELY ISSUANCE OF LEASES

The Bureau, in many instances, has not met its own 4-month time frame for issuing leases. Lease applications in our review States encountered a variety of delays. There were 3,995 pending lease applications (55 percent) in our review States over 4 months old. We examined 868 of these and determined the major delays in lease approvals were attributable to Federal agencies. We then projected our findings to all 3,995 applications. The Bureau would have itself delayed over half the cases during lease processing. Other leases were likely delayed for environmental analyses (524 cases), deferral of leasing in study areas (390 cases), title work by SMAs (69 cases), and miscellaneous reasons (191 cases). (See app. VII.)

We found that the Bureau may have delayed issuing lease applications in approximately 2,310 cases because of inaction, lack of followup, and misdirection of applications to SMAs. The Bureau lacks an effective followup system for obtaining information from applicants and SMAs. Furthermore, some SMAs do not understand the leasing process. The Bureau in some instances does not have formalized requirements for SMAs to follow and has not developed effective communication channels with the SMAs. As a result, SMA reports have not been timely.

Preparation of environmental assessments for leasing decisions was the second largest delay in issuing leases. The time taken for these assessments ranged from less than a month in Colorado and Wyoming to over 3 years in Mississippi and Wyoming. About 524 applications (18 percent of our projected sample) were likely delayed while environmental assessments were being developed by SMAs. No consistent

information is used by SMAs as the basis for their assessments. Often, the more specific the assessment, the longer a lease application is delayed. The Bureau has generally required site-specific work to identify any surface features which may be affected by leasing, while the Service has depended on regional assessments which identify general surface conditions for larger areas.

Environmental assessments have been written for all phases of oil and gas activities--for leases, geophysical exploration permits, and drilling permits. Many assessments are done on leases that are never developed. We recognize that environmental assessments are valuable as land management tools and have become part of SMAs' land management programs. However, the Bureau and SMAs could expedite the leasing process without damage to the environment by making leasing or "no leasing" decisions on program considerations alone. Oil and gas leasing in itself does not cause environmental damage. Actions taken on a lease after it is issued are what cause surface disturbances.

Environmental assessments could, therefore, be deferred until some actual surface disturbance for oil and gas activity is planned on the land. Then, if the Geological Survey or the SMA determines no oil and gas development of the land is possible, the land could be incorporated into the SMA's land management plan as a "no leasing" area.

The Bureau finalized its NEPA guidelines on January 23, 1981, to comply with new Council on Environmental Quality regulations (40 CFR 1500 et seq.). After reviewing our draft report, the Bureau proposed using the "categorical exclusions" provisions of the regulations (40 CFR 1508.4) to exempt oil and gas leasing decisions from environmental assessments. While assessments at the drilling stage may not be reduced, deferring the initial assessments will eliminate some processing backlogs at the leasing stage. It will also make more Bureau staff available for pre-drilling inspections and other work.

Service officials believe that the responsibility for environmental assessements for mineral leasing have not been clearly defined. In addition, we described in chapter 5 a dispute between Interior and the Corps of Engineers over the responsibility for environmental assessments on Corps lands. In our opinion, Interior could resolve many of these questions by more clearly coordinating environmental reviews.

The Department of Energy Organization Act (42 U.S.C. 7156) states that "the Department of the Interior shall be the lead agency for the purpose of preparation of an environmental impact statement required by section 102 (2)(c) of the National Environmental Policy Act of 1969 for any action with respect to the Federal leases ***" (Emphasis added.) Further, the Council for Environmental Quality has instructed that Federal "agencies with similar programs should consult with each other and the Council to coordinate their implementing procedures, especially for programs requesting similar information from applicants *** It is important that agencies combine efforts in developing this approach and ensure that, once developed, it is uniformally adopted in agency implementing procedures." (Emphasis added). Interior has not taken adequate steps to ensure that such coordination occurs.

About 500 lease applications in our review States were delayed by the actions of non-Federal parties. Appeals by applicants or others to Interior's Board of Land Appeals and litigation accounted for over half of these delays.

Leasing delays result in a loss of Federal and State revenues. Whenever a lease issuance is delayed, rental income for the lease coverage is lost. For calendar year 1979 lost rental income from delayed oil and gas leases was at least $5.7 million for the five States in our review.

TIGHTENING GEOLOGICAL SURVEY PROCEDURES COULD EXPEDITE DRILLING PERMIT APPROVALS

Based on our standard discussed in chapter 6, that permits should be issued within 30 days of their filing, 1,152 permits (50 percent) either approved in 1979 by the Survey or pending as of December 31, 1979, were delayed in our five review States.

We found that delays occurred at all stages of the Survey's Application for Permit to Drill processing. The most common delays involved: obtaining information from applicants to complete APDs, securing archaeological clearances from SMAs or State agencies, and receiving surface protection recommendations from SMAs on the operator's drilling plans.

We found that the filing of incomplete applications was the major cause of delays in approving permits to drill. Of the 184 cases sampled, 49, or 27 percent, were delayed because

information had to be obtained from the applicant. Many applications lacked the same type of information--usually landowner or surface use agreements, designations of operator, or bonds. The current language of the Survey's Notice to Lessees No. 6 states that an operator must comply with title 30 of the Code of Federal Regulations. It does not specifically describe the documents an operator must provide in order to prove his right to lease. We believe that the Survey's requirements could be made clearer to industry to reduce these types of delays.

Not all the delays caused by incomplete applications are attributable to the applicant. Survey offices vary as to when an APD package is checked for completeness and when an applicant is asked to submit missing information. Delays could be avoided if Survey offices uniformly reviewed an application when it is received.

Many Survey offices we visited do not maintain records to show what actions have been or need to be taken on permit applications. Moreover, no records are kept of APDs rejected or withdrawn to determine what the cause of these actions is. Better logs and tracking systems would help the Survey to meet its 30-day goal for permit approvals.

The second major delay in approving APDs in our review States was obtaining archaeological clearances from SMAs or State agencies. Archaeological clearances delayed 41 permit approvals. Our study indicates that when archaeologists were present at the joint-site inspection, clearance time was expedited. Only one Survey office we visited, however, regularly had archaeologists present during inspections.

Lease and permit delays can create costly internal management problems for industry. Also, delays in issuing leases and drilling permits have an impact on the timely development of oil and gas.

In conclusion, the opportunities for increased exploration and development on Federal lands involve three different approaches:

--Making more lands, now closed to leasing, available for oil and gas development.

--Reducing the number and severity of lease restrictions which hamper or prevent exploration and development.

--Expediting the Federal processing of oil and gas leases and permits.

We believe remedial steps are necessary if the Nation is to increase oil and gas activity on Federal lands.

RECOMMENDATIONS TO THE CONGRESS

The Department of the Interior's use of land management decisions under section 202(e) of the Federal Land Policy and Management Act to close lands to mineral leasing may have an effect similar to withdrawals under section 204 of the statute. Therefore, the Congress should determine whether it wishes to be excluded from the review and possible disapproval of such decisions. If not, the Congress should amend section 202(e) of the act to provide that management decisions closing lands to mineral leasing and affecting smaller sized tracts should be reported to the Congress. Section 202(e) should be further amended to require that the Department of the Interior submit with each report to the Congress the minerals report described in section 204(c)(2) for withdrawals and any other information required in section 204(c)(2) which the Congress considers appropriate.

Because minerals information for military lands is scarce and existing legislation does not require that adequate minerals data be available prior to a decision to reserve lands for military purposes, the Congress should amend section 3 of the Engle Act so that the withdrawal information for military applications conforms with the Federal Land Policy and Management Act's section 204(c)(2) requirements for minerals analyses. (See Appendix XVII (B) for text of suggested amendment.)

To increase energy development of potentially valuable Defense lands, the Congress should amend section 6 of the Engle Act to provide that the Secretary of Defense may only determine that oil and gas development is inconsistent with an installation's military use after the issue has been studied by Defense. The Secretary's decision should be reviewed by the Secretary of the Interior and reported to the Congress. (See Appendix XVII (B) for text of suggested amendment.)

In order to allow for adequate oil and gas exploration in wilderness areas, the Congress should allow leasing in any future wilderness legislation for some reasonable period beyond 1983. In addition, since most existing Service wilderness areas will be closed to new oil and gas leasing after

1983, the Congress should consider whether sufficient minerals information has been developed on these lands which would allow it to still conclude that leasing should be prohibited.

RECOMMENDED AGENCY ACTIONS TO MAKE MORE LANDS, NOW CLOSED TO LEASING, AVAILABLE FOR OIL AND GAS DEVELOPMENT

Recommendations to the Secretary of the Interior

The Secretary of the Interior should:

--Establish criteria on which "no leasing" decisions must be based. The Secretary should also require the Bureau of Land Management to maintain records of "no leasing" decisions adequate enough to permit periodic congressional oversight.

--Require the Bureau to inventory lands which have been closed by management decision to oil and gas leasing. The Bureau should then retain closure only to the extent it can demonstrate that a continuation of the decision not to lease is based on the criteria defined above. Such justification should be supplied by the appropriate surface management agencies.

--Direct the Bureau to give priority to evaluating pre-Engle Act Defense withdrawals under the Bureau's withdrawal review program. Any existing prohibitions on oil and gas leasing should be reviewed and revoked where possible.

--Direct the Geological Survey to review the oil and gas potential of Fish and Wildlife refuges in the lower 48 States, and report its findings to the Bureau and the Fish and Wildlife Service. The Secretary should then seek regulatory changes to make these lands available for leasing in a manner compatible with their fish and wildlife resources, and report his findings to the Congress.

--Direct the Bureau to develop a withdrawal review program, similar to the Federal Land Policy and Management Act's program, to include the remaining 38 states.

--Direct the Bureau to inventory and justify lands withheld from the simultaneous leasing system.

RECOMMENDED AGENCY ACTIONS TO REDUCE THE NUMBER AND SEVERITY OF LEASE RESTRICTIONS WHICH HAMPER OR PREVENT EXPLORATION AND DEVELOPMENT

Recommendations to the Secretaries of Agriculture and the Interior

The Secretaries should direct the Forest Service and the Bureau of Land Management, respectively, to establish standards and criteria for the use of restrictive stipulations, such as surface disturbance and "no surface occupancy" restrictions. Leasable lands should then be inventoried to determine the extent of the use of such stipulations and to verify if the stipulation use meets the standards and criteria. Stipulation uses which are determined to be unjustified should be removed.

RECOMMENDED AGENCY ACTIONS TO EXPEDITE THE FEDERAL PROCESSING OF OIL AND GAS LEASES AND PERMITS

Recommendations to the Secretary of Defense

The Secretary of Defense should formulate a minerals policy, consistent with current national energy needs and evaluations of oil and gas potential on affected lands, that will provide guidance to the military services in making installations available to leasing.

Recommendations to the Secretary of the Interior

The Secretary of the Interior should:

--Direct the Bureau of Land Management to change its guidelines implementing the National Environmental Policy Act to defer the requirement for environmental assessments for oil and gas activities until surface disturbance is proposed.

--Direct the Bureau to establish standard time frames for the completion of lease processing.

Such time limits would be incorporated in Bureau manuals and in its planning and budget systems. In cases where the Bureau is unable to process an application in a timely manner (e.g., if over 4 months), notification should be given to the applicant that his lease has been delayed. The Bureau should maintain records to show how many cases are being delayed and report these annually to the Secretary.

--Direct the Bureau to work with surface management agencies to develop cooperative agreements and goals for lease processing. These agreements should clearly state the time by which an agency's report should be received by the Bureau.

--Direct the Bureau to develop a standard followup system for tracking outstanding lease applications.

--Direct the Geological Survey to clearly state in its guidelines (Notice to Lessees No. 6) what the operator is required to submit, such as designation of operator, and unit agreements, to meet the Survey's legal and administrative requirements.

--Direct the Survey to review drilling permit applications and notify an applicant within 7 days of filing date if his application is incomplete.

--Direct the Survey to develop standard procedures for tracking and recording actions taken on Applications for Permit to Drill.

--Direct the Survey to coordinate with operators so that they have an archaeologist available during joint-site inspections, whenever a surface-managing agency requires that an archaeological survey be done prior to drilling.

AGENCY COMMENTS

Comments on a draft of this report were solicited from the Departments of Energy, Defense, Agriculture, and the Interior. Their responses are included as appendixes XIII, XIV, XV, and XVI, respectively. The Departments' overall

reactions to the report are quite favorable. They conclude that the report is factually accurate and its recommendations are generally appropriate and reasonable.

The Departments provided substantive and other detailed comments, including various editorial suggestions. We have made changes in the body of this report, when appropriate, to recognize certain comments. Others, in our judgment, either stand on their own or warrant no response. Following are the Departments' comments requiring detailed discussions.

The Department of Energy suggested a change in language of a report recommendation which we considered but did not include in the final recommendation because we believe that existing Bureau guidelines adequately describe surface disturbance situations. (See app. XIII.)

Defense comments

The Department of Defense agreed to provide an overall minerals policy to promote development of energy resources and furnish guidance to the military departments for leasing of their lands. (See app. XIV.) However, Defense is concerned that more involvement in mineral assessments could divert manpower and funds from national defense. (See p. 185.).

We are not advocating that Defense personnel be trained or diverted to minerals work over the national defense. Defense has already provided some basic mineral assessments for withdrawals the military wishes to renew, without objecting to their expense. To upgrade these mineral reports, through the use of outside experts or by providing funding for Interior to improve the data, would require relatively minimum additional spending. In light of the Nation's need to develop domestic energy sources, we believe Defense could improve the quality of minerals data for areas they oversee. We do not feel that what we recommend, including amending the Engle Act, is unwarranted.

We agree that existing legislation provides for mineral leasing on public domain Defense lands by the Department of the Interior, with the consent of the Secretary of Defense. We have not questioned the Defense Department's legal authority to allow leasing, but rather we question how strongly Defense is supporting leasing. Since the Engle Act was passed in 1958, only leasing in drainage

situations has occurred on military reservations. Neither Defense nor Interior made any effort to determine what withdrawal order or statutory language may have closed a particular installation to leasing, prior to FLPMA's 1976 mandate for a withdrawal review. We believe that a more active Defense minerals policy is needed in order to promote development of national energy resources on military lands.

Defense disagrees with our recommendation that the Engle Act be amended to conform with the withdrawal application requirements of FLPMA. Defense officials believe that existing regulations provide a means for the Bureau to obtain additional minerals information if the data furnished by Defense are insufficient. We believe that the intent of both the Engle Act and FLPMA was that the requesting agency should fully justify why a withdrawal is necessary. The burden of proof is not with Interior for a military withdrawal but with Defense. In our opinion, past minerals assessments provided by Defense have been perfunctory, inadequate, and of poor quality. The requirements of section 204(c)(2)(12) of FLPMA would assist in improving the quality of these studies. Thus, our recommendation remains unchanged. Furthermore, Interior concurs with our recommendation and believes that "*** amendment of the Engle Act would clarify Congress' intentions as to the information which should be supplied with the withdrawal legislation ***" (see app. XVI, p. 198.)

Forest Service comments

The Forest Service provided detailed comments on our report without an overall summary response. (See app. XV.) We have included their technical comments where appropriate. The following discussion highlights areas where we believe clarification of our position may be needed.

The Service first questions whether environmental impact statements are really "more detailed" than environmental assessments. (See p. 187.) The context in which we used this phrase, however, describes Bureau procedures which we believe are more detailed for environmental impact statements.

This and other comments by the Service indicate the lack of uniformity in SMA's approaches to environmental studies for oil and gas leasing. (See p. 188, par. 7, and p. 189, par. 2). For example, the Service believes that environmental assessments should be conducted prior to leasing. The Service

disagrees with our recommendation that all assessments be deferred until surface operations are proposed. On the other hand, the Bureau has accepted our recommendation and has already proposed that the issuance of oil and gas leases generally be excluded from environmental reports. 1/ Therefore, we have not amended our recommendation to include the development rights acquisition provisions suggested by the Service. We believe such condemnation proceedings can be lengthy and burdensome. If situations arise where an operator cannot develop his lease, we would prefer that Interior establish a mechanism to compensate lessees who cannot exercise their development rights.

At the Service's suggestion, we have clarified the language in chapter 4 which described a stipulation for a wilderness study area as severely restrictive. (See p. 187, par. 3.) Our intent remains that all wilderness protection stipulations can be considered restrictive because of the limited access and surface restrictions placed on a lessee's use of the land.

The Service requested that we clarify our description of some "no leasing" areas. (See p. 188 , par. 1.) While we recognize that the Service cannot "formally designate" a "no leasing" area through administrative action, the Bureau has done so based on Service recommendations against leasing. Often, notations are made on the Bureau's plat maps that a particular area has been closed to leasing at the Service's request. Since 1945 when the Service first requested that Interior provide an opportunity for Service staff to review and suggest adjustments to lease applications, Bureau staff have considered these recommendations as firm.

The Service states that our discussions of lands closed in Nevada for wilderness areas are not true expressions of Service policy. (See p. 188, par. 4.) While we agree the actions taken by Nevada Service staff may not reflect the policy stated in the Forest Service Manual, we believe these actions, as well as the concerns of the Service's Rocky Mountain Regional Office discussed in chapter 5, illustrate how "official" Service policy can be miscommunicated to and misunderstood by field personnel.

Finally, we basically agree with the Service's suggested language change for our recommendation to the Secretaries of

---

1/As this report went to printing the Bureau issued final regulations excluding only noncompetitive oil and gas leases from environmental reports.

Agriculture and the Interior, with some exceptions. (See p. 189, par. 3.) The Bureau uses the title "surface disturbance stipulation" to describe special surface restrictions; therefore, we have not adopted the phrase "no surface disturbance." Also, we believe the phrase "lands under lease or application" is too limiting. Many land planning and environmental reports at SMAs have already identified lands by township and range which would be subject to restrictions if leased. We believe all leasable lands should, therefore, be inventoried.

Interior comments

Interior provided an overall response and several pages of detailed comments on our draft report. Following are our comments on Interior's overall response. Interior agrees with our general conclusion that remedial steps are necessary to increase oil and gas activity. In addition, Interior agrees with most of our recommendations and is presently implementing several of them. However, Interior feels some recommendations which were not planned for in Interior's budget proposals may be difficult to implement. (See app. XVI.)

Interior states that it generally concurs with the basic thrust of our recommendations concerning the Survey. Interior also states that it is not convinced "that the recommendations will effectively or fully accomplish the aim of reducing the processing time for applications for permits to drill." However, Interior provides no support for its statement. Thus our recommendations remain unchanged.

Interior does recognize a potential increase in Survey workload and is starting an internal evaluation of the Onshore Oil and Gas Program to identify ways to improve the program. We commend the Survey for its efforts.

Interior's comments further state that our analysis in chapter 4 of the facts concerning restrictive stipulations, which supported certain findings, could have been more thorough. Although our analysis of restrictive stipulations is not as broad as suggested by Interior, it is nevertheless as thorough and accurate as Bureau records would allow. Interior also states that our analysis implies that the 998,000 acres in Colorado, Nevada, and Wyoming identified as restrictive are subject to a stipulation "like the one quoted in the text of the report." Our report illustrates, as an example only, a common surface disturbance stipulation. The 998,000 acres were affected by various restrictive stipulations in each State, as shown in our discussions. We, therefore, feel our conclusions are valid and supported by our findings.

Interior takes exception to our congressional recomendations to amend section 202 (e) (2) of FLPMA. Interior interprets our recommendation to say that all land use management decisions under section 202 of FLPMA should be subjected to formal withdrawal procedures and to congressional review and possible veto.

Our recommendation states "that management decisions to close lands to mineral leasing affecting smaller-sized tracts should be reported to the Congress." (Emphasis added). As indicated, the recommendation applies only to management decisions which prohibit mineral leasing and not to other land use management decisions. Since most land use decisions do not affect mineral leasing, we do not believe that the Bureau's decisionmaking process would be "thwarted" by our recommendation.

Interior suggests two additional areas for congressional consideration to provide more access to mineral deposits: amending the provisions prohibiting the leasing of Federal mineral deposits within incorporated cities, towns, and villages, and repealing the act of 1930 which restricts leasing to the right-of-way holder or the adjacent landowner. We have not evaluated the merit of Interior's suggestions, but recognize their efforts to identify matters for congressional review.

As noted earlier, Interior provided several pages of detailed comments. (See p. 194 to p. 199.) We incorporated their suggested changes, where appropriate. However, we did not always agree with Interior's positions. Following is a discussion of specific points of disagreement with Interior.

While we agree with Interior's comment that public participation is inherent in the Bureau's and Service's land use planning systems, we have not modified our definition of administrative withdrawals as Interior suggests. (See p. 194, par. 3.) The lands we found which had been administratively closed to leasing were not subject to these land use planning processes. Therefore, we maintain that "no leasing" areas established by informal decisions in our review States were generally made without an opportunity for public involvement.

Interior believes that we have misunderstood the Bureau's wilderness program and its interim management policy. (See p. 195, pars. 2 and 3.) Our discussion has not been changed, because we believe our interpretation is sound. It is based largely on interviews with personnel administering the

Bureau's wilderness program who concede that it would seriously restrict most oil and gas development. Further, the Wyoming District Court decision cited by Interior supports our analysis and has vacated and set aside Interior's wilderness review policies.

Interior failed to understand that our discussions of 4-month and 12-month delays in issuance of leases were separate analyses. (See p. 196, par. 4.) The 12-month analysis was briefly included in the report at the request of Senator William Armstrong. The major focus for our discussion of delays is the 4-month processing period.

We, too, question whether 4 months is a reasonable norm for lease application processing. When we began this review, we attempted to determine what an "average" processing time is for the Bureau. Our field work showed one State with a 6-month average and another with an 18-month average time for lease issuance. It became evident that due to inexperienced personnel, staff turnover, different organization and processing procedures, etc., processing times in Bureau State offices could vary tremendously. Any "average" based on our sample States was not likely to reflect Bureau-wide trends. We then asked representatives of Interior's Office of the Assistant Secretary for Land and Water Resources and the Bureau's Office of the Assistant Director for Energy and Minerals what the Interior Department considered a reasonable processing period. These officials said the 4-month time frame is what Interior uses officially in testimony to the Congress and in Secretarial discussions. We then accepted this processing time for our analysis. It is Interior's own norm that their comments consider not to be objective.

Interior believes that our draft recommendation for a positive congressional statement on mineral leasing in each law extending or creating a public domain military withdrawal is unnecessary. (See p. 198, par. 4.) We believe that the language of our recommendation may have been subject to misinterpretation and have changed the text. We recognize that the Congress gave Interior authority to lease minerals on public domain military bases in 1958. However, since that time neither Interior nor Defense has made an effort to identify and open these potential oil and gas lands for exploration. If the Congress requires the Secretary of Defense to study the feasibility of oil and gas leasing on all military installations, we believe more opportunities to lease these lands will become evident.

Finally, Interior believes that the establishment of time frames for lease issuance would cause the Bureau to issue or deny leases prematurely. (See p. 199, par 4.) We disagree. The intent of our recommendation is to require the Bureau to develop Bureauwide time frames for the issuance of each type of lease. These time frames would improve management accountability at the Bureau and would facilitate industry planning for oil and gas development.

Furthermore, we believe that a notification requirement is necessary so that an applicant can be made aware of the reason for a delay and a possible date when action can be expected. This notification will not, in our opinion, impede the Bureau's flexibility in gathering as much information as necessary on which to base a sound leasing decision, but will make the Bureau more responsive to the concerns of the public.

APPENDIX I

WYOMING

Congress of the United States

House of Representatives

WASHINGTON, D.C. 20515

May 21, 1979

Dear Mr. Staats:

As you know, the President declared in his April 5, 1979, energy message that in order to meet the nation's growing demand for energy,

> "We will step up exploration and production of oil and gas on federal lands."

I agree with the President's objective, but I believe there may currently be significant obstacles in the way of achieving that objective. I have two questions I would like the General Accounting Office to address:

1. What are the major problems facing the oil and gas industry as it looks to the public lands as a source of additional energy? Are some or all of these problems caused by government action? What steps might be taken to correct these problems?

2. What effect would a change in the current oil and gas leasing system from a simultaneous to a competitive leasing system have on the competitive structure of the oil and gas exploration, development and production industries?

It may be that you have previously considered some or all of these questions; if so, I would not ask that your review cover old ground. I would, however, appreciate any information you could supply on these issues.

Best regards,

Dick Cheney
Member of Congress

The Honorable Elmer Staats
Comptroller General of the United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

APPENDIX II

NINETY-SIXTH CONGRESS

JOHN M. MURPHY, N.Y., CHAIRMAN

THOMAS L. ASHLEY, OHIO
JOHN D. DINGELL, MICH.
WALTER B. JONES, N.C.
MARIO BIAGGI, N.Y.
GLENN M. ANDERSON, CALIF.
E (KIKA) DE LA GARZA, TEX.
JOHN B. BREAUX, LA.
GERRY E. STUDDS, MASS.
DAVID R. BOWEN, MISS.
CARROLL HUBBARD, JR., KY.
DON BONKER, WASH.
LES AU COIN, OREG.
NORMAN E. D'AMOURS, N.H.
JAMES L. OBERSTAR, MINN.
WILLIAM J. HUGHES, N.J.
BARBARA A. MIKULSKI, MD.
DAVID E. BONIOR, MICH.
DANIEL K. AKAKA, HAWAII
MICHAEL OZZIE MYERS, PA.
JOE WYATT, TEX.
MIKE LOWRY, WASH.
EARL HUTTO, FLA.
EDWARD J. STACK, FLA.
BRIAN DONNELLY, MASS.

PAUL N. MC CLOSKEY, JR., CALIF.
GENE SNYDER, KY.
EDWIN B. FORSYTHE, N.J.
DAVID C. TREEN, LA.
JOEL PRITCHARD, WASH.
DON YOUNG, ALASKA
ROBERT E. BAUMAN, MD.
NORMAN F. LENT, N.Y.
DAVID F. EMERY, MAINE
ROBERT K. DORNAN, CALIF.
THOMAS B. EVANS, JR., DEL.
PAUL S. TRIBLE, JR., VA.
ROBERT W. DAVIS, MICH.
WILLIAM CARNEY, N.Y.
MELVIN H. EVANS, V.I.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

CHIEF OF STAFF
CARL L. PERIAN

CHIEF COUNSEL
LAWRENCE J. O'BRIEN, JR.

CHIEF CLERK
FRANCES STILL

MINORITY COUNSEL
JACK E. GANDS

September 25, 1979

Honorable Elmer Staats
Comptroller General of the
United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Staats:

I understand that in a letter to you dated May 21, 1979 Representative Dick Cheney asked your office to address the following questions:

(1) What are the major problems facing the oil and gas industry as it looks to the public lands as a source of additional energy?

(2) Are some of all of these problems caused by government action?

(3) What steps might be taken to correct these problems?

I wanted you to know that I believe these are significant and timely questions for the General Accounting Office to address. I hope that it will be possible for the necessary resources to be devoted to such a study.

With best personal regards.

Sincerely,

John Breaux

JOHN B. BREAUX
Chairman
Subcommittee on Fisheries
and Wildlife Conservation
and the Environment

JBB/nm

APPENDIX III

WILLIAM L. ARMSTRONG
COLORADO

United States Senate
WASHINGTON, D.C. 20510

October 9, 1979

Mr. Elmer Staats
Government Accounting Office
441 G Street, N.W.
Room 7023
Washington, D.C. 20548

Dear Mr. Staats:

I have become increasingly concerned with the failure of the various Federal agencies to make prompt decisions on applications for energy projects on federal lands. It appears the agencies are taking years to make yes or no decisions on applications that should be reasonably expected to be made in weeks or months. The practical effect of this "policy of non-decision" has been to leave hundreds, and maybe thousands of viable energy projects hanging in limbo while this country struggles with an energy shortage.

A recent study by the Mountain States Legal Foundation of non-competitive open land lease applications for Federal lands in Colorado underscores the problem. As of August 1, 1979, only 91 of the 226 applications filed had been acted upon. One application had been rejected, four had been withdrawn, and 86 applications had resulted in issued leases (51 of these were issued with no surface occupancy stipulations which have the practical effect of preventing energy development). No final action had been taken on the remaining 135 leases.

Seventeen (17) of these lease applications had been filed in 1971, thirty-one (31) in 1972, forty-three (43) in 1973, fourteen (14) had been filed in 1974, fifteen (15) in 1975, forty-eight (48) had been filed in 1976, and fifty-seven (57) had been filed in 1977.

I have attached for your information the specific oil and gas lease applications with their current status.

APPENDIX III

The evidence also suggests that coal and other energy development on Federal lands in Colorado has been severely hampered because of bureaucratic delay or "non-decision." I have attached for your review a letter to the President and summary of such "hung-up" projects which the President is personally reviewing.

The material enclosed relates only to Colorado but I believe the problem is prevalent throughout the West. In fact, there are indications from data currently being compiled by the Mountain States Legal Foundation, that the federal government is even more reluctant to make decisions in Montana, Wyoming and Idaho than in Colorado. Final lease date confirming this should be available soon through the Foundation.

The policy of "non-decision" suggests the Federal agencies realize that it is very difficult for an energy lease applicant to bring suit against an agency to make a timely decision on a lease application.

It is very difficult to find a remedy for administrative delay--either by judicial means or through legislation. But if agencies were making timely decisions then those decisions would have to be justified. Lease applicants could examine the decisions judicially and Congress could always apply legislative corrections if appropriate.

I am therefore requesting that the GAO study the current system for handling energy lease applications on federal lands. I am particularly interested in the handling of non-competitive open land leases but would like to have you look at oil, gas and coal applications. These are the questions that need to be addressed:

1. Do the examples I have enclosed pertain only to Colorado or are all energy lease applications on Federal lands throughout the U.S. not processed in a timely manner? I am particularly interested in the experiences of other western states.

2. What are the main reasons for the delays in processing lease applications for energy projects?

3. Of the leases that have been issued subject to "stipulations," what kind of energy development is possible on the leased lands?

APPENDIX III

Mr. Elmer Staats
Page three
October 9, 1979

4. What recommendations can you make to the Federal agencies for more timely processing of lease applications?

Thank you for your cooperation on this important problem.

Best regards.

Sincerely,

William L. Armstrong

WLA:wkj
enclosures

APPENDIX IV

EDWIN B. FORSYTHE
303 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
202-225-4765

MEMBER:
COMMITTEE ON
MERCHANT MARINE AND FISHERIES
COMMITTEE ON
SCIENCE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 26, 1980

The Honorable Elmer B. Staats
The Comptroller General of the United States
441 G Street, N.W. Room 7000
Washington, D. C. 20548

Dear Mr. Staats:

I am the Ranking Minority Member of the House Select Committee on the Outer Continental Shelf, the Ranking Minority Member of the subcommittee on Fisheries and Wildlife of the House Merchant Marine and Fisheries Committee, and a member of the House Science and Technology Committee.

Because of these Committee assignments, I have become aware of the fact that the policies of the Department of the Interior have all but locked up 90 percent of this nation's remaining estimated hydrocarbon fluid resources that are located on public lands.

For this reason, I would like the General Accounting Office to investigate leasing on all public lands (onshore Alaska and the lower 48, and the OCS) to determine what hindrances exist to the rapid production of the oil and gas estimated to be located in those areas.

By hindrances I mean anything (public law, regulations or administrative procedures) that either delays the production of hydrocarbons, or adds to the cost of producing those hydrocarbons. These hindrances could be the OCSLAA (which require 150 procedures to be followed before the production of hydrocarbons may begin), the 1920 Mineral Leasing Act, as examples.

In addition, I would be interested in your recommendations for leasing public lands in the absence of the OCSLAA or the Minerals Leasing Act. In other words, given our current energy crisis, and without these two statutes, what would be

APPENDIX IV

the most efficient procedures to follow in leasing public lands, accelerating production, and still comply with pertinent Federal statutes.

I understand that there are many subjective interpretations to be made in this area, and if you have any questions, please contact C. Grady Drago. Minority Counsel, Select Committee on the OCS at 225-1245.

I would appreciate your immediate attention to this matter, and look forward to hearing from you in the near future.

Sincerely,

EDWIN B. FORSYTHE
Member of Congress

EBF:CGD:hh

AGENCY LOCATIONS VISITED

Bureau of Land Management

Headquarters	-	Washington, D.C.
Colorado State Office	-	Denver, CO
Eastern States Office	-	Alexandria, VA
Wyoming State Office	-	Cheyenne, WY
Nevada State Office	-	Reno, NV
New Mexico State Office	-	Santa Fe, NM
Las Vegas District Office	-	Las Vegas, NV
Craig District Office	-	Craig, CO
Grand Junction District Office	-	Grand Junction, CO
Casper District Office	-	Casper, CO
Rock Springs District Office	-	Rock Springs, WY
Roswell District Office	-	Roswell, NM
Worland District Office	-	Worland, WY
Carlsbad Area Office	-	Carlsbad, NM
Farmington Area Office	-	Farmington, NM
White River Area Office	-	Meeker, CO

Forest Service

Headquarters	-	Washington, D.C.
Intermountain Regional Office	-	Odgen, UT
Rocky Mountain Regional Office	-	Denver, CO
Southwestern Regional Office	-	Albuquerque, NM
Southeastern Regional Office	-	Atlanta, GA
Arapamo and Roosevelt National Forest	-	Fort Collins, CO
Pawnee Ranger District	-	Greeley, CO
Routt National Forest	-	Steamboat Spring, CO
Bears Ears Ranger District	-	Craig, CO
Yampa Ranger District	-	Yampa, CO
White River National Forest	-	Glenwood Spring, CO
Blanco Ranger District	-	Meeker, CO
Mississippi Forest Supervisor	-	Jackson, MS
Jicarilla Ranger District	-	Gober Nador, NM
Ely District	-	Ely, NV
Las Vegas District	-	Las Vegas, NV

Geological Survey

Headquarters	-	Reston, VA
Northern Rocky Mountain Area Office	-	Casper, WY

APPENDIX V

Thermopolis District Office	-	Thermopolis, WY
Newcastle District Office	-	Newcastle, WY
Rock Springs District Office	-	Rock Springs, WY
Casper District Office	-	Casper, WY
Salt Lake District Office	-	Salt Lake City, UT
Roswell Area Office	-	Roswell, NM
Artesia District Office	-	Artesia, NM
Farmington District Office	-	Farmington, NM
Hobbs District Office	-	Hobbs, NM
Eastern Area Office	-	Washington, D.C.
Western Area Office	-	Menlo Park,CA
Jackson District Office	-	Jackson, MS
Bakersfield District Office	-	Bakersfield, CA
Department of Defense	-	San Francisco, CA
Headquarters	-	Washington, D.C.
Corps of Engineers		
Headquarters	-	Washington, D.C.
Mobile District Office	-	Mobile, AL
Jackson District Office	-	Jackson, MS
National Park Service		
Minerals Division	-	San Francisco, CA
Fish and Wildlife Service		
Headquarters	-	Washington, D.C.
Regional Office	-	Portland, OR
Department of Energy		
Headquarters	-	Washington, D.C.

PROSPECTIVELY VALUABLE OIL AND GAS LANDS WITHDRAWN FROM OIL AND GAS LEASING--COLORADO
(In thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	0	15	a/ 599	12	55	50	0	15	746
With oil and gas potential	0	0	173	3	55	23	0	14	268
Administrative withdrawals (agency administrative decision)	a/ 165	0	0	196	0	a/ 1	0	0	362
With oil and gas potential	(b)	0	0	158	0	(b)	0	0	158
Total withdrawn with oil and gas potential	(b)	0	173	161	55	23	0	14	426

a/Not completely evaluated for oil and gas potential.
b/NA--not available.

APPENDIX VI

PROSPECTIVELY VALUABLE OIL AND GAS LANDS WITHDRAWN FROM OIL AND GAS LEASING--MISSISSIPPI
(In thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	0	0	a/ 12	0	0	a/ 79	0	0	91
With oil and gas potential	0	0	12	0	0	79	0	0	91
Administrative withdrawals (agency administrative decision)	0	0	0	19	0	0	0	10	29
With oil and gas potential	0	0	0	19	0	0	0	10	29
Total withdrawn with oil and gas potential	0	0	12	19	0	79	0	10	120

a/ Excludes lands withdrawn where minerals are not Federal.

APPENDIX VI

PROSPECTIVELY VALUABLE OIL AND GAS LANDS WITHDRAWN FROM OIL AND GAS LEASING--NEVADA
(In thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	72	0	112	3,155	815	2,202	569	0	6,925
With oil and gas potential	72	0	84	2,051	652	1,101	0	0	3,960
Administrative withdrawals (agency administrative decision)	3,406	837	490	0	0	0	5	7	4,745
With oil and gas potential	1,788	607	196	0	0	0	0	7	2,598
Total withdrawn with oil and gas potential	1,860	607	280	2,051	652	1,101	0	7	6,558

APPENDIX VI

PROSPECTIVELY VALUABLE OIL AND GAS LANDS
WITHDRAWN FROM OIL AND GAS LEASING--NEW MEXICO
(In thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	a/ 33	44	248	3,049	a/ 51	375	0	a/ 2	3,802
With oil and gas potential	(b)	0	102	2,592	1	262	0	(b)	2,957
Administrative withdrawals (agency administrative decision)	a/ 81 .	3	0	0	0	0	0	0	84
With oil and gas potential	(b)	(b)	0	0	0	0	0	(b)	(b)
Total withdrawn with oil and gas potential	(b)	(b)	102	2,592	1	262	0	(b)	2,957

a/Not completely evaluated for oil and gas potential.
b/NA--not available

APPENDIX VI

PROSPECTIVELY VALUABLE OIL AND GAS LANDS WITHDRAWN FROM OIL AND GAS LEASING--WYOMING
(In thousands of acres)

Land Status	Bureau	Forest Service	National Park Service	Dept. of Defense	Dept. of Energy	Fish & Wildlife Service	WPRS	Other	Total
Formal withdrawals (act of the Congress, Executive order, public land order, classification order, or regulation)	32	5	2,390	15	9	a/ 40	134	0	2,625
With oil and gas potential	30	0	370	15	9	3	112	0	539
Administrative withdrawals (agency administrative decision)	a/ 115	679	0	0	0	a/ 6	0	0	800
With oil and gas potential	48	460	0	0	0	0	0	0	508
Total withdrawn with oil and gas potential	78	460	370	15	9	3	112	0	1,047

a/Not completely evaluated for oil and gas potential.

APPENDIX VI

PROJECTIONS OF GAO SAMPLE DATA ON LEASING DELAYS

Type of delay	Cases found in GAO sample	Projection
Lease delays caused by agencies	784	3,484
Lease processing delays at Bureau	453	2,310
Environmental analyses	153	524
Deferral of leasing in study areas	95	390
Title work	49	69
Miscellaneous	34	191
Lease delays not caused by agencies	84	511
Suspended pending decision or study	68	410
Applicant inaction	16	100
Total leases delayed	868	3,995

POSSIBLE PRODUCTION AFFECTED BY WITHDRAWALS AND LEASING DELAYS

(GAO REVIEW STATES)

State	Type of action	Cause	Duration	Range of possible production affected -Oil (MMB) Min. - Max.	Range of possible production affected -Gas (MMcf) Min. - Max.
Colorado	Withdrawals	Law, regulation, executive policy, & admin. actions	Indefinitely	0 - 17.5 - 863	0 - 87.5 - 202,400
	Wilderness	Law	Post 1983-infinity	0 - 53.0 - 863	0 - 251.5 - 202,400
	Leasing Delays	Executive policy, admin. actions	0 - 36+ months	0 - 54.7 - 863	0 - 75.5 - 202,400
Mississippi	Withdrawals	Law, regulation, executive policy & admin. actions	Indefinitely	0 - 1.0 - 12	0 - 10.1 - 16,900
	Wilderness	Law	Post 1983-infinity	0 - .1 - 12	0 - .7 - 16,900
	Leasing Delays	Executive policy, admin. actions	0 - 36+ months	0 - 2.1 - 12	0 - 24.8 - 16,900
Nevada	Withdrawals	Law, regulation , executive policy, & admin. actions	Indefinitely	0 - 20.3 - 118	0 - 1,227 - 72,800
	Wilderness	Law	Post 1983-infinity	0 - 10.1 - 118	0 - 590.0 - 72,800
	Leasing Delays	Executive policy admin. actions	0 - 36+ months	0 - 1.8 - 118	0 - 104.0 - 72,800
New Mexico	Withdrawals	Law, regulation, executive policy, & admin. actions	Indefinitely	0 - 150.2 - 1,107	0 - 109,113.0 - 7,380,000
	Wilderness	Law	Post 1983-infinity	0 - 116.0 - 1,107	0 - 84,279.0 - 7,380,000
	Leasing Delays	Executive policy, admin. actions	0 - 24 months	0 - 59.4 - 1,107	0 - 42,025.0 - 7,380,000
Wyoming	Withdrawals	Law, regulation, executive policy, & admin. actions	Indefinitely	0 - 123.5 - 2,971	0 - 45,814.0 - 13,127,200
	Wilderness	Law	Post 1983-infinity	0 - 208.3 - 2,971	0 - 77,248.0 - 13,127,200
	Leasing Delays	Executive policy, & admin. actions	0 - 36+ months	0 - 46.5 - 2,971	0 - 17,263.0 - 13,127,200

APPENDIX VIII

STATE GOVERNMENTS' LEASING PRACTICES

COLORADO

In Colorado, all leases for State grant lands are offered at public auction by the Board of Land Commissioners. The Administrator of the Board told us that most leases are issued 2 to 3 days after the auction.

Anyone can nominate or request State-owned land to be leased. Upon nomination, the Board advises all other State agencies and the county in which the land is located, giving them 30 days to state any objection. Absent any objections, the lands are then offered for lease in a public notice.

The Board will lease any of the land which it controls in the State. However, there is some land belonging to other State agencies where the agency controlling the land has to approve the leasing. Most land of this type if controlled by the Division of Wildlife Service.

According to a Wildlife Service land agent, the Division is very reluctant to allow oil and gas leases for its land. Land controlled by the Division is for the protection of wildlife and accordingly leasing of the lands is discouraged. Only one or two leases have been allowed and one of these had to be drilled using directional drilling from a location outside the lease.

The State has about 6,000 leases in effect and about 350 producing oil and gas wells. An average of 30 to 40 leases are issued each month.

MISSISSIPPI

Mississippi leases are offered at public auction. State agencies responsible for leasing are (1) the Mississippi Mineral Leasing Commission and (2) the Department of Natural Resources' 1/ Division of Mineral Leases. The Mississippi Mineral Leasing Commission is made up of five high-ranking officials of the State Government. This Commission is authorized by statute to lease State-owned minerals in Mississippi. Operations on a daily basis are handled by one staff person in the Division of Mineral Leases.

1/Established in July 1979.

The State owns only about 400,000 acres. An inventory of leased lands in the State has not been maintained. No lands are offered for lease at the State's initiation. Land is offered when interested parties submit lease proposals to the Division. Advertisements are then placed in local newspapers for 3 weeks soliciting bids. The Commission will award a 3-year lease to the best bidder based on bonus and royalty considerations. As of March 1980, there were 23 State oil and gas leases.

Prior to the establishment of the Mississippi Department of Natural Resources leasing requests were accomplished through letters to the State's Attorney General. Current procedures have remained low key and relatively pro forma. No special use restrictions or stipulations have been added to State leases.

The division has no involvement with Federal leases. The staff was aware of only one situation where mineral rights were owned by the Federal Government under a State surface. However, the land and minerals have not been leased. There are no State lands where leasing has been prohibited.

NEVADA

The State of Nevada has no standardized procedure for leasing State lands. Each State agency having use of the State land negotiates an agreement with a lease applicant to lease the lands. The Nevada State Lands Chief is responsible for doing the same for State lands not being used by a State agency.

It is important to note that only about 140,000 acres located within the State boundary are actually State-owned. State lands are scattered and generally surrounded by Federal lands and are usually covered in the Bureau's environmental assessment. Often State lands will be used for right-of-way access to allow pipeline crossings and roadway access when developing Federal lands.

NEW MEXICO

Oil and gas leases of the State of New Mexico are issued competitively. They are issued by the Oil and Gas Division of the New Mexico Office of the Commission of Public Lands (State Land Office). The State owns about 13 million acres of land, of which about 7 million acres are under lease.

According to the Division Director, the remaining 6 million acres have not been leased because of a lack of industry interest.

Decisions on what land to lease are made by the Oil and Gas Division. According to the Division Director, the decisions are made on the basis of expressed interest, amount of drilling activity on surrounding or nearby lands, and trends of oil and gas exploration activities. Land does not have to be leased simply because someone wants it. For example, the Division Director said that a speculator wanting land that has some oil and gas potential may not get the land put up for lease because the Oil and Gas Division, realizing a speculator cannot develop the lease, will wait until an oil and gas company expresses interest.

WYOMING

In Wyoming, two types of leases are issued for State lands, over-the-counter and simultaneous. They are issued by the Board of Land Commissioners, usually within 60 days. Any delay normally results from a protest of a simultaneous lease award.

Lands are leased over-the-counter when a person applies for the lease and the Commissioners approve the lease. In order to obtain an over-the-counter lease, the land must not have been leased for oil and gas in the past or received any offers to lease in a simultaneous drawing. Only a few over-the-counter leases, usually between 4 and 18, are issued each month. Most are issued within 30 to 45 days.

Leases are also issued within about 30 days through the simultaneous drawing for land where leases have recently expired or terminated. As an example, a Wyoming State leasing and permit specialist said that notice of leases to be included in the July 1980 drawing was given held July 29, 1980. Then the lease was prepared, given an effective date of August 1, 1980, and, if no appeal was received during the 15-day appeal period, it would be sent to the applicant. About 45 simultaneous leases are issued each month.

According to the State leasing and permit specialist, almost all of the lands owned by Wyoming which are believed to have some oil and gas potential are subject to oil and gas leasing. There is a small amount of land in the Jackson hole area of Teton County which the commissioners will not allow to be leased. As of June 30, 1979, Wyoming had 7,090 active oil and gas leases covering about 2.9 million acres.

NUMBER OF DELAYED APDs

Sampled by GAO

	Approved and delayed during calendar year 1979	Approved and delayed APDs sampled (note a)	Pending and delayed as of Dec. 31, 1979	Pending and delayed APDs sampled
Colorado b/	150	26	95	20
Mississippi	20	15	2	2
Nevada	17	17	4	4
New Mexico	254	29	141	21
Wyoming	373	39	96	11
Total	814	126	338	58

a/Our sample was based on selections from all district offices of the Geological Survey for each State. Colorado, Mississippi, and Nevada have one district office each while Wyoming and New Mexico have four in each State.

b/Producing wells are not included.

PRIMARY DELAYS EXPERIENCED BY PENDING OIL AND GAS DRILLING PERMITS AS OF DEC. 31, 1979

	Sampled by GAO					
Longest process	Colo.	Miss.	Nev.	N.M.	Wyo.	Total
Obtaining information from applicant	7	2	0	10	6	25
Archaeological clearance	7	0	0	3	0	10
SMA report with stipulations	0	0	0	2	3	5
Arranging for site inspection	1	0	0	0	1	2
Survey processing delay	0	0	0	5	1	6
Other	5	0	4	1	0	10
Total	20	2	4	21	11	58

PRIMARY DELAYS EXPERIENCED BY APPROVED OIL AND GAS DRILLING PERMITS

	Sampled by GAO					
Longest Process	Colo.	Miss.	Nev.	N.M.	Wyo.	Total
Obtaining information from applicant	3	1	0	9	11	24
Archaeological clearance	12	8	0	3	8	31
SMA report with stipulations	2	2	16	8	3	31
Arranging for site inspection	4	0	0	1	14	19
Survey processing delay	4	2	1	8	3	18
Other	1	2	0	0	0	3
Total	26	15	17	29	39	126

STATE GOVERNMENT OIL AND GAS

DRILLING PERMITS APPROVAL PRACTICES

COLORADO

In the State of Colorado, an APD must be accompanied by a fee of $75. If the land is not drilled within 120 days, the permit must be renewed. If the applicant does not wish to develop the lease, the State will return the fee.

Normally an APD is approved within 2 or 3 days after receipt. The Oil and Gas Commissioner estimates that 98 percent are approved within 1 week. The two most frequent reasons for holding up approval of a permit are (1) lack of a bond and (2) unacceptable drilling locations.

Normally no archaeological survey is performed. The face sheet of every lease is stamped with the statement "Prehistoric and Historic Resources Shall Not Be Marred, Disturbed, Removed or Altered on State Lands as Provided By Law."

MISSISSIPPI

Once lands are leased, the responsibility for operations falls on the Mississippi Oil and Gas Board. This Board is responsible for enforcing all the statewide rules and regulations governing oil and gas drilling. Its requirements must be met by all operators in the State, regardless of whether the lease is private, Federal, or State.

Operators file 1-page "Applications for Permit to Drill, Workover, or Change Operator," together with a $200 fee and a plat showing the drilling unit and well location as well as basic data on drilling plans. The APD is usually approved the same day it is received and takes about an hour. A numbered permit is then issued for posting at the well site.

All operators are expected to meet the standards established in the "State wide Rules and Regulations." However, State officials do not inspect wells to determine if operators have complied with the spacing, casing, and other requirements. State inspectors only examine well sites for environmental damages.

APPENDIX XII

NEVADA

The Nevada Division of Mineral Resources is responsible for issuing Nevada State oil and gas drilling permits. Requirements imposed on the operator in obtaining a permit to drill include (1) a detailed description of the proposed drilling site (including plats), (2) an APD accompanied by a $50 fee, and (3) a surface use bond insuring any subsequent surface restoration. After all requirements are met, the permit is approved. This process is normally not more than a 1-day process.

The Nevada Division of Mineral Resources only has one environmental stipulation which is "preservation of the ground water." All other environmental requirements are handled by the Survey under a special agreement with the State.

WYOMING

The State of Wyoming normally approved APDs within 3 to 7 days. However, because of an increase in workload and a shortage of personnel, approval is now taking about a month. However, the Oil and Gas Commissioner will approve an APD orally if a rig is waiting to start drilling because rig availability is a major problem in the State. An APD for State lands in Wyoming must be accompanied by a fee of $25.

Very little site inspection is done by commission staff. Steps are taken to enforce regulations if complaints are received against an operator.

Archaeological surveys normally are not made. Since the Land Commission has knowledge of the facts about most State lands, the Land Commission might specify stipulations on the basis of that knowledge. In addition, the oil and gas supervisor may ask for a survey.

Department of Energy
Washington, D.C. 20461

Mr. J. Dexter Peach
Energy and Minerals Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

We appreciate the opportunity to review and comment on the GAO draft report entitled "Opportunities Exist For More Federal Onshore Oil and Gas Exploration and Development." The Department of Energy (DOE) has consistently maintained that the amount of Federal lands available for leasing both onshore and offshore should be increased and that the leasing process should be streamlined and accelerated. Unless more Federal land is made available, especially on the Outer Continental Shelf, oil and gas production from Federal lands will only meet a fraction of its production potential.

The draft GAO report examines issues regarding access to Federal lands and the approval process for exploring and developing onshore oil and gas. As a result of their investigation, GAO concludes that intensified exploration for and development of oil and gas deposits in Federal lands is hampered by:

> " -- the unavailability for leasing of prospectively valuable Federal oil and gas lands,
>
> -- the imposition of stipulations on leases which restrict exploration and development, and
>
> -- lengthy delays in the approval of Federal leases and drilling permits."

Based upon the data presented in the draft GAO report and DOE's experience with Federal leasing issues, DOE believes that the above conclusions are warranted. However, we do note that one GAO recommendation may be subject to misinterpretation, i.e., that the Secretary of the Interior should:

> "--Direct the Bureau of Land Management to change its guidelines implementing the National Environmental Policy Act to defer the requirement for environmental

APPENDIX XIII

assessments for oil and gas activities until surface disturbance is proposed".

We suggest the following replacement:

"--Direct the Bureau of Land Management to change its guidelines implementing the National Environmental Policy Act to defer the requirement for environmental assessments at the leasing decision stage since leasing in itself does not cause environmental damage. Environmental assessments would not be required until some further oil and gas activity which would require the actual introduction of equipment into the area is proposed."

The draft GAO report makes several recommendations to the Congress and the Secretaries of Agriculture, Defense, and the Interior which GAO believes will accelerate the exploration and development of Federal oil and gas lands. DOE concurs that with the clarification noted above, the recommendations follow directly from the results of GAO's analysis. It is noted that no recommendations have been proposed for the Secretary of Energy.

We appreciate the opportunity to review and comment on this draft report.

Sincerely,

P. Marshall Ryan
Controller

APPENDIX XIV

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON D.C. 20301

MANPOWER
RESERVE AFFAIRS
AND LOGISTICS

9 JAN 1981

Mr. J. Dexter Peach
Director, Energy and Minerals Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

This is in reply to your letter to the Secretary of Defense regarding your draft report dated November 21, 1980, on "Opportunities Exist for More Federal Onshore Oil and Gas Exploration and Development," OSD Case 5571, Code 008933.

The Department of Defense (DoD) shares the concerns stated in the draft report and, in general, concurs that additional steps are necessary to provide clear and consistent guidance to the Miltiary Departments relative to making military installations available for oil and gas leases and permits. The Department of the Army has already issued guidance in this area. Notwithstanding, DoD guidance will be provided to the Military Departments. Enclosed you will find specific comments relative to the contents of said report.

Finally, DoD would like to reiterate that it does not object to exploration and development of energy resources on its land so long as there is no interference with military operations and national defense activities.

Sincerely,

Richard Danzig
Principal Deputy Assistant
Secretary of Defense (MRA&L)

Enclosure

Department of Defense (DoD) Comments on
GAO Draft Report dated November 21, 1980
"Opportunities Exist for More Federal Onshore Oil & Gas Exploration and Development"
(GAO Code 008933 - OSD Case #5571)

1. The GAO report contents are essentially correct.

2. The significant recommendation of the report as it relates to DoD is that the Secretary of Defense should develop an overall mineral policy which will promote development of national energy resource and furnish overall guidance to the Military Departments for making installation lands available for leasing. While it is DoD's intention to provide an overall policy in this area it should be noted that:

a. This would involve DoD in mineral research and development, an area which has not been within DoD's province and could divert manpower and funds from the national defense effort.

b. There is existing legislation that provides for leasing of mineral interests on DoD controlled land by the Department of the Interior (DOI), provided such interests can be made available consistent with military requirements. The Mineral Lands Leasing Act as amended, 30 U.S.C. 181, et. seq. and the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351, et. seq. already provided statutory authority under which DoD has made mineral interests available on public domain lands and acquired lands respectively.

2. The report also recommends (page vi) amendment of the Engle Act so that withdrawal information for military applications conforms with Section 204(c)(2)(12) of the Federal Land Policy and Management Act (FLPMA), requiring a mineral report. The Engle Act requires that the withdrawal application identify to what extent the proposed use will affect continuing full operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources. However, in recent Engle Act renewal applications, the Department of Defense has prepared Environmental Impact Statements, which incorporate Level I mineral studies. Further, BLM withdrawal regulations implementing the Engle Act, 43 CFR, S2351.4(c) provide that "The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources." This appears consistent with the Engle Act provision that all minerals in lands withdrawn under the statute be under the jurisdiction of the Secretary of the Interior. Therefore, if additional mineral studies are required, other than those furnished in the Engle Act withdrawal application or EIS, existing procedures provide a means for BLM to accomplish such studies. It was, in our estimation, the intent of Congress in enacting FLPMA not to supersede the Engle Act. We submit that decision remains sound.

GAO note: Page references in this appendix have been altered to reflect the pagination of the final GAO report.

APPENDIX XIV

3. The report further recommends that Congressional resolution of the controversy between existing legislative authorities for withdrawal of lands from mineral development is appropriate. As the report indicates on page 35, a preliminary agreement has been reached whereby Department of the Interior would fund mineral surveys for renewals of existing Engle Act withdrawals and, Military Departments would fund surveys for future Engle Act withdrawals. This will involve legislative presentation to Congress and may result in legislative approval for a resolution of this issue. The DoD is working with DOI in an effort to resolve this issue.

4. The report also makes an apparently conclusory statement on page 43, saying that the Corps of Engineers will not make civil works land available until after an application is filed. The statement could be rephrased to say "...The Corps...will notify the Bureau whether lands are available for leasing...."

APPENDIX XV

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Box 2417
Washington, D.C. 20013

2820

DEC 22 1980

Honorable Henry Eschwege
Director, United States
General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in reply to your letter of November 21 requesting our comments on the draft "Opportunities Exist for More Federal Onshore Oil and Gas Exploration and Development."

Page 21 , Line 31: We suggest deletion of "more detailed." An environmental impact statement is not necessarily more detailed than an environmental assessment.

Page 23 , 2d paragraph : The discussion seems to overstate the control which the agencies maintain by stipulations. The intent of the Forest Service in developing stipulations is to retain a degree of control over operations to assure compliance with law and to protect other significant resources. Such stipulations do not reserve full control to prevent future development.

Page 26 : The last paragr. may need to be updated.

Page 31 , Line 9: Change "could" to "would."

Page 31 , 2d paragraph : The sentence about potential wilderness is not in context.

Page 31 , last paragraph : We understand your concerns about the lack of adequate time for exploration, but the statement seems to reflect a misunderstanding of the various categories of lands involved. The statement apparently refers to the 10-year period provided by the Wilderness Act for the Government to evaluate the mineral potential of Primitive Areas. This was accomplished. The 10-year period did not apply to roadless areas inventoried and evaluated during RARE and RARE II and later proposed for wilderness.

Page 41, Footnote 2: The statement implies that any stipulation for a "wilderness study area" was considered severely restrictive. This criterion should be reconsidered or redescribed.

GAO note: Page references in this appendix have been altered to reflect pagination of our final report.

Page 51 , Lines 28 and 29: We request that you clarify that the 1.5 million acres discussed are not firmly or formally "designated as no leasing areas."

Page 59 , 2d paragraph: We suggest removing the sentence since it is based on supposition rather than facts.

Page 59 , Second Sentence: We suggest removing "Service" and substituting "designated." It is not necessarily true that "no new mineral activity will be allowed after 1983" since rights established prior to 1984 will not be extinguished by the withdrawal mandated by the Wilderness Act. New activities may be allowed after 1983 on existing leases. Also, there may be leasing decisions after 1983 on applications pending at that time. (There is presently no regulation or resolution on that issue.)

Page 51 , Last para. and Page 59 , Last Sentence: The statements are not true expressions of Forest Service policy. Policy is explained in Forest Service Manual 2822.14a (enclosed). Statements made to the investigators may indicate the mistaken belief by certain local officials that proposed wilderness areas were not leasable. We request clarification of this issue.

Page 83 , 2d paragraph : Please clarify that Service policy requires decisions by the Chief of the Forest Service regarding approval or disapproval of leases in designated wilderness, proposed wilderness, and Congressionally designated wilderness study areas. By Federal Register Notice on December 12, 1980, the Forest Service is proposing draft standards, criteria, and guidelines (SCG) for environmental assessments of wilderness leasing. When the SCG is finalized (expected early in 1981) procedures will be established for processing of applications in those areas.

Page 88 , Lines 5 through 7: Please refer to the proposed SCG discussed above.

Page 94 , para. 4, through page 95 : While we agree with the overall concept expressed, we differ on details. We believe it is appropriate to conduct environmental assessments prior to leasing; however, the issues considered then can be limited to the general program aspects. It is not true that an environmental assessment must consider all environmental factors--the decision maker must determine and consider only the relevant factors. A type of "program consideration" that may be discussed is the decision in a land management plan.

Page 141 , lines 19 and 20: There was no Service-wide "halt" to mineral activity during the RARE II program--either for designated wilderness, roadless areas, or general National Forest System lands. There apparently was, however, a slowing of normal mineral operations, variable by area and class of lands. In some cases no action was taken on lease applications.

Page 141 , Lines 32 through 34 : We recommend modifying line 33 to say "constituted a de facto withdrawal, but not in accordance with Section 204 of FLPMA," which is our interpretation of the decision. We recommend verification of the plans of the Secretary of the Interior regarding appeal.

Page 144 , 3d paragraph : Environmental assessments are basic to the decision process of the Forest Service, and we disagree on the issue of deferral of assessments until operations are proposed. We agree, however, that the process may be improved, without serious environmental consequences, by limiting the scope of prelease assessments. We believe the process of denying operations on the basis of post-lease environmental assessments is more complex than implied. The issuance of a lease carries the right of reasonable use, and the post-lease assessment normally only considers the "how to." We recommend rewriting the paragraph as follows:

> "Detailed environmental assessments could, therefore, be deferred until some actual surface disturbance for oil and gas activity is proposed. The Survey and the SMA's have approval and inspection authority under the regulations by which to prevent environmental damage. If, on rare occasion, unforeseen or uncontrollable circumstances of a serious nature are found which prevent any operation by which the lessee can exercise development rights, the rights can be condemned and acquired, if necessary."

Page 149 , Recommendation to the Secretaries of Agriculture and the Interior: The recommendation as written is subject to different interpretations. Interpreting it in context, and with consideration of a reasonable process, we suggest the following clarification:

> "The Secretaries should direct the Forest Service and the Bureau of Land Management, respectively, to establish standards and criteria for the use of highly restrictive stipulations--such as 'no surface disturbance' and 'no surface occupancy' to ensure reasonable compatibility with the leasing laws and other surface management responsibility. Lands under lease or application should then be inventoried to determine the extent of use of such stipulations and to verify if the stipulation use meets the standards and criteria. Stipulation uses which are determined to be unjustified should be removed."

Sincerely,

R. M. PETERSON
Chief

Enclosure

GAO note: Since it is not pertinent, the enclosure to this letter is not included.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 3 1 1980

Mr. J. Dexter Peach
Director, Energy and Minerals
Division
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Peach:

We have completed review of the draft GAO report, entitled "Opportunities Exist For More Federal Onshore Oil and Gas Exploration and Development," and transmitted by your letter dated November 21, 1980.

Our overall reaction to the report is quite favorable. The draft report is factual and its recommendations, for the most part, are reasonable. There are some technical points which are in need of further clarification or revision to bring the report up to date and to insure total accuracy. These points are discussed, with recommended changes and additions to the text, in the enclosure to this letter. This Department favors taking the actions recommended to the Secretary with several exceptions. First, as stated in more detail in the enclosed comments, we do not favor establishing firm time frames for the completion of lease processing steps. We also wish to note that it may be difficult to implement some of the recommendations because our resources are limited and we have not planned for these activities in our recent budget proposals. Inventories of lands subject to land management decisions which involve no leasing or leasing with limiting stipulations could be most time and resource consuming.

Second, while we, in general, concur with the basic thrust of the recommendations concerning the U.S. Geological Survey (USGS), we are not convinced that the recommendations will effectively or fully accomplish the aim of reducing the processing time for applications for permits to drill per se. Significant increases in drilling activity on Federal and Indian lands will markedly increase the workload in the Onshore Oil and Gas Program. In recognition of this potential increase in workload we are undertaking an internal evaluation of the program, the results of which will improve the entire Onshore Oil and Gas Program of which permitting is only a

GAO note: Page references in this appendix have been altered to reflect the pagination of the final GAO report.

part. Also, since the completion of the GAO study we have undertaken a major reorganization of the Conservation Division within the USGS to ensure that we will be in a position to more directly address the contemporary energy situation. New Regional and District Offices are being established with realigned functions to enable the Conservation Division to better carry out its responsibilities.

The evaluation study we have initiated will address not only the processing of permits to drill but all major aspects of the program. This study is scheduled for completion by January 31, 1981, and will contain specific recommendations for improving the efficiency of operations. This effort has already identified a number of issues requiring attention, some of which were identified in the draft GAO report. We feel that the implementation of the reorganization and the evaluation recommendations will resolve the problems described in the GAO study.

Most of the recommendations in the report are supported by the findings. However, in some cases, the analysis of the facts which supported certain findings could have been more thorough in order to provide both this Department and the Congress a more balanced perspective of the problem. For example, the picture painted by the analysis of the extent to which stipulations restrict oil and gas exploration and development (pp. 55 thru 59) is probably too superficial. The analysis indicates that "at least 998,000 acres in the States of Colorado, Nevada, and Wyoming are affected by 'no surface occupancy' restrictions." This implies, in the context of the entire discussion, that all of these acres are subject to a stipulation (like the one quoted in the text of the report) which totally excludes oil and gas exploration and development activity. As indicated on page 57 , 744,000 acres of the total acreage are only subject to a seasonal occupancy restriction stipulation (seven months during the winter). There is no discussion of the actual impact this stipulation has had on exploration and development. It may be possible that the access permitted during the five summer months may provide adequate opportunity for exploration and development. The other areas in Nevada and Colorado listed in the discussion are also described in similar vague terms.

It may have been more helpful to discuss in greater detail exactly how the stipulations have the impact portrayed and to focus attention on those which cause the greatest concern. Without this analysis, it is difficult to judge the impact of the conclusion of this section:

> "To the extent surface occupancy restrictions inhibit industry actions in these areas, oil and gas production will be, at a minimum, delayed."

APPENDIX XVI

The only conclusion we can draw from those findings, is that (1) there is no central point at which records are kept pertaining to the extent of stipulations used in oil and gas leases, and (2) there probably is some unquantifiable impact on oil and gas production caused by the imposition of some stipulations. This certainly implies that the recommendation of the GAO should be given serious consideration, but it doesn't give an accurate picture of the actual extent of the problem.

We have indicated in the enclosure other areas where the analysis in the report could be improved.

We do take exception with one of recommendations in the report to the Congress. That recommendation is that land use management decisions under Section 202 of FLPMA should be subjected to formal withdrawal procedures and to Congressional review and possible veto. Such a procedure would totally thwart the decisionmaking process of the Bureau of Land Management and cause further delays in oil and gas leasing in our opinion. We have made further clarifying comments about the other recommendations to Congress in the enclosure.

We would also like to point out two areas in which Congress could immediately provide access which were not addressed in GAO's recommendations. The first involves the prohibition against the leasing of Federal mineral deposits which fall within incorporated cities, towns, and villages (30 U.S.C. 181). This prohibition was enacted at a time when oil and gas development technology was less compatible with community life than it is today. Many municipalities would welcome mineral development as a revenue source, and this provision should be correspondingly amended.

Second, the Act of 1930 which provides for the leasing of oil and gas deposits under railroads and other rights of way should be repealed. This act restricts leasing to the right-of-way holder or the adjacent land owner. The act was passed in response to a Supreme Court ruling which held that no authority to lease these deposits existed. This decision was subsequently overturned. A repeal of this act would permit leasing to any qualified applicant.

Finally, the Department's review and analysis of the current oil and gas leasing situation leads us to conclude that more leasing for its own sake will not necessarily increase the development of energy resources. Fully 75 percent of existing oil and gas leases will expire without the submittal of a plan for exploratory drilling. In order to encourage exploration and development, the Department's central challenge is to get more development from existing and pending leases, to emphasize high prospect areas, to provide expeditious service

APPENDIX XVI

to applicants, and to ensure that development occurs in an economically, socially, and environmentally acceptable manner. These goals may be more readily realized with less, rather than more, leasing.

We appreciate the opportunity to review and comment on the draft report.

Sincerely,

Larry E. Meierotto
Assistant Secretary,
Policy, Budget and Administration

Enclosure

APPENDIX XVI

Specific Comments:

Chapter 1

Page 1 : Insert "other" before "Federal" in line 9.

Chapter 2

Page 10 : The discussion on Alaska should be updated with reference to Public Law 96-514 (Appropriations Act) and it's provision for oil and gas leasing in NPR-A.

Page 14 : The second sentence of footnote 2/ should be modified to recognize that public participation is inherent in the Bureau's and Service's land use planning systems.

Page 15 : The discussion should be expanded to explain why the Bureau may lease the Service's lands for oil and gas.

Page 17 : Change "depending on whether" to "if" (last sent.).

Page 18:
The footnote (1/) is not stated correctly in that applicants do not lease but apply for a lease.

Page 18: A sentence should be added to the first paragraph to clarify that the rental is also $1.00 per acre per year for leases obtained under the lottery. In addition the word "monthly" should be changed to "bi-monthly" to reflect current regulations and procedures.

Page 23 : Insert "some" before "leases" in line 12.

Chapter 3

Page 26 : The Department has recommended to the Department of Justice that no appeal be filed from the decision in Mountain States Legal Foundation v. Andrus, Civil No. C78-165B (D. Wyo. October 10, 1980). At the time the court issued its order, the Forest Service had substantially completed its RARE II process and is now prepared to issue leasing recommendations on a significant share of the 400 pending offers involved in the case. The remaining offers will be processed within a set schedule, with the timing of leasing recommendations dependent on the level of environmental review necessary under the National Environmental Policy Act and on the need for consultations under the Endangered Species Act. The Forest Service anticipates processing most, if not all, offers within one year. In addition, the Bureau of Land Management and the Forest Service have agreed to formalize the review procedures for mineral leasing on lands administered by the Forest Service by issuing proposed regulations and entering into an interim memorandum of understanding. The Department continues to maintain its position that no withdrawal under section 204 of FLPMA occurred by virtue of the agencies' inaction and that the discretion

APPENDIX XVI

to issue or not issue oil and gas leases is separate and apart from FLPMA withdrawals. However, since the actions of the Bureau of Land Management and Forest Service will effectively moot the factual basis for the case, an appeal is considered inappropriate by the Department. We will notify you of the final decision concerning an appeal when it is made by the Department of Justice. This comment also applies to the middle paragraph of page 141 .

Pages 32 and 33 : The general description of the Bureau's wilderness review program is based on an erroneous understanding of the program and FLPMA. The description of the IMP is seriously flawed and reflects a basic misunderstanding of the actual policy. The discussion also reflects a lack of recognition of a basic legal point that is not arguable: FLPMA established the interim management mandate, not the Wilderness Act.

Page 33 : The discussion should mention that a recent Wyoming District Court decision 1/ vacated and set aside the Interior's Solicitor's Opinion of September 5, 1978 regarding Section 603 of FLPMA, the Bureau's Wilderness Inventory Handbook and Interim Management Policy, and Guidelines For Lands Under Wilderness Review. See page 142 .

1/ Rocky Mountain Oil and Gas Association vs. Cecil D. Andrus, et.al., (U.S.D.C. Wyoming No. 78-265-k, November 7, 1980).

Chapter 4

Page 41 : The phrase "some or all of" should be inserted before "a lease" in footnote 2/ to be consistent with the last sentence, last paragraph, page 30 , unless entire leaseholds are referred to.

Page 52 : Lines 5 and 6, last paragraph imply that the Service either issues a lease or rejects an application which is technically incorrect. The Service does not lease or reject applications, but makes recommendations to the Bureau on whether or not to lease Service-administered public lands, or either gives consent or no consent to lease Service-administered acquired lands, such as the Eastern National Forests.

Page 54 : The report states that ". . . if the Secretary of the Interior lifts his moratorium, acquired military lands could be leased . . . ." The Bureau is studying the issue of whether or not to open such lands to oil and gas leasing and will be making recommendations to this Department in the near future.

Page 58 : The discussion should include mention of the requirement upon the Bureau to lease Service-administered acquired lands only with the consent of the Service and subject to the Service's terms and conditions, including special stipulations.

Page 61 : The word "monthly," line 7 , should be changed to "bi-monthly" to reflect current regulations and procedures.

Page 62 : The use of the word "development" in the last sentence of the second (complete) paragraph implies that many of the parcels that could be leased under the simultaneous system have high potential for oil and gas. However, as stated earlier in the text, for lands classified as "prospectively valuable for oil and gas," there is no guarantee that all the lands have potential for production. The sentence should be changed to read: "Delays in offering these lands for lease can not only cause delays in exploration of a tract for possible oil and gas but also . . . (as stated)."

Chapter 5

Page 67 : The second sentence is not accurate because bids, not applications, are made to obtain a competitive lease in response to a lease sale notice. Also, the step listed below the paragraph of confirming that the lands are not in a KGS does not apply to competitive leases. This determination is made only with respect to noncompetitive lease applications. Lands must already be in a KGS before they can be offered for competitive bid leasing.

Page 6 : The four-month period referred to after which an application is considered "delayed" does not jibe with the 12-month time limit for lease issuance referred to on page 71 . We also question whether it is wise to rely on the four-month processing period as the norm for processing lease applications. As indicated in the conclusion of the report, "the time required for lease issuance varied greatly by type of lease and by State." The report's findings were that nearly 89 percent of the competitive leases and 90 percent of the simultaneous leases issued were issued in four months or less after filing. However, only 16 percent of the over-the-counter leases were issued in four months or less. As the report concludes, this is probably due to the extra steps required for these type of applications. Because these are the types of applications the report analyzed, we believe it would have provided a more accurate picture of delays in lease processing if the investigators had attempted to establish a more objective norm for lease processing than relying on unidentified "Bureau officials."

Page 84 : The Bureau's proposed categorical exclusion from NEPA for oil and gas leasing in the Eastern States mentioned in the first paragraph has been expanded to cover all oil and gas leases on Bureau-administered lands. See, also, comments concerning pages 94 and 144 .

Page 94 : The alternative of deferring environmental assessments until after a lease is issued has been proposed by the Bureau as a categorical exclusion from NEPA. The Department concurs in the

APPENDIX XVI

approach. However, it does not mean that all future oil and gas leases would be issued with no pre-lease environmental assessment having been prepared. A "screening" process would be required. See comment for page 149.

Page 99: The figures cited in the third paragraph for Bureau backlogs are not current. The backlog at the end of fiscal year 1980 was 27,000 cases. There is an error in line 9 of that paragraph in that two figures are cited for the backlog at the beginning of the period (1971).

Chapter 6

There were several references to a 30-day criterion for permit processing. These appear to us to have an inconsistency needing attention in your final report. It is unclear whether or not all these references to a 30-day criterion, deadline, goal etc., are with reference to the same processing period. For example: Page 110, second paragraph, states "Based on a criteria developed by GAO that the total processing time for drilling permits should be within 30 days of their receipt, ..." Page 113: "This APD package must be filed at least 30 days prior to the operator's anticipated operations date." Page 131 states "The Energy Mobilization Board legislation specifically provided a maximum of 90 days for Federal approval of drilling permits with a goal of 30 days for approval."

Although the Geological Survey does have a 30-day informal criterion, it is not a rule. The filing of APD's 30 days in advance of anticipated operations gives the Survey this period to complete permit review without interfering with planned drilling operations. However, there is no regulation requiring such filing as is implied on page 113.

Page 111: Regarding the first paragraph, the Bureau has recently indicated that it would be amenable to a categorical exclusion from NEPA for geophysical exploration on non-leased lands. This would appear logical since special conditions to protect the environment may be imposed upon a geophysical operator before the land is entered.

Page 113: The discussion in the last paragraph should mention the procedural requirement for the Surface Managing Agency to provide the Survey with its surface protection and rehabilitation requirements within 10 days of the joint inspection, if one is held, or within 10 days of receiving a copy of the APD from the Survey. See page 124.

Page 127: Reference was made to a delay caused by failure to promptly receive "a geologic evaluation report from the Survey's Geological (sic) Division in Washington, D.C." This work is performed by geologists within the Conservation Division; in the case cited, these geologists are in the Survey's Conservation Division Headquarters office in Washington, D.C., not the Geologic Division.

Page 127: The last sentence of the last paragraph describes the intent of the Bureau to process cases in order of filing. However, there are often situations which tend to alter this approach such as pressure received from certain applicants or from their Senator or Congressman.

Page 142: No decision has been made whether the decision referred to will be appealed.

Page 147: We agree with the summary conclusion that remedial steps are necessary to increase oil and gas activity. The three approaches for providing such an opportunity are consistent with the Department's views.

Page 147: The GAO would recommend that "Congress should provide for mineral leasing in each law extending or creating a public domain military withdrawal." All minerals, including oil and gas, in lands withdrawn for use of the Department of Defense are already under jurisdiction of the Secretary of the Interior and are available for development, subject to concurrence of the Secretary of Defense (43 U.S.C. 158). As such, no further action by Congress is required; however, we concur in the recommendation, on page viii, that the Secretary of Defense formulate a minerals policy applicable to public lands withdrawn for military purposes.

We concur in the recommendation that the Engle Act be amended to insure that the withdrawal application information requirements of the Engle Act (43 U.S.C. 157) conform to the information requirements of Section 204 (c)(2) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 171). Although the Department of the Interior intends to require, through rulemaking, satisfaction of FLPMA's Section 204(c)(2) information requirements in regard to Engle withdrawal applications, amendment of the Engle Act would clarify Congress' intentions as to the information which should be supplied with the withdrawal legislation contemplated by 43 U.S.C. 156.

Page 148: The establishment of no-leasing criteria seems reasonable. This would assist resource managers under certain conditions although any Nationwide criteria would have to be quite broad.

Page 148: Requiring the Bureau to inventory lands closed to oil and gas leasing by management decision would be very time consuming but could be done. As planning documents are reviewed under the present system, no-leasing areas are reviewed against any new information. Planning revisions can result in new management decisions to lease areas previously determined to be unavailable for leasing.

APPENDIX XVI

Current Bureau policy directs that withdrawn lands known to contain minerals of more than nominal values, especially oil and gas, are to be reviewed as first priority. This review would also include the pre-Engle Act defense withdrawals as the report recommends, as well as Fish and Wildlife Service withdrawals. The Bureau's withdrawal review program will eventually include all public lands, including those in Alaska. The recommendation for review of oil and gas potential of Fish and Wildlife Refuges in the lower 48 States should include having the Geological Survey conduct the review and report its findings to the Bureau and Fish and Wildlife Service.

We agree that the Bureau should inventory and justify lands withheld from the simultaneous leasing system.

Page 149 : The first recommendation to the Secretary of the Interior is already being implemented in the sense that the Bureau has proposed excluding all oil and gas lease issuance from NEPA as stated above. The Department favors this approach, but will require a screening process. The Geological Survey has recently published proposed categorical exclusions for certain surface disturbing activities on oil and gas leaseholds. Under the Survey's proposal the first confirmation well would always have an environmental assessment prepared.

The Bureau and Department disagree with the second recommendation on this page. If firm time frames for lease processing were established, there would be numerous instances where the Bureau would either issue a lease or deny lease issuance prematurely without adequate information upon which to base a sound decision. In addition, the Bureau would be obligated to notify lease applicants whenever deadlines were not met. We believe that specific goals for lease processing in terms of time periods are more appropriate and would provide a necessary degree of flexibility.

The third recommendation to the Secretary of the Interior is being implemented through development of memoranda of understanding between the Bureau and Service to streamline energy mineral leasing and for processing mineral leases and permits. Regulations for processing mineral leases and permits involving Service-administered lands are also being prepared.

We agree that Bureau should develop a tracking system for pending lease applications.

APPENDIX XVII (A)

TEXT OF SUGGESTED AMENDMENTS TO THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Federal Land Policy and Management Amendments Act of 1981."

Section 2. Section 202 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2747, relating to Federal land use plans, is amended--

(1) by striking out the first sentence in subsection (e)(2) and inserting in lieu thereof the following,

"(2) Except as provided in paragraph (3) of this subsection, any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate."

(2) by renumbering paragraph (3) as (4) and adding as a new paragraph (3) the following,

"(3) Any management decision or action pursuant to a management decision that excludes a tract of land of _____ acres from the operation of the Mineral Leasing Act of 1920, for two or more years shall be reported by the Secretary to the House of Representatives and the Senate. With such notice,

APPENDIX XVII (A)

the Secretary shall furnish the geological and mineral report required by Section 204 (c)(2)(12). The procedures set out in paragraph (2) above concerning the adoption by Congress of a concurrent resolution of disapproval shall apply to any notices provided hereunder."

TEXT OF SUGGESTED LEGISLATIVE AMENDMENTS CONCERNING WITHDRAWALS OF PUBLIC LANDS FOR MILITARY PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Military Lands Withdrawal Amendments Act of 1981."

Section 2. Section 3 of Pub. L. 85-337, 72 Stat. 28, relating to an application for withdrawal of public lands for use by the Department of Defense, is amended, by adding at the end of paragraph (8) a new paragraph (9), which shall read as follows,

"(9) information obtained from a report prepared by a qualified mining engineer, engineering geologist or geologist, which report shall include, but not be limited to, obtaining information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential and present and potential market demands. A copy of such report shall be included as part of any application."

Section 3. Section 6 of Pub. L. 85-337, relating to mineral leasing on withdrawn or reserved military lands is amended, by adding at the end of such section the following,

"Provided further that because of the importance for national security purposes of increasing the production of oil and gas on Federal lands, the Secretary of Defense shall

make such a determination, after reviewing a study to be prepared by the Department of Defense which evaluates the effect of oil and gas operations on the military use of the lands withdrawn or reserved. The Secretary of the Interior should be given an opportunity to review the study before the Secretary makes his determination. The Secretary of Defense shall notify both Houses of Congress of any determination that the disposition or exploration of oil and gas would be inconsistent with the military use of such lands.

Section 4. Section 2 shall apply to all applications for withdrawals of public lands for use by the Department of Defense under Section 3 of Pub. L. 85-337, submitted to Congress after the date of enactment of this Act."

(008933)

* U. S. GOVERNMENT PRINTING OFFICE : 1981 341-843/549

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE

SPECIAL FOURTH CLASS RATE
BOOK