

(A-) Nicely done; see comments.

Working Title: Oil and Gas Drilling in the West: Successes and Failures in the Effort to Ward Off Environmental Destruction in the Native American and Hispanic Communities

The Problem: In May 2001 President George W. Bush issued Executive Orders 13211 and 13212, moving oil and gas drilling in the West to the top of the federal energy agenda. Under the guise of increasing our independence from foreign oil and streamlining the permitting process for the oil and gas industry, with the stroke of a pen, President Bush opened a floodgate of oil exploration in the West. (Bush, 2001, 2001a). Since then, through a series of memorandums and informal agency directives, the communication has been clear to federal agencies that oil and gas drilling is the "No. 1 Priority" on public lands. The effect has been to open vast areas of lands in the West to drilling. Where the Clinton administration had removed roughly 8 million acres per year from drilling potential, the Bush administration reversed the trend and more, releasing protection for roughly 12 million acres per year. (Environmental Working Group, 2007).

It is now open season for the oil and gas industry, and the fragile high deserts of the West are the targets. Living in these areas are ranchers who have leased BLM land for generations to graze their cattle. Also living here are large numbers of Hispanics who have moved to the region for jobs. And finally, large populations of Native Americans whose holdings have been reduced systematically and whose lands in some cases now represent the most sacred of their former holdings. (U.S. Census Bureau, 2005, Burdeau, 1998). Streamlining of the permitting of oil and gas leases on public lands as well as limited protection for drilling on private land has caught many of these landowners by surprise, and only recently have they begun to organize a successful fight against the powerful oil and gas industry. Some battles have already been lost, but in some cases there have been champions who have been able to stop or at least slow down the advance of the toxic chemicals that result from irresponsible and concentrated drilling practices. (Brophy, 2005, Gilman, 2006).

The Parties: The oil and gas industry is an obvious party, hungry for more cheap resources to fuel their ever-increasing profit margins. The various governmental departments are also parties, including the federal executive branch, various federal and state regulatory agencies including the EPA, the BLM and the Forest Service, as well as local branches of those agencies and city and county governments. The Tribal governments are an additional wrinkle to this web of governmental tangle. (Environmental Working Group, 2004). The citizens involved have various generational and spiritual perspectives. In some cases the elders clash with the younger generation, and those who would profit from the industry conflict with those who would be most effected by the environmental degradation of the land. (Burdeau, 1998). NGOs and Think Tanks weave into the picture at various stages, offering some support to those who protest the drilling as well as providing advice to the industrial giants who would suppress the objectors. (Bell, 2007).

The Principles: The principles are framed differently depending upon who is speaking. The Bush Administration claims we must have independence from foreign energy supplies, and that the American people deserve to have that energy without interruption: "When you flick the switch, you have a right to expect the light to go on." (Luntz, 2002). The Native American Community claims it has a right to its spiritual heritage, and a right to clean air and water. The oil industry claims it has a right to extract the resources in the West because of long-standing mining philosophies. (Klyza, 1996). The legislators are caught in between, wondering whom to

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believe. Their constituencies give them mixed messages, and in the end they seem to follow the money.

As Professor Hoyte summarized in his opening lecture, Environmental Justice is based upon the principle that *all* people have a right to be protected from environmental pollution and should have full access to environmental amenities and decision makers. The policies evaluated in this paper will attempt to address this overarching principle. ✓

The Policies Proposed: The Bush Administration has distracted the American public with fear tactics and exaggerated threats of “weapons of mass destruction.” It has used this subterfuge to promote policies that reap unreasonable profits for the oil and gas industry, with little protection for those who are affected most by its pollution from the extraction of those resources. Using the justification that it provides benefits for more Americans at the sacrifice of a few (or is it benefit for the few oil executives at the sacrifice of many minorities?), this Administration has promoted policies of the fossil fuel industry. Instead, it should be promoting policies to protect the inhabitants where those resources are found. Better yet, it should promote conservation (“Negawatts” as Amory Lovins loves to say) and renewable energy sources that reduce our CO₂ emissions and truly promote our energy independence from foreign oil. These are the types of policies that look to seven generations into the future, as the Native American community’s policies emulate. ✓

watch wording; papers are your medium. → An examination of related policy successes and failures will be included, along with
→ This paper will seek to sort out some of the policy successes and failures, and to provide recommendations for future policies. In some cases, communities have united under a common cause but have been unable to stop the inevitable spread of the wells. In others, they have found champions in the state legislature or in the agency heads that have refused to give in to the pressures and have stopped the leases from being issued. Still others have resorted to legal action, but sometimes that only serves to delay the process rather than block the drilling. What works the best? How can policy arguments be framed in a manner to convince legislators to take charge of this issue and stop the environmental damage? How can community leaders frame their arguments to garner support of their fellow constituents?

Annotated Bibliography:

Bell, R. (2007). Don't Build It and They Will Come: The Evolving West. Post Carbon Institute. Retrieved March 18, 2007 from <http://globalpublicmedia.com/articles/869> A “paradigm shift” in drilling attitude may be occurring in Congress with the new Democratic majority. At a hearing of the House Natural Resources Committee on February 28, 2007, new voices were heard regarding limiting the amount of oil and gas drilling. Democrats are learning from their Republican counterparts and are beginning to frame their arguments for environmental protection around jobs and higher income. Montana Congresswoman Pat Williams condemned the BLM leasing that is “wreaking havoc” on the fish and wildlife of the Native American community in Montana and called for a congressional moratorium on leasing in the West. The panel included representatives from the Hoopa Valley Tribe and the Southern Ute Tribe.

- Brophy, Kerry. (2005). Feds Oppose State's Effort to Empower Landowners. *High Country News*. 37(15). 6. This article shows an example of champions; in this case Wyoming Attorney General Pat Crank, who vows to enforce a new state law that requires more stringent rules of compensation from oil and gas companies who damage private land versus those required by the BLM.
- Burdeau, G. (Director). (1998). *Backbone of the World* [Film]. United States: Rattlesnake Productions. This film illuminates some of the complexities facing Native Americans today. Confronted with oil and gas exploration on 130,000 acres of wilderness bordering the Blackfeet Indian Reservation in the 1980s, the residents struggle with conflicting tensions of communal ethics and the promise of jobs, compounded by danger to their native headwaters for the Reservation. It also helps to define the special spiritual relationship the Native Americans have with their tribal lands.
- Bush, George W. (2001). Actions To Expedite Energy-Related Projects (13212, 2001). Retrieved March 18, 2007 from <http://www.nepa.gov/nepa/regs/eos/eo13212.html> The order calls for agencies to "expedite their review of permits or take other actions as necessary to accelerate the completion" of energy-related projects. It also established an interagency task force to monitor and facilitate the expediting of the review process, including Federal, State and Tribal permitting.
- Bush, George W. (2001a). Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. (13211, 2001). Retrieved March 18, 2001 from <http://www.offee.gov/eo/eo13211.html>. I had to laugh that I found this executive order on the website of the "Office of the Federal Environmental Executive: promoting sustainable environmental stewardship throughout the federal government." This executive order requires agencies to state the "energy effects" for any action they take which might limit the supply or distribution of energy in the U.S.
- Coalition for the Valle Vidal. (2006). Valle Vidal Protection Act Becomes Law. Retrieved March 17, 2007 from <http://www.vallevidal.org/> On December 12, 2006 President Bush signed the Valle Vidal Protection Act of 2005 into law. Sponsored by New Mexico Representative Tom Udall, it marked a victory of the Coalition for the Valle Vidal, protecting "New Mexico's Yellowstone" from oil and gas drilling.
- Cole, L.W. & Foster, Sheila R. (2001). *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement*. New York: New York University Press. Chapter six of this book explains the history of the Indigenous Environmental Network, a coalition of Native American justice organizations from across the country. The authors also attempt to illustrate the special tie to the land that Native Americans have in this country. Both spiritually and legally, this relationship affects how grassroots groups operate in Native American communities.
- Earthworks. (2007). Oil and Gas Accountability Project. Retrieved March 9, 2007 from http://www.earthworksaction.org/oil_and_gas.cfm This website contains information about the extent of oil and gas drilling across the West, and also has useful information about "fracking," a technique of injecting chemicals and water at high pressure to release more gas from producing wells. There is considerable controversy about the health

effects of fracking, and the EPA has issued an exemption to the oil and gas industry for many of the harmful chemicals used in the process, including benzene, toluene and xylene.

- Environmental Working Group. (2004). Who Owns the West? Oil and Gas Leases. Retrieved March 9, 2007 from http://www.ewg.org/oil_and_gas/printerfriendly.php This article is a comprehensive look at oil and gas leasing in the West, with spotlights on various critical areas including the Badger-Two Medicine Area in Montana. Outlined in this article are the changes in priority spurred by the Bush administration and the dramatic increase in leases allowed through the guise of streamlining the permitting process.
- Gilman, S. (2006). Citizens Unite Against Gas Field Chaos. *High Country News*. 38(7), 5. In Garfield County, Colorado, local citizens have found that negotiating with gas companies directly is more effective than relying upon governmental entities to protect them. The gas companies find it more economical to make direct concessions such as “closed loop” drilling systems than to resort to costly litigation. There are downsides: less oversight for the communities and lack of enforcement capability. But is it more effective for the locals if diligent neighbors communicate?
- Grossman, R.(Director). (2004). *Homeland: Four Patriots of Native Action* [Film]. United States: Kathadin Foundation. An award-winning documentary featuring four Native American women who have played leadership roles in their communities to fight environmental degradation.
- Harvey, M. (Director). (2006). *A Land out of Time* [Film]. United States: Maroon Creek Productions, LLC. This documentary focuses upon the barrage of oil and gas drilling that has emerged under the new BLM drilling policies in the West. It includes the stories of people in Montana’s Rocky Mountain Front (which includes the Badger-Two Medicine Area), Colorado’s Roan Plateau and New Mexico’s Valle Vidal and Otero Mesa, and the successes and failures they have had in their battles to protect pristine and fragile public lands.
- Lowman, M. (2006). Fostering Partnerships Between Regional Government and Ecology. *Frontiers in Ecology and the Environment*. 4(10). 547–548. Ms. Lowman describes a recent successful tour with a state senator, who convinced Florida Governor Bush to fund a land use ecology center. She recommends ecologists get involved with local regional governments to promote change and has three recommendations for communication: “keep it simple... tell a story... and link science to economics and/or human health.”
- Luntz, F. (2002) Energy: Preparing for the Future. Retrieved March 18, 2007 from www.ewg.org/oil_and_gas/pdf/LuntzMemo_Energy.pdf This is a portion of a memorandum written by Frank Luntz. Intended as a Republican teaching tool on the use of language regarding energy issues, it was leaked to the press and is now available on the web in PDF format. In it, Luntz provides “message points” for talking about the energy and environment. His recommendations are strangely similar to what Ms. Lowman talks about above (maybe she read Luntz): tell a story, talk about “cleaner, safer, healthier,” and talk about using a “balanced approach.”

- Klyza, C.M. (1996). *Who Controls Public Lands?: Mining, Forestry and Grazing Policies, 1870-1990*. Chapel Hill: University of North Carolina Press. This is an historical study of the development of land management policies in the U.S. and how different philosophies prevailed regarding mining, forestry and grazing. In mining, "economic liberalism" was the model that resulted in largely privatization of public lands for mining interests. This philosophy helps to explain the current dilemma of oil companies having the power to take minerals that lie below lands that have been previously leased to ranchers, destroying the grazing capabilities of those lands.
- Peterson, J. (2006). The Anatomy of an Energy Lease. *High Country News*. 38(16), 4-4. Although the BLM has the power to deny oil and gas leases, and in previous administrations it has actually reclaimed previously issued leases, the current trend is for the BLM to allow for leasing even in sensitive watershed areas providing drinking water to communities. Community protests have fallen on deaf ears.
- San Juan Citizens Alliance. (2004). Broad Coalition Sends Message to BLM: Do Oil & Gas Right. Retrieved March 17, 2007 from http://www.sanjuancitizens.org/hot_topics/farmington_complaint.shtml The Bureau of Land Management is being challenged by a group of ranchers, Navajo governments and environmental groups in their plan to authorize an additional 10,000 oil and gas wells in the San Juan valley. The San Juan Citizens Alliance has filed suit against the BLM on the basis that they have already inadequate resources to oversee current development, let alone new development. Are such lawsuits successful, or are they simply another method to delay oil companies and force them to other areas?
- U.S. Census Bureau. (2005). State and County Quick Facts. Retrieved March 17, 2007 from <http://quickfacts.census.gov/qfd/states/35/35045.html> The Census Bureau information shows that San Juan County, NM is 40% Native American, 16% Hispanic and 41% White, non-Hispanic as of the 2005 update of the 2000 census. Glacier County, MT, which contains the Blackfeet Nation, is 63% Native American, 2% Hispanic and 33% White.