

Good morning Chairman Costa and Members of the Energy and Minerals Subcommittee.

My name is Kathleen Sullivan Kelley. It is an honor and privilege to speak with you today about oil shale which has so profoundly affected and changed the course of my life.

I am a fourth generation Coloradan, born in Northwestern Colorado, growing up on a ranching and farming operation near the small town of Meeker. Our ranch, Josephine Basin, is approximately twenty-five miles northeast of Royal Dutch Shell's oil shale research and development site. Boulders loaded with tar lay scattered in the alluvial valleys of our land having tumbled down from the crest of the Little Hills a range which is the eastern border of the Piceance Creek Basin. My husband Reed, and I still own and operate this ranch. It is a private land only operation, abutting BLM lands to the west.

It is the love of this land which compelled me to seek elective office, for this raw country, of centuries-old pinyon and twisted juniper challenged by frequent droughts and harsh winters, is as brittle as it is beautiful. It is more wild than some lands with federal Wilderness designation, for this is not a pretty postcard land where hikers like to go. Until now, it was rarely touched by human traffic, save for the few rugged men and women who survive by scratching out a living from mostly cattle and sometimes sheep. This place is haunted by a deceptive sun drenched landscape, often parched, but rich in wildlife, deer, elk, bear, cougar, bald eagles, accipiters and falcons to name just a few. Our ranch has been the wintering ground for deer migrating from the Piceance and just this winter we wrestled in a losing battle with nearly a thousand head of elk descending from the Basin in search of winter feed.

In 1980, when Exxon released what commonly became known as "The White Paper," which outlined their oil shale plans and the mind-boggling impacts they'd have on the communities and water resources of the region, I was elected to the Colorado Legislature, representing House District 57. I affectionately called my House District, "Aspen Vail and Oil Shale." I believe I was elected because of the concern that oil shale development was proceeding much too quickly with far too little vision and care. Subsidies were rampant through the Synthetic Fuels Corporation, with \$80 billion dollars allocated and now, twenty six years later, not one single commercial barrel of oil produced from shale. The second week after I was elected to the legislature I was flown by Occidental Petroleum by helicopter to the Logan Wash oil shale in-situ development site with two newly elected county commissioners. One of them was terrified of heights and the other was claustrophobic. It was during this flight, I discovered elective office was not all glory and fortunately, not everything makes the headlines.

Those were very tough economic times and many people coming to Northwestern Colorado looking for jobs in oil shale were refugees from a collapsing auto and manufacturing industries. Most were suffocating under double digit interest rates on loans they couldn't repay. They clogged Rifle, Parachute and Meeker looking for jobs, driving property prices as much as ten times higher than real value, scrambling to rent or buy anything they could for shelter. As a last resort many retreated to cars and lived in tents.

One of the most poignant calls I received as a legislator came from a fellow rancher the fall of 1981, who, driving cattle down from a public lands permit, suddenly discovered a camp with several families in the path of his cattle. He turned his cows and calves just in time, missing a

tent housing a 7 month pregnant woman and her small children. This burly, tough rancher's voice quivered when he relayed this encounter.

Because I was concerned about the burgeoning impacts of subsidy fueled, speculative oil shale development, I authored and introduced legislation which placed a severance tax on the "projected" production from federal oil shale lease sites. I felt at the time, it might be the only way to get enough substantive impact assistance if Exxon's growth and impact estimates in their "White Paper" were even 10% accurate. It was also an attempted wake-up call, to let energy companies know that development must not proceed without adequate funding for the infrastructure to support it. Needless to say, it didn't pass.

Just as I was swept into the legislature on the rising tide of concern over oil shale development, I was swept out on the bust, losing my re-election bid by 13 votes. On May 2, 1982, I received a call from the Public Relations Director for Exxon, relaying news that their Board of Directors had just taken a vote in Houston, and the Colony project near Parachute Colorado was one of several global development projects Exxon would be immediately closing. Losing my re-election a few months later didn't even begin to compare to the trauma the labor force experienced as a result of the closure. That day, over 2,000 workers -- most of them my constituents -- were put out of work. While I got a courtesy call from Exxon's PR department, the workers were met at the Colony entry gate the following morning by security guards toting shot guns.

I had a ranch where I could return to lick my wounds, but many of the people who worked in the oil shale industry at the time, had come to Colorado with their car as their only possession and left in that same car. Sure oil prices would never collapse again, one man I knew invested everything he owned on that energy boom, deliberately drove his jeep into a high mountain lake as his last destination.

So forgive me if I view this latest oil shale rush as overblown hyperbole, with more to do about posturing than production. The only truly commercial production of oil shale I know of, from the Piceance Creek Basin, rests on my desk at home as a polished paper weight and pen holder.

More telling is the Colony project itself, which, after twenty five years, sits "mothballed" and unreclaimed. I am concerned that with this rush over so-called commercial oil shale development, in a few short years we'll have even more projects sitting mothballed and unreclaimed.

I give you this verbal snapshot of my personal experience because I want you to understand this experience that brings me before you, and this history that informs my opinions about current actions by the BLM with regard to oil shale. Petroleum is a commodity. As a raw commodity producer, I have experienced the volatility and hysteria of commodity markets first hand. Commodities markets are historically boom and bust. As a mineral owner, I know how much speculative ventures drive this industry. And as a resident of this oil shale laden country, I know speculation has always been oil shale's primary value.

I understand this crunch we are in as a nation. I appreciate and hold dear the concept that we must be resource independent, sovereign if you will, to be secure in increasingly threatening global conditions. Three dollar plus diesel prices have destroyed a much needed profit margin in

my industry and I am ready, as are other Americans, for a leveling of fuel prices. But extracting oil from shale is more problematic, more difficult, more technologically intensive and far more expensive than extracting salt from seawater. It will never be, in my opinion, even a partial answer to our energy needs. Our oil shale country is too vast and the shale is too deeply imbedded for practical, economically viable extraction of even a portion of it -- with what we have in proven technology today.

That is why it is absolutely essential that the crucial research and development phase must be respected for what it is and not prematurely escalated with the gift of cheap public lands under the guise of "commercial" leasing. Wait for commercial leasing until we have a proven, viable, extraction technology. Once that technology exists, and all the costs of the development are known, both intrinsic and extrinsic, and society has determined it is willing to bear those costs, only then might it be appropriate to open those lands to a competitive bid process for commercial development. But not before.

In 2005, Congress included provisions in Section 369 the Energy Policy Act that concerned oil shale. The Act told the Bureau of Land Management to make federal lands available for oil shale research and development, and it outlined steps the BLM was required to take before it considered offering commercial leases for federal oil shale resources.

- 1.) BLM was directed to prepare a regional analysis of the environmental and social impacts that might result from commercial oil shale development, and;
- 2.) It was then to adopt new regulations that would set the ground rules for any commercial lease sale.

Importantly, after these two steps were completed, the Act directed the BLM to consult with state and local government officials, Indian tribes, and members of the public to determine the level of support for and interest in a commercial lease sale. Only if the BLM found sufficient support and interest was the BLM then authorized to hold the first commercial sale of federal oil shale.

A commercial lease sale, then, requires the BLM to complete four complex tasks:

- 1.) It must issue research and development leases.
- 2.) It must complete a regional environmental review.
- 3.) It must adopt new leasing regulations.
- 4.) It must consult with state and local governments and the public.

I am dismayed that the BLM has apparently decided to move aggressively forward with a full-scale commercial leasing program, even though it has completed only one of the required tasks -- it has issued research and development leases. Even that step is incomplete, though, since we won't even get a chance to learn from their results for several years. The BLM is misinterpreting the oil shale provisions in the Energy Policy Act in its stampede toward commercial leasing, saying to the public and to Congress itself that it plans to hold a commercial lease sale in 2008.

This is not only contrary to the Energy Policy Act, but certainly ignores a hundred years of unkind history for this resource -- environmentally, socially and economically.

Why rush, when for the first time in the history of this resource, we can smartly proceed with an important research phase which has the potential to give us, once and for all, the answers we need for viable commercial development, including, whether or not it is even possible.

All I ask is that the BLM proceed intelligently, thoughtfully, and cautiously as Section 369 of the Energy Policy Act entreats it to do.

BLM issued five "Research, Development and Demonstration" leases to three companies in November of 2006.

- 1.) Chevron and EGL Resources each got one 160-acre lease.
- 2.) Royal Dutch Shell got three 160-acre leases.

Though the leases were issued last November, it will take time before any of the companies begin development. The BLM's leasing decisions said that the lessees must submit a detailed Plan of Development and obtain all required state and federal permits before they could start construction on these federal RD&D leases.

So far, only Shell has applied for any of its state permits, and it has said that it expects state permitting to take up to one year to complete. In fact, the State of Colorado in February of this year rejected Shell's mined land reclamation permit due to missing and inconsistent information, further delaying the start of construction on Shell's RD&D site. Neither of the other two companies has yet submitted applications for the necessary state permits, meaning that construction on their sites is likely well over a year off.

I am in contact with Royal Dutch Shell's public relations officials and some of their project engineers. I have been repeatedly told that Shell has experienced many set-backs on its technology, and while it has had some encouraging success, it still can't say whether its technology works at a commercial scale or that it is environmentally sound. They want it to be, but wanting it to be, does not make it so. They have told me there are far too many questions needing answers. They still don't know with any degree of certainty, for example, whether a keystone of their in-situ process -- the freeze wall technology -- works to prevent the mixing of groundwater with their produced hydrocarbons and hazardous byproducts.

As I ride out on the ranch to check our cattle and the rumbling, guttural blasts of fracturing from natural gas exploration from miles away vibrate through the brush and grass, I'm not just wondering if the freeze wall technology works, particularly in energy development conditions of massive gas exploration and extraction near the R&D sites, I want a rock-solid guarantee it works. The water quality of the region depends upon it.

The most open and vocal of the companies involved in speculative oil shale processing, Shell has stated publically that they are a long ways away from commercial development. During the ramp-up to the Energy Policy Act, Shell said repeatedly that it would make a decision by the end of this decade and I was told it may be much later than that as to whether its technology could be scaled

up to commercial production. In testimony before the Senate Energy Committee in June 2006, Shell CEO Stephen Mut said:

"For years, we've been meeting neighbors, informing them of what our progress is on our research, and *though we're years from making a commercial decision in the near-term*, it's going to be time for us to begin talking about and opening a dialogue about what the impacts of the commercial development could be."

In response to questions from Colorado's Senator Salazar about the timing of Shell's commercial determination, Shell's CEO responded, "Shell hopes to make the decision whether to commercialize oil shale production around the end of this decade." Nonetheless, the BLM has repeatedly represented to the public and the media that it intends to hold a commercial lease sale in 2008.

This is why I am disturbed by the BLM's aggressive and headlong rush toward large-scale commercial leasing of federal oil shale. It's a simple and undeniable fact -- the technology isn't ready. Even the company that's furthest along -- the company that's invested millions of its own dollars on oil shale research -- says that it can't be sure if it works on a commercial scale.

Because of my experience in State Government in the last oil shale boom, I am deeply troubled that the BLM is ignoring Congressional direction to take into account the views of affected state and local governments. The Energy Policy Act said the BLM must consult with officials from the state and local government officials to assess support for and interest in a commercial lease sale. Yet in budget documents submitted to Congress by the Department of Interior, it appears that the BLM has determined that it will hold a lease sale without going through the required consultation.

According to the Interior Department's budget justification,

BLM plans to spend \$4.4 million within the Oil and Gas program on Oil Shale activities in 2007. This amount is retained in the 2008 request in order to finalize the programmatic EIS, manage the ongoing RD&D leases, prepare the commercial leasing rule and to perform site-specific NEPA analyses required to offer commercial leases by the end of 2008.

Nowhere in this budget document does the BLM mention its obligation to consult with the Governor of Colorado, representatives of local governments, Indian tribes, or members of the public before making a decision whether to move forward with a commercial lease sale.

I have here a letter from several elected officials in western Colorado who are quite upset that the BLM has not taken the consultation mandated in the Energy Policy Act seriously. These officials -- several of whom lived through the last oil shale bust like me -- are upset that the BLM has decided to hold a commercial lease sale before it has sought local feedback on whether it's appropriate and before research has shown that the technology is viable. Commercial-scale oil shale development is not something to rush into lightly, and local elected officials want us to GO SLOW.

Frankly, Honorable Members, our government from local to state is vastly unprepared and unduly restricted from developing the infrastructure necessary to support commercial scale oil shale. Not only are local and state budgets extremely tight, they teeter precariously on the edge of deficits. Funding for infrastructure wisely needs to be predictable and stable. Expecting a community to bond itself to fund infrastructure based upon speculative development is a poor practice. But when that is the only viable option, it means we bear the costs which should rightly belong to those who generate them: The Energy Companies. Currently, our area is pressured by the cumulative impacts of extremely aggressive energy development and our communities have been reduced to begging for additional assistance for key infrastructure items.

The most recent examples are donations to our hospital and community college. These donations are most certainly appreciated and welcomed. Unfortunately, we need them. But a tincup approach to funding infrastructure is far from adequate and in fact, can be quite dangerous. Such dependency can have a dampening affect on communities insisting on regulations necessary for sound development and their own self protection.

BLM's proposed 2008 commercial lease sale would occur long before the results from the current oil shale research and development program can be known and only fuels speculative mania. Particularly in these times of \$60+ per barrel of oil.

Again, none of the projects on federal R&D leases will even have been built by the time BLM holds a commercial sale in 2008. None will have produced any meaningful results as to their impacts, technical viability, or energy and personnel needs. Each of the five in-situ projects being tested is the first of its kind, and nowhere on the planet has large-scale oil shale development occurred.

At this point, what we don't know about a modern oil shale industry far outweighs what we do know. The U.S. oil shale industry is in its infancy, and neither the government, the industry, nor the public can possibly know the full range of environmental and social impacts of the development until the R&D projects are completed.

Everyone agrees that commercial development of the West's oil shale resources is more than a decade away, and so a measured approach is warranted. We need to know that the technology works, and that it will not result in unacceptable impacts to the land or western Colorado communities. Let me say it one more time: we need to GO SLOW and proceed smartly on oil shale. And what does this mean? I strongly encourage the members of this committee to prohibit steps leading to a commercial lease sale until research and development has proven that oil shale is economically viable without taxpayer subsidies, will comply with all existing environmental protections, and will not result in unacceptable environmental and social impacts.

Rather than rush headlong into commercial leasing, the BLM should let research and development occur and prove that the technology works before it takes steps towards conveying large chunks of oil shale land.

Thank you Chairman Costa and the rest of the members of the subcommittee for your time.