

# Memo



## INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

To: Trump Transition Team  
From: IPAA President and CEO Barry Russell  
CC: IPAA Board of Directors  
Date: 11/29/2016  
Re: U.S. Oil and Natural Gas: Issues and Priorities

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The promise of a new Administration that states its support for American energy production encourages expectations that many of the recent federal regulatory and permitting challenges will be reconsidered and altered extensively. The opportunities for policy shifts in key areas must be pursued. If successful, it would mean a change from the aggressive federalization of oil and natural gas production regulation that characterized the last several years of the current Administration.

However, the creation and evolution of “Keep It In The Ground” environmental activists present new, extensive and threatening challenges for American oil and natural gas production, transportation and use.

In this memo, IPAA has identified five issue areas that could threaten or encourage U.S. oil and natural gas exploration and production. We hope these serve as an initial guide on energy policy for the incoming Trump administration.

- **Federal Drilling/Production Regulations**

Federalizing regulation of oil and natural gas production remains an ongoing challenge. State programs demonstrate that cost effective, environmentally protective regulations can manage oil and natural gas production. Moreover, those programs provide for the flexibility that local geology and other conditions demand – flexibility that national, federal regulations do not. Nevertheless, fossil energy opponents will continue to try to federalize regulations. Future actions will include petitions and litigation to force federal actions or to maintain past regulatory initiatives that should be changed. These will include: resolution of the BLM drilling regulations, EPA RCRA requirements, EPA waste water management, federal involvement in fracturing regulation and in seismicity management.

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- **Air Emissions Regulations**

The Clean Air Act provides some of the most pervasive regulatory authority of any federal law. In theory, it should rely on state regulation for its implementation but there are abundant options to create and enforce national standards. In recent years, revisions to the Ozone National Ambient Air Quality Standard, EPA methane regulations and BLM venting and flaring regulations have openly targeted oil and natural gas production. From a regulatory perspective, industry is pursuing efforts to address the excesses of the regulatory programs through litigation and outreach to federal agencies. Keep It In The Ground environmentalists will be looking for opportunities to delay or thwart these efforts.

- **Endangered Species Act Process/Listings**

The Endangered Species Act continues to be a pervasive problem. Both the scope of its threat and its exposure to litigation forcing listing decisions will remain challenging. Some of these challenges may be more manageable with an Administration that is concerned about growth and a strong economy. Other problems will likely require legislation – a path that has been historically difficult and will require realistic expectations about the extent of changes that can pass. Regardless, the use of the Endangered Species Act to threaten land use actions across the country will be aggressively applied by the Keep It In The Ground activists.

- **Tax Reform**

The incoming Trump Administration and Republican Congressional leadership have prioritized tax reform in the 115<sup>th</sup> Congress. A key component of any tax reform initiative should be providing a tax structure that supports capital investment. Key oil and natural gas production tax provisions like the treatment of intangible drilling costs and percentage depletion have been historic, successful methods to allow for the aggressive capital needs to develop American oil and natural gas. During tax reform development, addressing American capital formation must be a pivotal issue.

- **Financial Issues**

Over the past few years, political action threatening oil and natural gas development by targeting financial issues has increased. For example, actions by state attorneys general to use financial laws to attack Exxon Mobil regarding climate issues pose difficult and different threats than any before. Similarly, threats by the Securities and Exchange Commission to use investigative powers to evaluate companies' climate risk exposure are inappropriate. Energy lending policies have threatened access to bank lending. New regulations on offshore bonding and new royalty rate increase proposals raise additional financial threats to the industry. Many of these issues may shift with the incoming Administration, but the path to use government power or shareholder actions can become another route for Keep It In The Ground activists to pursue.

For more detailed information, IPAA has outlined, in the enclosed attachment, the benefits and challenges that face independent oil and natural gas producers.