

## DEPA

## DRILLER

DEPA REPORT ON INDUSTRY, LEADERSHIP, LEGISLATION AND ENERGY REGULATION

ELECTION IMPLICATIONS  
FOR DOMESTIC ENERGY

A RECAP OF DC LOBBYIST DAVID CRANE'S VISIT WITH DEPA

**W**hile 2020 has certainly been challenging for all of us. The pivot to webinar meetings has given DEPA perhaps easier access to hear directly from high profile leaders. We hosted North Dakota Congressman Kelly Armstrong, Secretary of the DOI David Bernhardt, London based Global Head of Commodities Pricing with S&P Global Platts Dave Ernsberger, Colorado Senator Cory Gardner, Texas Public Policy Sr. Manager Jason Isaac, WPX Energy CEO Rick Muncrief, VP Business Development for Argus AGC Jeff Kralowetz, Israeli Minister of Energy Dr. Yuval Steinitz, Enterprise Products Partners CEO, Jim Teague, EPA Administrator Andrew Wheeler, and for our last 2020 webinar we were proud to host House Republican Leader Congressman Kevin McCarthy and DC Lobbyist David Crane with Bose Public Affairs Group for a discussion of the current political environment for domestic energy.

Born and raised in Bakersfield CA, Leader McCarthy has a deep understanding of the domestic energy industry and our issues. He kicked off the conversation with a recap of where the elections stand and where Republicans hope things go to keep the House and Senate majority saying "In the House, everyone said we would lose 15 seats, some said up to 20. It didn't happen. Not one Republican incumbent lost election night."

Although there are still races being counted Republicans won in California, New York, two seats in Florida, Iowa and Oklahoma. "If we don't prevail in the administration... keeping the senate and having a working minority that can run the floor will be key," McCarthy

told the group. Of course Georgia's January 5th election outcome is what we are all waiting on to determine the path a Biden White House might have to travel. A divided government would leave room for compromise in an administration that promised a transition away from fossil fuels on the campaign trail.

David Crane gave a full overview of the election implications for domestic energy. His presentation is available on our website until mid-December when it

will be replaced with a more updated version, that will only be available on our website "Videos" tab. Following are highlights from his comments on our November 10 webinar.

**The Coastal US Vs. Everyone Else**

A color coded map really demonstrates the power struggle for the

House in this election cycle. The densely populated US coastal areas lighting up blue and the rest of the US going red, with only a few blue islands like Chicago, Detroit and Twin Cities highlights the growing divide between high density urban areas and the rest of the country. This tension is set to grow as liberals and progressives struggle for control of the House and the Biden Administration and the urban east and west coasts seek to "impose their theory, their philosophies and their political ideas onto all of that red," Crane told the group. "The House is going to be increasingly critical," he added.

Crane said part of a House success would be the ability to co-op some of the House moderate Democrats to articulate our arguments during policy debates and the importance of basing our arguments on the data -



## Georgia Run-off

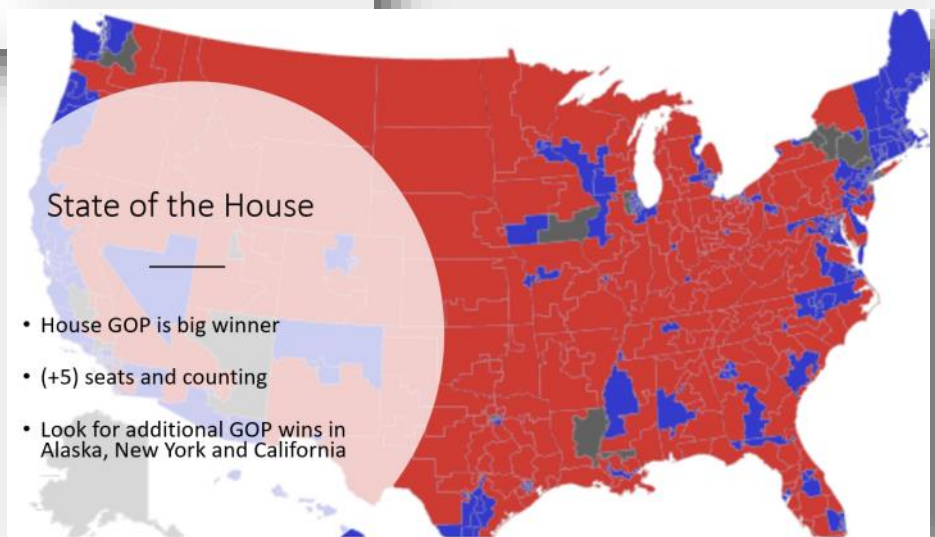
- In 2018, the U.S. Census Bureau estimated Georgia's population grew to 10.5 million from 9.7 million in 2010.
- During the same period, the percentage of Black people in the state rose to 32.2% of the total population, from 30.5%. The Hispanic and Asian populations also increased.
- In general Stacy Abrams had 800 fulltime employees committed to voter's registration and GOTV.
- Georgia will decide control of the Senate.
- Perdue starts at nearly 50%
- Loeffler/Collins combined vote gets to 46 points
- Loeffler was selected based on changing demographics
- Georgia run-off exercise in raw political power – its all GOTV
- Outside money will swamp Georgia



energy jobs, cost of energy, the role of energy independence in reshoring critical manufacturing and further define what domestic energy independence and security means to the electorate as a whole.

### All Roads Lead to Georgia

In a year where the Democrats were bragging about their ability to expand control in the House the GOP is set to pick up between 12-15 seats. And where the Democrats were confident in their ability to win the senate as it stands the Republicans hold 50 seats and the Democrats 48. This is in large part due to the work of Todd Young, R-IN, who was chairman of the National Republican Senatorial Committee.



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# Critical Factors for US Domestic Energy

- Must hold the Senate as firewall on legislation
- Must leverage commitments made during campaign – Biden campaign
- Close coordination with House GOP on messaging and votes
- Target shrinking pool of House moderate Democrats – energy independence and jobs
- Begin focus on 2022 to protect Senate firewall– IA, NC, PA, WI
- Counter DC energy establishment controlled by large integrated oil companies

Final control of the Senate will be determined by a Georgia run-off involving two Republican incumbents, David Perdue and Kelly Loeffler. Both failed to secure 50% of the vote against their respective Democrat opponents. As a result the top two vote getters in each race (Perdue-R, Ossoff-D and Loeffler-R, Warnock-D) are matched-up for a run-off to be settled on January 5, 2021. However, it has been clear for a couple weeks now it is all going to come down to Georgia's January run off. The money energy pumped into the state has been unlike anything we have seen before as both sides throw everything they have into this battle for control of the senate. Republicans anticipated that Kelly Loeffler's seat would most likely go to a run off and David Perdue was less than .5% from winning his seat. As a result the GOP came into this ready, and are in a strong position. However, on the other side Georgia state representative Stacey Abrams is a conduit for progressive money from across the country and is credited with having registering and orchestrating enough votes to deliver Georgia to Biden.

Because a tie in the Senate means Vice President Harris would cast the deciding vote Crane warned, "If the Democrats get to 50 in the senate, at that point it will simply be a matter of time before the legislative filibuster ends." Ending the filibuster means, those blue coastal urban areas will have an open path to impose any policy they want on the rest of the country. "There is a big difference between saying 'we are going to end the filibuster so we can get nominees and judges confirmed' and saying 'we are going to allow a very small geographic area of the country, with very unique views and characteristics relative to the rest of the country to impose their will on everyone ... It is mission critical that we get that 51st seat," Crane said. "This is just an exercise in raw political power—who can deliver the votes; who can get people registered; who can get those ballots filled out; who can make sure those ballots get turned in, and get people to the polls" he added.

## PLAINLY STATED

"The trade-off to eliminate fossil fuels too quickly is allowing 11 million children in the world dying every year from preventable causes of diarrhea, malaria, neonatal infection, pneumonia, preterm delivery, or lack of oxygen at birth.... The current passion to convert into a world with intermittent electricity is oblivious to the unintended consequences of **a world without fossil fuels**.

The signatories to the green movement have failed to imagine how life was without that industry that did not exist before 1900 when we had, NO medications and medical equipment, NO vaccines, NO water filtration systems, NO sanitation systems, NO fertilizers to help feed billions, NO pesticides to control locusts and other pests, NO communications systems, including cell phones, computers, and I Pads, NO vehicles, NO airlines that now move 4 billion people around the world, NO cruise ships that now move 25 million passengers around the world, NO merchant ships that are now moving billions of dollars of products monthly throughout the world, NO tires for vehicles, and NO asphalt for roads, and NO space program. Looking back just a few short centuries, we have come a long way since the pioneer days. Climate change is important, but so is economic survivability. "

– Ronald Stein, P.E., The Heartland Institute



## MEMBER SPOTLIGHT



# THOMAS NUSZ

Thomas B. Nusz has served as Oasis Petroleum's Director and Chief Executive Officer since the company's inception in March 2007.

He also served as the Oasis President until January 1, 2014, and has 37 years of experience in the oil and gas industry. From April 2006 to February 2007, Mr. Nusz managed his personal investments, developed the business plan for Oasis Petroleum LLC and secured funding for the Company.

He was previously a Vice President with Burlington Resources Inc., a formerly publicly traded oil and gas exploration and production company or, together with its predecessors, Burlington, and served as President International Division (North Africa, Northwest Europe, Latin America and China) from January 2004 to March 2006, as Vice President Acquisitions and Divestitures from October 2000 to December 2003 and as Vice President Strategic Planning and Engineering from July 1998 to September 2000 and Chief Engineer for substantially all of such period. Nusz was instrumental in Burlington's expansion into the Western Canadian Sedimentary Basin from 1999 to 2002.



From September 1985 to June 1998, Mr. Nusz held various operations and managerial positions with Burlington in several regions of the United States, including the Permian Basin, the San Juan Basin, the Black Warrior Basin, the Anadarko Basin, onshore Gulf Coast and Gulf of Mexico.

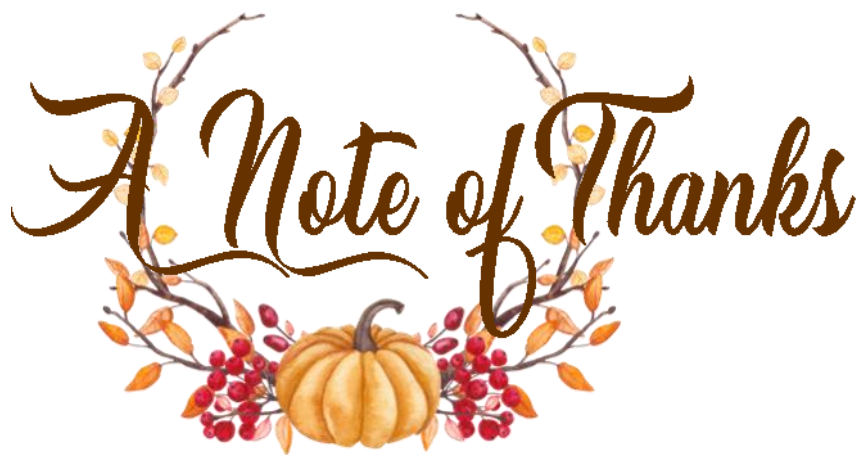
Mr. Nusz was an engineer with Mobil Oil Corporation and for Superior Oil Company from June 1982 to August 1985.

He is a current member of the National Petroleum Council, an advisory committee to the Secretary of Energy of the United States.

Mr. Nusz holds a Bachelor of Science in Petroleum Engineering from Mississippi State University.

## Why Join DEPA?

*We are talking to leadership  
and pushing your issues forward.*



Dear all those involved in the O&G industry:

Thank you for all the help and support you have provided me my entire life. It has been under your guidance, I have been able to provide my family with a life that I am proud of. It is you who brings millions of families together every year during this time of Thanksgiving through planes, trains, and automobiles, roads, bridges, and highways.

Although Thanksgiving may look different for many families this year, your commitment to providing reliable and cost-effective energy remains the same – some things never change. For example, look at the modern family's lifestyle. By the grace of God, and the hard work of the US oil and gas industry, the average US citizen will still wake up on Thanksgiving Day in a home powered and warmed up by our industry. Next up, coffee. Need I say more? In my own home, cooking begins early, which means gas, electric ovens, and stoves are being utilized for a good portion of the day. Recipes are read from phones or Alexas, while being charged through outlets. We are talking fruit salad, turkey, mashed potatoes and gravy, sweet potato casserole, green bean casserole, stuffing, dinner rolls, and let's not forget the pumpkin

pie! During all this preparation there is always some background noise courtesy of the oil and gas industry by a means of the traditional Macy's Day Parade and football games on the tv, and holiday music coming out of the speakers! After our bellies are nice and full, my family likes to nap which includes turning down the temperature to a cozy setting until it's time to wake up and warm up the food all over again.

This year we may not get to physically come together; nonetheless, we can be thankful that the people working tirelessly in the oil and gas industry have allowed us to come together virtually. We can thank them for a warm home and a roof above our heads. Finally, we should all be thanking them for consistently providing us with reliable and cost-effective energy which makes everyone's Thanksgiving possible. I am forever thankful for this industry and everyone involved.

Warmest regards and happy holidays,

*Sarah Reece*


DEPA Administrative Services Manager



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FIELD REPORT #106

### BLAZE™ couplings reduce peak polished rod load by 8% and create 29% increase in downhole pump travel

BLAZE™ treated products address the common production challenges customers face during field operations: mechanical wear, corrosion and abrasion.



**Backdrop**  
A large global oil producer in the Williston Basin desired to extend run life of the well and reduce downtime while maximizing production. The customer partner historically faced mean time between failure (MTBF) of 6 months for hole-in-tubing (HIT) failures resulting from sucker rod coupling wear on the inner diameter of the tubing. The customer's standard operating procedure was to replace both tubing and couplings in the worn sections of the well. The customer typically utilized spray metal type couplings in the region due to corrosion challenges. Maintaining production while reducing the frequency of need for workover service rigs was a primary goal for this global oil producer.

**Solution**  
The customer utilized BLAZE™ treated couplings to reduce coupling-on-tubing friction throughout the wellbore while making no other equipment alterations.

Customer Production Data

	Downhole Stroke (in.)	Peak Load (lbs.)
Pre-BLAZE™ Install	62	31,467
Post-BLAZE™ Install	80	28,905
Improvement:	18 in. Gain	2,562 Reduction

**Results**  
By utilizing BLAZE™ treated equipment, the operator increased production, reduced friction in the sucker rod string and tubing, reduced the peak polished rod load, cut electricity costs and increased run life beyond the historical 6-month MTBF. The well continues to operate as of the publication date.

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November 2019





## **REVISIONS TO THE OIL AND GAS SITE SECURITY, OIL MEASUREMENT, AND GAS MEASUREMENT REGULATIONS**

SUBMITTED NOVEMBER 9 TO THE LAND AND MINERALS MANAGEMENT US DOI

The Domestic Energy Producers Alliance (DEPA) is pleased to submit comments on the BLM Proposed Rule – Oil and Gas Site Security, Oil Measurement, and Gas Measurement Regulations – (RIN 1004–AE59), previously known as the On-shore Orders. DEPA recognizes the time and energy put into this rule making and appreciates the efforts of the BLM staff in drafting this proposed Rule.

DEPA is a unique organization with a grassroots approach to domestic onshore energy advocacy and education. We are an alliance of producers, royalty owners, and oilfield service companies as well as state and national independent oil and gas associations representing the small business men and women of the energy industry, devoted to the survival of U.S. domestic crude oil and natural gas exploration and production. DEPA's members are leaders in developing and applying the innovative and advanced technologies that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways. DEPA is always concerned that all US energy, including oil and gas, is produced, handled, and transported in such way as to present no significant threat to human health and the environment. DEPA feels that all forms of energy should be produced in a market-based economy on an equal, fair, and balanced basis. DEPA and its investors are

concerned that all commerce be conducted so as to ensure that all products, goods and services that depend upon energy for their production manufacture and delivery are available in the most economical way to all Americans, for such is the foundation for the success of productivity in the United States and competition abroad. DEPA fully supports the advancement of Executive Order 13777 “Enhancing the Regulatory Reform Agenda” which established a federal policy “to alleviate unnecessary regulatory burdens” on the American people. DEPA understands that the BLM is interested in reviewing regulations that:

- I. Eliminate jobs, or inhibit job creation;
- II. Are outdated, unnecessary, or ineffective;
- III. Impose costs that exceed benefits;
- IV. Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- V. Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriates Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly availa-



ble or that are insufficiently transparent to meet the standard of reproducibility; or

VI. Derive from or implement Executive Orders or other Presidential direc-

tives that have been subsequently rescinded or substantially modified.

DEPA joins with the American Exploration and Production Council (AXPC), the Independent Petroleum Association (IPAA), The Western Energy Alliance (WEA) and the North Dakota Petroleum Association (NDPC) in support of the comments submitted by the American Petroleum Institute (API). The API has exerted tremendous effort in preparing these comments to the proposed Rule and has offered recommendations that reflect practical hands-on knowledge gained thorough well over one-hundred years of collective experience from its member companies. Many of the requirements in this Rule, while they may appear to add more security and certainty to the BLM, are not always effective. The recognition of this fact comes only from operational knowledge and experience, and DEPA recognizes that this knowledge and experience does not always exist in government agencies, therefore, we comment.

These same type requirements tend to add to the economic burden on the well, manifested in increased capital expense as well as increased lease operating expense (LOE). The requirements for the addition of new FMPs and production facilities for edge wells can challenge the economics of these wells and even delay or cause cancellation of drilling. DEPA also worked with the NDPC in drafting their comments and supports these recommendations as well. We hope and pray that our expectation might be in line with yours, which is to develop realistic regulatory requirements that are both reasonable and feasible, and that successfully accomplish the purposes and goals of the BLM.

Below are a few requirements in the proposed Rule that we feel particularly strong about and would ask

that you consider each in your overall evaluation of comments.

### **Section 3170.2 – Scope.**

#### **Federal-interest threshold**

BLM requested comments on whether it should establish a Federal-interest threshold for applying its site-security and oil- and gas-measurement regulations to units and CAs. If the BLM establishes a minimum Federal-interest threshold, NDPC requests that the BLM consider establishing a minimum Federal-interest threshold of 50% or more federal mineral ownership in spacing units before extending the Orders to all wells lying within a spacing unit. An MOU with state agencies would be required to maintain data that is applicable to royalty payments to be made through ONRR and BLM.

The North Dakota Bakken Field is one example of a play with a large quantity of spacing units that contain only a small percentage of federal mineral acreage. Under the current and proposed 43 CFR 3170, site security rules apply to all wells within these spacing units, regardless of percentage of federal interest. If a federal interest threshold were to be applied, there would be major cost savings on production equipment, which would allow operators to economically drill more wells due to lower LOE. For example, current facilities costs for non-commingled CLR Bakken wells average \$819,000 per well. CLR commingled Bakken wells, on the other hand, average \$641,000 per well, which is a decrease of \$178,000 per well. By applying a federal interest threshold and consequently reducing LOEs in this manner would create more opportunity for leaseholders, including BLM, to receive royalties on wells that may otherwise not be drilled due to uneconomically high LOEs. If a federal interest threshold were applied, an MOU with BLM and state agencies that would require states to maintain data that is applicable to royalty payments to be made through ONRR and BLM could satisfy federal requirements for wells that fall below the threshold.

OR instead of paragraph above:



## **Section 3170.10 Definitions and acronyms.**

### **API and US Well Numbers**

DEPA is concerned with the requirement in the Rule to eliminate the API number identifier for wells. The API Well

Number has been used since 1956 and has been the standard for identifying oil and gas wells in the USA. All state oil and gas regulatory agencies have since used the API No. in their rules and regulations as a means of identifying wells and have the reference on all of their application and reporting forms. The attempt of the BLM to eliminate that practice going forward from the date of this rule will create widespread confusion in the industry and the state agencies that regulate them. The API Well No. can be found in all court records as an identifier where individual oil and gas wells were involved.

In the section-by-section analysis of the proposed rule, BLM states that: “API transferred the unique well identifier standard to the Professional Petroleum Data Management (PPDM) in 2010. At that time, PPDM created the US well number as the new indus-

try standard for identifying oil and gas wells.” According to our membership, it is not clear that the US well number is the “new industry standard” as many operators are unfamiliar with this identifier. If the BLM intends on requiring all operators to adopt new well identifiers, we believe there needs to be much more education and communication on the matter. Merely stating that the US well number is the new industry standard does not mean that is true in practice.

Updating all well numbers, from API to US, can be burdensome to the producer. API numbers have been the standard for many years and are utilized throughout our industry, and it can be argued that the API number has become the de facto legal identifier for oil and gas wells in the US. The API Well numbers are utilized in all facets of the producing process from individual well identification, to documents and royalties. Implementation of new US well numbers will have widespread impact on accounting, maintenance, and measurement data system software, as well as numerous other elements that will require updating, such as site security diagrams and lease signage.

DEPA strongly suggests that the BLM rescind this change in the proposed rule and allow for the

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YOUR SUPPORT IS VITAL.**

## **REGULATORY COMMITTEE CALENDAR 2020**

### **FINAL MEETING OF THE YEAR DECEMBER 17**



Regulatory Committee Co-Chairman, Roger Kelley, Continental Resources and Rusty Shaw, Denbury Resources Meetings are held by teleconference and are open to anyone who would like to attend. Please email [SReece@depausa.org](mailto:SReece@depausa.org) to be included in call in information. Dates are subject to change.



continued use of API well numbers. This change would cause substantial cost and burdens to the production of oil and gas, and it is unclear what the benefits would be, if any. If proposed rule change is not rescinded, the BLM should allow a grace period of 5 years from the effective date of the final rule to ensure proper handling of this implementation. And we also suggest that the US Well No. only be applied to new drilling wells after the states have had a chance to change all their rules, records and forms to accommodate this name change.

DEPA appreciates the BLM's effort in drafting this Rule and would hope that you would receive these recommendations in the spirit of cooperation in which they are offered. Please feel free to contact me with any questions that you might have.

Sincerely,

THE DOMESTIC ENERGY  
PRODUCERS ALLIANCE

J Roger Kelley, Chairman  
Regulatory and Legal Affairs

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## **SCOPING COMMENTS**

### **DAKOTA ACCESS PIPELINE CROSSING**

SUBMITTED TO THE DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS

The Domestic Energy Producers Alliance (DEPA) welcomes this opportunity to provide comments on the Department of the Army, U.S. Army Corps of Engineers, Notice of Intent to Prepare an Environmental Impact Statement for an Easement to Cross Under Lake Oahe, North Dakota for a Fuel-Carrying Pipeline Right-Of-Way for a Portion of the Dakota Access Pipeline. This pipeline was approved in 2017 and has been operating safely ever since.

The Domestic Energy Producers Alliance (DEPA) is an alliance of producers, royalty owners, and oilfield service companies as well as state and national independent oil and gas associations representing the small business men and women of the energy industry, devoted to the survival of U.S. domestic crude oil and natural gas exploration and production. Our membership promotes common sense efforts to ensure environmentally responsible exploration and production of oil and natural gas throughout the nation; however, we oppose overly broad or unduly burdensome regulations that suppress the economic engine of domestic energy production with no apparent benefit to health, the human environment or the economic welfare of the American people.

The development of the infrastructure necessary to collect and transport oil and gas from their source of origin to market is as significant an effort as the actual development and the production of these critical energy

products. Oil can be transported by truck, train or by pipeline. The safest and most economical of the three is by pipeline. Technology for pipelines has increased and improved drastically over the past several years, reducing the probability for accidents or spills to a very low point. No activity in any transportation market is absolutely risk free, no matter how many safety precautions are employed. But safety technology has enabled this industry to install pipelines with a very low probability for incident. If we, as a people, required all transportation to be absolutely risk free, we would all live on farms and walk everywhere we went, using no method of public transportation for anything. We would not use wood, coal, electricity (from any source), or oil to power a vehicle of any sort. Nor would we use products transported to market by the same. It is obvious that we cannot live or operate in a risk-free society, nor can we afford to exist without the use of fossil fuels. The opposition to the Dakota Access Pipeline was not risk based. The opposition was fueled by a myopic movement to stop oil and gas development, production, and its ultimate use.

The court requirement for another environmental review of a pipeline structure that has already undergone a lengthy environmental assessment and that went way beyond the requirements for burial depth and materials of construction has no basis in fact. All told, more than 1,000 certificates, permits and approvals were granted for the DAPL pipeline, which amounts to about one





permit or approval for every mile. After a lengthy process that involved hundreds of public meetings and thousands of study documents, DAPL was approved by the U.S. Army Corps of Engineers and by agencies in all four states where the pipeline

will operate. The court requirement for an additional Environmental Impact Statement (EIS) will do nothing for the integrity of this pipeline and will cost the operator and the American people greatly to satisfy the political agenda of a few.

DAPL is an entirely underground pipeline that will safely transport hundreds of thousands of barrels of crude oil per day from the oil-rich fields of North Dakota to a distribution center in central Illinois. The pipeline is buried nearly 4 feet deep below the ground surface in most areas and in all agricultural lands. This depth is two feet deeper than required by law. The pipeline is buried at depths varying from 95 feet to 115 feet, below the bottom of Lake Oahe. The largest portion, 99.98%, of the pipeline is installed on private property in North Dakota, South Dakota, Iowa, and Illinois. The remaining 0.02% of the pipeline is installed below land owned by the Federal Government. DAPL does not enter or cross the Standing Rock Sioux reservation at any point. The only point at which the pipeline does pass through public property is a sort seg-

ment in North Dakota owned by the federal government. That part of the pipeline consists of 1,094 feet (the length of about three soccer fields) at Lake Oahe in North Dakota. DAPL does not enter or cross the Standing Rock Sioux reservation at any point along the way. The route of the pipeline begins in North Dakota and travels through South Dakota and Iowa before ending in central Illinois.

The depth of DAPL below Lake Oahe is far greater than the required depth and has had all the safety features built in to this line, such that the risk of contamination to Lake Oahe, while possible (as nothing is impossible) is quite improbable. The Dakota Access Pipeline is built to survive the test of time, extreme weather, and natural disaster. It uses state-of-the-art construction material, including heavy-walled steel pipe that is nearly 50% thicker than required by law.

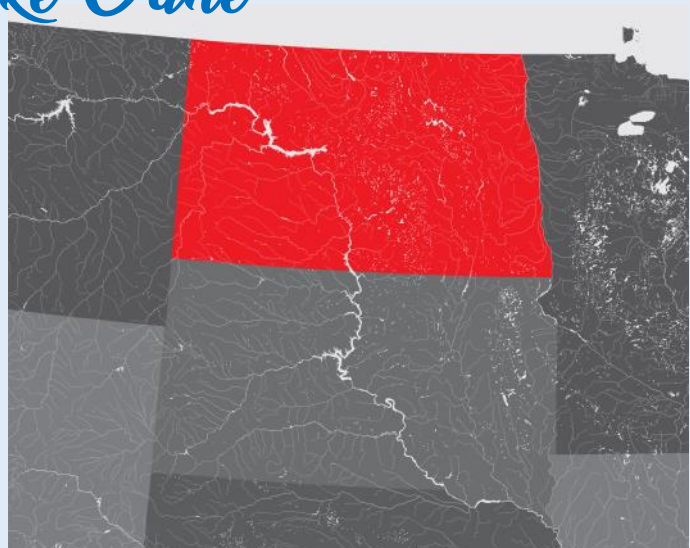
Statistics have shown that pipelines are safer than shipping oil by trucks or rail. DAPL can replace five to seven 100- to 120-car trains that carry crude oil every day from North Dakota “greatly reducing the risk of train accidents and spills. DEPA opposes the requirement for an environmental impact statement (EIS) for this pipeline at this late date. The decision to require the pipeline to shut down and empty was celebrated by the environmental activist groups, proving it was a purely politically motivated action on the part of the court, designed to keep it in the ground” as Obama had directed. The basis of the injunction was the contro-

## Lake Oahe

Lake Oahe begins in central South Dakota (just north of Pierre) and continues north into North Dakota extending nearly as far as Bismarck.

By volume, it is the fourth largest reservoir in the US. It is approximately 230 miles long with a maximum depth of 205 feet.

The lake is named for the 1874 Oahe Indian Mission.







versial nature of the project, a consideration of NEPA but hardly a justifiable reason to require an Environmental Impact Statement on a project that has already stood up to thorough regulatory review.

DAPL is providing the vehicle for transporting the very high quality and valuable Bakken crude oil to market in the safest mode of transportation available. DAPL means that light, sweet crude oil produced in the United States will be safely transported for use throughout many parts of the country, keeping gasoline costs down, improving our economy and environmental safety. Today, eight pipelines are already under the Missouri River in North Dakota, safely carrying hundreds of thousands of barrels of crude oil across the river every day without incident. The only controversy surrounding this project is that a few activists just do not want it there. They do not want The Bakken crude oil of North Dakota produced and will place any obstruction (including NEPA and the courts) in the way to stop it from happening.

While DEPA recognizes that this is simply a Notice of Intent we desire to file our comments in opposition to the entire process for an EIS. Through its excess design criteria and the excellent operating reputation of the DAPL since it began operation over three years ago, Energy Transfer has demonstrated integrity in the installation and operation of the pipeline. The requirement to conduct an EIS after all the permits and filings and the successful ESA just to satisfy a politically motivated purpose is an abuse of the court system and a gross waste of taxpayers' dollars.

Sincerely,

THE DOMESTIC ENERGY  
PRODUCERS ALLIANCE

J Roger Kelley

Chairman - Regulatory

cc: Jerry Simmons – President/CEO

Pete Regan – Congressional and Alliance Liaison

Rusty Shaw – Co-Chairman – Regulatory

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**UPCOMING REGULATORY  
COMMITTEE MEETINGS**

**DECEMBER 17, 2020**

Regulatory Committee Co-Chairman,  
Roger Kelley, Continental Resources  
and Rusty Shaw, Denbury Resources.  
Meetings are held by teleconference and are open  
to anyone who would like to attend. Please email  
[SRreece@depaua.org](mailto:SRreece@depaua.org) to be included in call in  
information. Dates are subject to change.

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YOUR SUPPORT IS VITAL.**



## **THE ONRR 2020 VALUATION REFORM AND CIVIL PENALTY**

SUBMITTED TO THE OFFICE OF NATURAL RESOURCES REVENUE

The Domestic Energy Producers Alliance (DEPA) is pleased to submit comments on the ONRR 2020 Valuation Reform and Civil Penalty Rule. DEPA recognizes the time and energy put into this rule making and appreciates the efforts of the ONRR staff in drafting this proposed Rule.

DEPA is a unique organization with a grassroots approach to domestic onshore energy advocacy and education. We are an alliance of producers, royalty owners, and oilfield service companies as well as state and national independent oil and gas associations representing the small business men and women of the energy industry, devoted to the survival of United States (U.S.) domestic crude oil and natural gas exploration and production. DEPA's members are leaders in developing and applying the innovative and advanced technologies that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways. DEPA is always concerned that all U.S. energy, including oil and gas, is produced, handled, and transported in such way as to present no significant threat to human health and the environment. DEPA feels that all forms of energy should be produced in a market-based economy on an equal, fair, and balanced basis. DEPA and its investors are concerned that all commerce be conducted so as to ensure that all products, goods and services that depend upon energy for their production, manufacture and delivery are available in the most economical way

to all Americans, for such is the foundation for the success of productivity in the U. S. and competition abroad. DEPA fully supports the advancement of Executive Order 13777 "Enhancing the Regulatory Reform Agenda" which established a federal policy "to alleviate unnecessary regulatory burdens" on the American people. DEPA understands that ONRR is interested in reviewing regulations that:

- I. Eliminate jobs or inhibit job creation;
- II. Are outdated, unnecessary, or ineffective;
- III. Impose costs that exceed benefits;
- IV. Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- V. Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriates Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or
- VI. Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.



DEPA supports the ONRR 2020 Valuation Reform and Civil Penalty Rule in general and offers specific comments regarding the following sections.

### **1. Index-Based Options for Valuing Federal Gas**

The 2016 Valuation Rule adopted an index-based valuation option for non-arm's-length sales (that is, sales under contracts that do not satisfy the "arm's-length contract" definition under § 1206.20, or sales that do not occur under a contract) of unprocessed gas, natural gas liquids ("NGLs"), and residue gas. The 2016 Valuation Rule set royalty value at the highest monthly bidweek price (less a specified deduction) for unprocessed gas and residue gas, and the average monthly bidweek price (less a specified deduction) for NGLs, from a publicly-available publication at an accessible index-pricing point. Currently approved publications can be found at <https://www.onrr.gov/Valuation/federal-gas-index-option.htm>.

ONRR proposes to amend 30 CFR part 1206 to specify that, when a lessee chooses to value unprocessed or residue gas for royalty purposes using the index-based option, the lessee may use the published bidweek average price rather than the bidweek high price. Doing so should more closely match what many lessees would otherwise receive as gross proceeds and would apply a consistent valuation approach to unprocessed gas, residue gas, and NGLs. The proposed rule would: (1) extend the index-based valuation option to all Federal gas dispositions (not just transactions deemed non-arms-length); (2) change the royalty value under the index-based option for unprocessed and residue gas from the highest bidweek price to the average bidweek price; (3) update the index-based transportation deduction to rely on more recent cost data; (4) clarify, in the unprocessed and processed gas sections, that a lessee may not report a product's value for royalty purposes as zero or less; and (5) add language reinforcing ONRR's statutory authority to request and receive a lessee's and its affiliate's sales and expense records even in instances where the lessee pays royalties under an index-based valuation method.

The proposed rule §1206.142 option could prove to be a great benefit to producers who sell unprocessed

gas at the wellhead but under the 2016 valuation rule must report and pay as processed gas because the gas is later processed down the pipeline. Under current ONRR regulations, producers are required to "unbundle" processing fees and pricing adjustments to remove any costs to get the product into marketable condition. There is a large administration cost involved in gathering this data from purchasers. Oftentimes purchasers will not provide the data because it is proprietary. In those cases, ONRR calls for the producer to make their best efforts to build an unbundling model. But these costs and fees are based on variables and differ from contract to contract. They are constantly changing and are still subject to audit. Even if a company submits its proposed valuation method to ONRR's Royalty Valuation team in advance and gets approval, ONRR's auditors may later disagree with, and discard, the valuation method. This calls for a constant revision of valuation procedures. Sometimes valuations are re-processed for the same time period as more information becomes known and the unbundling models are updated to be more accurate. The proposed rule's index pricing option will:

- Eliminate the need for maintaining separate valuation methodologies for different contracts.
- Eliminate the need for producers to try to obtain proprietary information from processors or make their best guess when the data is not provided.
- Eliminate the need for a cross-departmental unbundling teams to analyze and continuously update unbundling cost methodologies.
- Create more confidence in the accuracy of royalty valuations using the index price option.
- It will likely reduce the number of unbundling related compliance requests and therefore administrative and legal costs to producer to respond to such compliance requests.

The ONRR estimates that the index-based pricing option will increase royalties by \$0.04/mmbtu. If a producer determines that the administrative cost savings are less than the increased royalties, the new proposed rule will allow them to continue to value the way they are now using the unbundling method. Either option can be elected but must be elected for a 2-year period.

### **2. Allowance Limits**

For over two decades before the 2016 Valuation Rule, when a lessee submitted a certain form (form





ONRR-4393), and documentation showing that it had met certain criteria, ONRR would evaluate the submissions and determine whether to allow that lessee to exceed the regulatory limits for transportation allowances or processing allowances (request-to-exceed), or, under

a different process, to claim extraordinary processing costs (request-to-claim). The 2016 Valuation Rule eliminated those practices by converting the regulatory limits into hard caps, abolishing the request-to-exceed and request-to-claim processes, and terminating all approvals ONRR previously granted.

ONRR has re-evaluated these provisions taking into consideration the Administration's policy emphasis on domestic energy production and reduction of regulatory burdens and believes it is appropriate to reconsider the allowance limits in light of the burdens the 2016 Valuation Rule imposed. ONRR proposes to remove the undue burden on energy production that the 2016 Valuation Rule's hard caps created and allow a lessee to request extraordinary processing-cost allowance approvals. If a company continues to value their gas based on gross proceeds, the proposed rule will overturn the 66 2/3% processing and 50% transportation caps imposed with the 2016 rule. Where actual transportation and/or processing costs exceed these limits, companies will be able to apply for these "extraordinary" costs to be allowed deductions. As before the 2016 Valuation Rule, ONRR would only approve a lessee's request after reviewing a lessee's documentation for adequacy, reasonableness, and accuracy

### **3. The Definition of "Misconduct" and the Default Provision**

The proposed rule would delete: (1) The definition of "misconduct" from § 1206.20; and (2) the default provision from §§ 1206.105, 1206.144, 1206.254, and 1206.454, as well as references in other sections. Industry stakeholders have argued that the "misconduct" definition in the valuation regulations from the 2016 Valuation Rule was too broad and could be misapplied and confused, leading to civil penalties under a different regulation that defines the same term – "misconduct" – differently. Like the "misconduct" definition, industry believes that ONRR could misapply the default provision in ways that undermine the other pillars of our reg-

ulatory scheme (which include, basing allowances on reasonable actual costs, identifying where royalties are calculated, and looking to arm's-length transactions as the best indicator of value). While the purpose of the default provision was to provide a means for establishing royalty value when the most frequently used valuation methods are unavailable or unworkable, ONRR now believes that the default provision is unnecessary considering successful historical practice without it.

### **4. Civil Penalties for Payment Violations**

ONRR proposes to amend § 1241.70 to clarify that—for payment violations only—ONRR would consider the monetary impact of the entity's conduct when assessing a civil penalty. Section 1241.70(b) arguably created an ambiguity as to whether ONRR considers the unpaid, underpaid, or late-paid amounts when assessing a penalty for a payment violation under § 1241.50. Clarifying this ONRR civil penalty practice would support Executive Order 13892—Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication.

### **5. Aggravating and Mitigating Circumstances**

ONRR proposes to amend § 1241.70 to clarify that ONRR may consider aggravating and mitigating circumstances to determine an appropriate penalty. ONRR considers aggravating and mitigating circumstances on a case-by-case basis to increase or decrease the penalty amount in a Failure to Correct Civil Penalty Notice (FCCP) or Immediate Liability Civil Penalty Notice (ILCP). Potential aggravating circumstances may include, but are not limited to, when the violation may also be a criminal act, when the violation occurs because a violator calculated the cost of compliance is more than the cost of a penalty, or when a violator has no history of noncompliance for the violation at hand but has an extensive history of noncompliance for other violation types. Mitigating circumstances are generally conditions where a lessee has limited control including, but not limited to, operational impacts resulting from the unexpected illness or death of an employee, natural disasters, pandemics, acts of terrorism, civil unrest, or armed conflict or delays caused by government action or inaction, including as a result of a government shutdown or ONRR-system downtime. Consistent with the general approach of Executive Order 13924 "Regulatory Relief to Support Economic Recovery" and Executive Order 13892 "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the failure



of a lessee to conform to formal or informal agency guidance does not, in itself, establish a violation, while good faith efforts to comply with formal or informal agency guidance constitute mitigating circumstances and may serve as a rationale to decline issuing enforcement penalties entirely.

DEPA supports the Department of the Interior - Office of Natural Resource Revenue in the promulgation of this rule. We recognize this proposed rule as an effort to streamline government reporting and compliance while maintaining the integrity of the regulatory process as directed by Executive Order 13783, which directs agencies to “identify existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law”. Please feel free to call me at (405) 664-0926 with any questions that you might have regarding these comments.

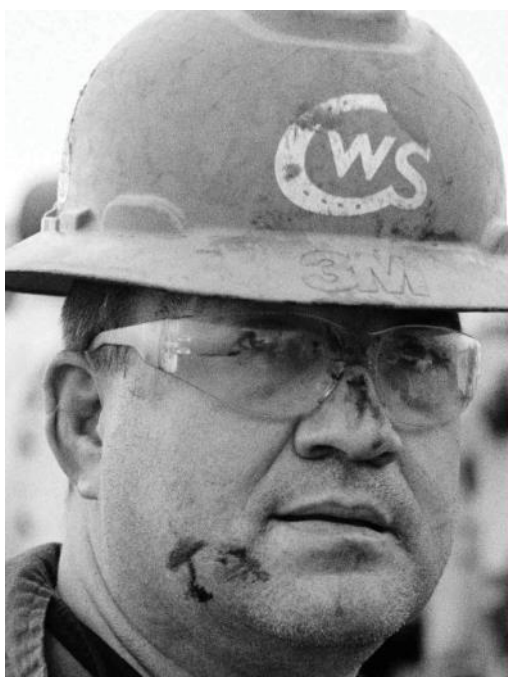
Sincerely,

THE DOMESTIC ENERGY  
PRODUCERS ALLIANCE

J. Roger Kelley , Chairman Regulatory and Legal  
cc: Jerry Simmons, DEPA President/CEO

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# University of 2020

## KEEPING UP WITH THE NEWS AND PASSIVELY BECOMING AN EXPERT

In the summer of 1980 when CNN launched their new concept “24-hour news” journalism began to change. Stories were no longer constrained by limited air time. Long form opinions were given by “authorities” on whatever topic kept the story alive. The more analysis and opinion the merrier with all those minutes to fill. Viewers interested in local and national news were given quite an education on topics like politics, the workings of the justice system and how high profile issues are micro-analyzed, but you had to seek it out. However, the era of cable news was speeding down the 91 Freeway with OJ Simpson and the LAPD. Soon 24 hour news couldn’t be avoided. By OJ’s trial in 1994 the US was transfixed, following every aspect of a news story and debating with family and friends how their fully informed opinions were more correct. Even Saturday Night Live was kicking in some comedic commentary about high profile news events.

When it was clear the public’s desire to drink from the fountain of current events couldn’t be satisfied. Exponentially more news outlets were created across more platforms, podcasts, videos, social media groups– it is everywhere. Satire entertainment news has blown up on every platform as well, and the line between real and fake news has gotten blurred. This year we became “expert laymen” on epidemiology and infectious disease as well as politics without really trying, and everyone has even more opinions about everything.

For the next month even the legitimate political professionals are only able to speculate on what the 2021 political landscape might look like. After all the hype, we are in a holding pattern until the Senate runoffs are over and the certification of the presidential election has happened. How will the US abate the corona virus? What party will lead new policy? Stay tuned!

### COMMITTEES TO WATCH THE FORMATION OF FOR 2021 POLICY

Ag, Nutrition & Forestry:  
Rural Development and Energy

Appropriations: Energy and Water Development

Appropriations:  
Interior, Environment and Related Agencies

Armed Services: Cybersecurity

Energy & Natural Resources: Energy

Energy & Natural Resources: National Parks

Energy & Natural Resources:  
Public Lands, Forests and Mining

Energy & Natural Resources: Water and Power

Environment and Public Works:  
Transportation and Infrastructure

Finance:  
Energy Natural Resources and Infrastructure

Judiciary:  
Antitrust, Competition Policy and Consumer Rights



The 2020 presidential election has been nothing but unusual; From the social distancing guidelines needed and debate performances, to the overwhelmingly passionate voter turn out and running so many elections to a fine line to determine the outcome. However, there have been plenty of interesting events in the past centered around our election process.



# US ELECTIONS TRIVIA & ODDITIES

## WINNING IN THE AFTER LIFE

North Dakota 2020 state legislative candidates David Andahl and Dave Nehring won their House seats during the November 3 election. However, Andahl, 55 died of Covid-19 October 5th after being ill four days.

In a statement after Andahl's death North Dakota Attorney General Wayne Stenehjem said "In the event the deceased candidate receives the majority of the votes, the candidate is elected. However, if the prevailing candidate has died, the candidate is no longer qualified, and a vacancy would exist." Stenehjem confirmed the state Republican Party would appoint a replacement for Andahl's seat.

This is not the first time a dead person was elected to office. Most famously was the death of Hale Boggs in late 1972 with his plane flying to a campaign engagement with Congressman Nick Begich went missing in Alaska. Both men were running for re-election.

Boggs was a member of the Warren Commission investigating the Kennedy assassination. He felt at least one other person shot a Kennedy and many conspiracy theories have been formed around the thought that he was killed to stop him from revealing the truth. Both men won their elections. Their plane was never found. Bogg's wife, Lindy won a special election to replace him and stayed in her position until 1991.

## THE LOWEST VOTER TURNOUT

Record voter turn out for a Presidential election will be one of the hallmarks of 2020 in the history books. The other end of that spectrum was the 1792 Presidential election. In this second US Presidential election, only 6.3%, or 28,000 people voted. This is most likely because George Washington's run for a second term was unopposed. He enjoyed bipartisan support and received one vote from every elector. This election was the least participated in, in our country's history.

## A SONG LOWERS THE VOTER AGE

In the summer of 1965 Barry McGuire's song "Eve of Destruction" entered the Billboard charts. By September 25 it was #1 and the opening lyrics were fueling war protests and got people thinking about the voting age.

*The eastern world it is explodin'  
Violence flarin', bullets loadin'  
You're old enough to kill but not for votin'*

By 1966, 382,010 American service personnel were in Vietnam, many of them were under 21 years old and a serious push to lower the voting age began. In 1968, President Johnson asked Congress to move on the voting age. The question of if Congress or the Constitution should make this change was discussed for the next year and a half.

## TRIVIA & ODDITIES CONT'D

In March 1970, during Senate subcommittee on constitution amendments Senator Ted Kennedy said, "'The well-known proposition—'old enough to fight, old enough to vote'—deserves special mention," Kennedy added. "About 30 percent of our forces in Vietnam are under 21. Over 19,000, or almost half, of those who have died in action there were under 21. Can we really maintain that these young men did not deserve the right to vote?"

It took until June of 1970 for the 26th amendment to be ratified by President Nixon lowering the voting age to 18-years-old.

### YOUNG AND OLD

While John Kennedy is generally considered the youngest US President at 43—he is actually the youngest **to be elected president**. Theodore Roosevelt was actually the youngest person to become president at 42 years old. Roosevelt was William McKinley's vice president when McKinley was assassinated six months into his second term in 1901.

Donald Trump is the oldest person elected president at 70, while Ronald Reagan was the oldest to hold the office at 77 when he left office in January of 1989.

### SURPRISE CANDIDATES

During a 2015 MTV Video Vanguard award Kanye West announced his intent to run for president in 2020 and indeed he was on the ballot.

In 2012, Americans watched actress/comedienne Roseanne Barr attempt to run for President first with the Green Party, then with the Peace and Freedom Party.

"Free Gas For Everyone" was the platform of presidential candidate, and Eagles guitar player, Joe Walsh in 1980. Walsh ran again as the VP running mate to Rev. Goat Carson in 1992 with the slogan "We Want Our Money Back!"

Independent, Gabriel Green ran for president in 1960 and 1972. Green was not listed on any ballots, but launched a full campaign as a write in candidate with the slogan "America Needs a Space Age President". Green was a UFOlogist who claimed to have had contact with extraterrestrials.

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