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Mr. Bob Kerwin
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Dear Bob:

At my appearance before a fine audience of students, faculty, and interested town folks of Colorado Springs, there were several excellent questions, the latter of which, from the back of the room, I poorly heard and to which my response was wide of the mark. From examining a transcript following my Houston return, I have been able to piece together the subject matter and have had an opportunity to look into the topic in greater detail. The subject can be identified in the following:

On November 28, 1995, President Clinton signed Public Law 104-58 which included the Outer Continental Shelf Deep Water Royalty Relief Act of 1995 ("DRRA"), which contains provisions concerning tracts leased during the first five years following the 1995 enactment.

In 1998, oil sold at $14.42 per barrel and gas at $2.16 per thousand cubic feet, both well below the thresholds at which companies were likely to explore for the potential hydrocarbons, to apprise the commercial potential of possible finds, and/or complete the extensive infrastructure of long pipelines to transport the commodities to shore where they could be further processed before becoming accessible to the market, such costs likely to amount to billions of dollars without giving credence to the value of money over the five to ten year period before sunk costs could begin to be recovered in pursuit of potential profits at the end of the period of cost recovery.

In any event, the Royalty Relief Act was due to expire (absent its extension) five years after 1995.

In Apache's instance it has been our policy to forego such costly endeavors in very deep water, in favor of opportunities we felt better suited our purse strings. Accordingly, when Apache made an acquisition of $1 billion-plus of Gulf of Mexico assets, on which limited time of the primary lease terms remained, we declined to continue three specific leases in line with both our policy and our assessment of the reward to risk ratio.

The 1995 law provided tiered volumes of oil and gas exempted from royalty payments based on progressively deeper, more costly water depths from 200 meters (1200-plus feet) to in excess of 800 meters (2500 feet). At 200 meters, for example, the first 17.5 million barrels of oil equivalent (a composite of oil and gas), were exempted from royalty payments, while below 800 meters 87.5 million Boe were eligible to be excluded.

Unfortunately the schedule was not included as an addendum, and the omissions have proved sufficiently confusing to give rise to varying conflicts leading to political rhubarb and eventual litigation.

The MMS proposed a compromise which some companies accepted, while others have chosen litigation, now pending.

Unfortunately the issues are cloaked with more heat than light. It seems to us at Apache that the relief authorized first in 1983, under Reagan and subsequently by Clinton in 1995, were both good faith attempts to bring deep water and in some instances very deep drilling after reaching the sea floor, were in principle well intended and advised. So were the efforts, in our opinion to compromise the errors and ambiguity. Not having a horse in the race, however, that is regrettably one of the reasons why the courts are fuller of litigation than America is of energy at affordable costs to consensus of the risk-taking companies which pursue accessible supplies to provide energy resources to citizens of the world, 40% to 50% of whom live without the benefits of resources we have taken for granted.

Unfortunately too, are the realities associated with the fact that whereas a few short decades ago, public companies had access to 80% to 90% of the world's potentially available resources, presently sovereign governmental companies restrict the access to that same 80% to 90% of the earth's hydrocarbon resource potential, and for the present, at least, are posting restrictions in the increasingly vibrant format of "no trespassing," even as the word "sustainable" takes on new global meaning.

In North America generally, potentially available lands for development are available at established royalty rates. That which varies is the cash bid price which companies pay for a period of five years in the form of a bonus plus annual cost rentals to hold, and explores, for oil and gas. When the leases expire, these leases revert to the government. When production is established the royalties paid substitute for cash rentals while production continues. This system has worked well in the past.

In other parts of the globe, the terms of leases have as many variables as active human minds can conjure, and should sovereign nations elect not to honor their contractual agreements; the full force of "expropriation" is presently taking on new significance.

Of the decline and fall of the Holy Roman Empire the cliché, "Nero fiddled while Rome burned." Presently apt might be the observation that the more developed nations appear to have a propensity to burn their fiddles.

Bob – next time I'd like to offer a more cogent response to: "(from the audience): You speak a lot about your moral obligation. Can you speak a little bit more to the dichotomy of your moral obligation as well as the obligations to shareholders and the bottom line, where those overlap, and if the federal governments plays a role in sort of _________ moral, political ______ corporation, and all that nonsense?"

Very truly yours,

Raymond Plank

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