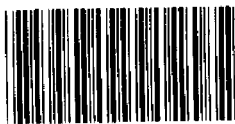


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Statement of
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GAO/09148

Before the
House Ad Hoc Select Committee on the
Outer Continental Shelf

on
[Federal Leasing Policy]

~~HSE 05800~~
HSE 05800

Mr. Chairman and Members of the Committee:

We welcome the opportunity to appear before this Com-
mittee to discuss our findings on how the Departments of the
Interior and Energy are coordinating their respective leasing
responsibilities. This testimony is based on our recent re-
port evaluating the coordination efforts of the two Depart-
ments in leasing Federal lands. 1/ Since the Department of
Energy Organization Act transferred certain responsibilities
for Federal lands from Interior to Energy our primary objec-
tive was to examine the initial coordination efforts between
the Departments.

AGC 44912

AGC 00033

1/"Federal Leasing Policy-Is the Split Responsibility Work-
ing?" (EMD-79-60, June 4, 1979).

Testimony
005803

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Our work addressed the following areas of coordination:

- Energy's development of production goals for energy resources and Interior's use of these goals in the development of lease schedules.
- Energy's attempts to issue regulations in the areas of production rates, competition, alternative bidding systems, diligence, and in-kind royalty.
- The effectiveness of the Leasing Liaison Committee in identifying and resolving interdepartmental problems.

Our analysis indicates that the initial coordination efforts between the Departments are not working smoothly. ②

The Departments differ on the use of production goals, the framework and context of regulations, and the general responsibilities of each Department on leasing matters.

The Leasing Liaison Committee has not been effective in resolving these conflicts. ①D

CONFLICTS ON PRODUCTION GOALS

In September 1978, the Departments entered into a memorandum of understanding on production goals. The memorandum calls for Energy to develop production goals for each energy resource and for Interior to be "guided" by these goals in the development of leasing schedules.

Although it was intended to resolve the jurisdictional conflicts between the Departments and define each Department's

roles and responsibilities, their respective interpretation of the memorandum surfaced divergent views on the purpose and use of production goals. The principal disagreement between Interior and Energy centers on the importance assigned to production goals, i.e., whether Interior must lease to meet Energy's production goals.

Interior officials view production goals from an informational perspective. Leasing does not occur to meet production goals; rather, the goals represent one among many factors that Interior considers in the development of a lease program.

Energy officials view production goals as the core of Federal leasing policy and the first among equal factors used to develop a lease program. Energy believes lease schedules should be constructed with the intent of attaining production goals.

The problems derived from these different views are best exemplified in the recently proposed 5-year lease schedule for the OCS. In accordance with the memorandum of understanding, Energy developed OCS production goals and submitted them to Interior for use in leasing decisions.

These goals were not used in developing the schedule announced by Interior in March 1979. Interior officials, in commenting on our report, indicated that the time constraints to issue a leasing schedule required by the OCS Lands Act

Amendments prohibited adequate use of Energy's goals, and that there is sufficient time to consider the goals in subsequent leasing decisions. However, we believe that production goals should be the starting point in developing a lease schedule. It appears to us that once the schedule is drafted, it may be difficult to adjust it to reflect consideration of production goals. In any event, we believe it is necessary for both Departments to define and agree upon the role of production goals as a primary component of Federal leasing policy and leasing schedules.

DELAYS IN DEVELOPING REGULATIONS

Energy is authorized to promulgate regulations on production rates, competition, alternative bidding systems, diligence requirements, and in-kind royalty. Although there are no time constraints imposed by the Organization Act, Energy's attempts to issue these regulations have been delayed due to a lack of agreement with Interior on what the regulations should include, and which Department will have the responsibility to implement the regulations.

The disagreements are more procedural than substantive. For example, Energy wants a formal coordination procedure incorporated in the regulations it issues, defining each Department's role in Federal leasing. According to Energy, the

usefulness of formalizing the split responsibility is two-fold because it (1) provides a mechanism to resolve differences between the Departments should informal coordination fail and (2) lets the public know who is doing what in leasing policy. Interior prefers a flexible and informal working relationship with Energy and does not believe a formal procedure incorporated into regulations is necessary. If a more formal mechanism is needed, Interior believes additional memoranda of understanding should be developed.

In addition, we observed turf battles during the process of Energy's attempts to issue regulations that define each Department's area of responsibility. A recent example of this occurred in the area of regulations for OCS alternative bidding systems. These regulations, proposed by Energy, were rejected by Interior because, according to Interior, they gave Energy the authority to decide which bidding system to use per tract, which Interior believes is solely their responsibility. Interior has appealed to the Office of Management Budget (OMB) to resolve this jurisdictional dispute; OMB has yet to decide.

The results of the disagreement between the Departments are delays in the development and implementation of regulations which are viewed as integral components of Federal leasing programs. To reduce the uncertainty for industry

and allow them to plan ahead, alleviate the confusion within the program management agencies, and ensure the public is kept informed and involved, it is important that coordination problems be resolved and regulations promulgated expeditiously.

NEED FOR IMPROVEMENTS IN
LEASING LIAISON COMMITTEE

The DOE Organization Act established a Leasing Liaison Committee for interdepartmental coordination--a unique mechanism for coordination between two Federal Departments. We found that the Committee has not been effective in resolving problems between the two Departments. To date, it has assumed more of a ceremonial function than a problem-solving one.

Important issues between the Departments have either not reached the Committee or were too slow in reaching it. For example, the problems with the OCS production goals were brought to the Committee's attention in March 1979, after Interior announced the proposed 5-year leasing schedule. Problems in the area of regulations have not yet reached the Committee for formal discussion and resolution.

The Departments differ on many aspects of Federal leasing. A more effective Committee, focusing on problem-solving, could contribute to resolving these differences. Formal

procedures are necessary to first bring unresolved problems to the Committee and then to the Secretaries if the Committee reaches an impasse.

RECOMMENDATIONS FOR IMPROVE-
MENTS IN COORDINATION

The General Accounting Office recommends that by January 1, 1980, the Secretaries of Energy and the Interior issue compatible regulations on production goals that clearly define the goals as a primary component of Federal leasing policy and leasing schedules. The goals should be the starting point for leasing energy resources. Since the Departments may differ on the goals, the regulations should include a sequential procedure for review and resolution of problems with the goals. The steps of review should include the Leasing Liaison Committee, the Secretaries and the President.

We also recommend that Energy publish an analysis of each lease schedule announced by Interior identifying (1) the schedule's potential impact on domestic energy needs and (2) the alternative energy resources needed if Energy's production goals could not be met by the schedule.

Finally, we recommend that the Department of Energy take positive steps to begin issuing regulations mandated by the Organization Act. 1/ The Departments have relied too frequently on informal comment periods to try to resolve

differences on these regulations. The regulations should be developed no later than January 1, 1981, with any disagreements resolved during the 30-day formal comment period. The interdepartmental appeal process through OMB can be used at this juncture.

Mr. Chairman, this concludes my statement. We will be happy to answer any questions the Committee might have.

1/Production rates, competition, alternative bidding systems, diligence requirements, and in-kind royalty.