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to the

United States House of Representatives
Committee on Ways and Means
"Joint Hearing on Energy Tax Policy and Tax Reform"

Thursday, Sept. 22, 2011

Chairman Tiberi, Chairman Boustany, Ranking Member Neal, Ranking Member Lewis and distinguished members of the Committee:

My name is Sheila Karpf. I am a research analyst at the Environmental Working Group, a nonprofit research and advocacy organization based in Washington, DC, with offices in Ames, Iowa, and Oakland, California. I thank the members of the committee for holding this important hearing and for the opportunity to submit written testimony.

For almost two decades, our organization has advocated policies that protect vulnerable people from toxic contaminants, end subsidies that encourage environmental harm and invest in conservation and sustainable development.

Unfortunately, our current ethanol policy is agricultural policy masquerading as energy policy. Efforts to support ethanol-blended fuel have been driven by agricultural interests that wanted to create a market for the historic oversupply of corn, which was often encouraged by U.S. Department of Agriculture crop subsidies and price and income support programs. The ethanol industry is under serious pressure to expand constantly through government intervention. The industry is now, and has been from its inception, a creature of government. Corn producers and ethanol companies press in tandem for any government action – and especially intervention from Washington – that will expand the market for ethanol and thereby the market for corn.

The Volumetric Ethanol Excise Tax Credit (VEETC) should be one of the first targets of this committee. We urge you to allow this wasteful tax expenditure to expire at the end of this year as scheduled. The credit costs taxpayers $6 billion a year. The money goes straight into the pockets of oil and gas companies that blend ethanol with gasoline. This spending is wasteful. Moreover, it creates incentives for practices that damage the environment. Earlier this year, the Senate voted 73 to 27 to accept the amendment to S. 782 offered by Sen. Dianne Feinstein, D-Calif., to end the tax credit and ethanol tariff. We urge the committee to act favorably on H.R. 2307, the companion legislation offered by Reps. Wally Herger, R-Calif., and Joseph Crowley, D-NY.

We urge you to end the myriad of wasteful subsidies and tax breaks granted to the mining and fossil fuel industries. These cost taxpayers between $4 billion and $10 billion annually. The "Ending Big Oil Tax

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Subsidies Act," H.R. 601, proposed by Rep. Earl Blumenauer, D-Ore., would help lower the deficit without harming jobs or the economy.

Eliminating these environmentally destructive subsidies must be one of our top priorities as we seek to shrink the national debt. Just this year, taxpayers would have saved between $10 billion and $16 billion if oil, gas and corn ethanol tax breaks and subsidies had been repealed. These ill-advised incentives do nothing to remedy these industries' environmental impacts, such as air pollution. They distort markets and encourage overproduction of fuels that threaten public health and the environment. Taxpayers are paying a high price for incentives that don't clearly benefit the American economy.

Crowning corn ethanol, oil and hard rock mining as the nation's energy winners is unfair to clean energy technologies. Instead of supporting well-established, polluting fuels, we need to use incentives to promote clean energy that will actually reduce dependence on foreign oil and protect air, water and wildlife habitat. These include tax incentives for wind, solar and geothermal. Because of the tax breaks and subsidies showered on the oil, ethanol and mining industries, new clean-energy technologies have little chance to compete on a level playing field.

EWG's research has demonstrated that corn-based ethanol has a stranglehold on federal renewable energy tax credits and subsidies.[1] Solar, wind and other truly clean, renewable energy sources have struggled to gain significant market share, while corn-based ethanol has claimed fully three-quarters of the tax benefits and two-thirds of all federal subsidies allotted for renewable energy. So-called advanced biofuels targets have been waived in recent years because they cannot compete with overproduction of corn ethanol. It is becoming less and less likely that advanced biofuels made from switchgrass, algae and wood residues will become commercially viable in the near term, especially with corn ethanol dominating the renewable fuels market.

Specifically, we urge the committee to consider ending the following destructive tax breaks to the ethanol, oil, gas and mining industries:

Ethanol Incentives

1. Volumetric Ethanol Excise Tax Credit (VEETC): This tax credit costs taxpayers about $6 billion per year – more than is spent on all USDA conservation programs to protect soil, water and wildlife habitat combined. Since the 2007 energy bill already mandates ethanol production through the Renewable Fuel Standard, this 45-cents-per-gallon tax credit is entirely unnecessary and duplicative, as the Congressional Budget Office and the Government Accountability Office have shown.[2] [3] The ethanol tax credit directly benefits highly profitable oil and gas companies that receive it for each gallon of ethanol they blend with gasoline.

[1] http://www.ewg.org/reports/Ethanols-Federal-Subsidy-Grab-Leaves-Little-For-SolarWind-And-Geothermal-Energy%20
[2] http://www.cbo.gov/ftpdocs/100xx/doc10057/04-08-Ethanol.pdf
[3] http://www.gao.gov/products/GAO-09-446

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Ethanol from corn is highly unlikely to reduce the country's dependence on imported oil. Perversely, it is causing food and feed prices to skyrocket. Moreover, current ethanol production systems increase greenhouse gas emissions.

2. Alternative Fuel Infrastructure Tax Credit: This tax credit has some potential to promote development of clean energy technologies such as hybrid and electric vehicles, but the benefits will be realized only if the primary energy source does not increase pollution. [4] Since the credit can also be used to install new blender pumps that dispense higher blends of corn ethanol, it serves as yet another form of support for an environmentally unsustainable biofuel. Expanding this credit to lock in corn ethanol will only lock out alternatives, including drop-in fuels, which behave like petroleum and do not require us to reengineer our transportation system.[5]

Oil and Gas Incentives

Gas prices hover between $3.50 and $4 a gallon. While Americans empty their wallets at the pump, oil and gas companies have reaped record profits. Yet some members of Congress demand that taxpayers continue to subsidize Big Oil through the following provisions, which should be repealed:

1. Enhanced oil recovery tax credit[6]

2. Marginal well production credit[7]

3. Tax deduction for domestic production[8]

4. Foreign tax credit[9]

5. Accounting method known as last-in, first out (LIFO) that artificially reduces taxable income and tax liabilities[10]

6. Accelerated depreciation that allows equipment and structures to be written off quickly, artificially reducing taxable income[11]

7. Percentage depletion allowance[12]

8. Expensing of intangible drilling costs differently from normal business expenses[13]

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[4] http://www.afdc.energy.gov/afdc/laws/law/US/351
[5] http://www.ewg.org/agmag/wp-content/uploads/2011/04/Final-ethanol-infrastructure-report2.pdf
[6] http://thf_media.s3.amazonaws.com/2011/pdf/wm3251.pdf
[7] http://thf_media.s3.amazonaws.com/2011/pdf/wm3251.pdf
[8] http://thf_media.s3.amazonaws.com/2011/pdf/wm3251.pdf
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[10] http://ncseonline.org/NLE/CRSreports/07March/RL33763.pdf
[11] http://ncseonline.org/NLE/CRSreports/07March/RL33763.pdf
[12] http://thf_media.s3.amazonaws.com/2011/pdf/wm3251.pdf
[13] http://ncseonline.org/NLE/CRSreports/07March/RL33763.pdf

9. Deduction for tertiary injectants, meaning liquids and gasses injected into land near an oil well[14]

10. Exemption for oil and gas producers from ordinary passive loss limitations imposed on other taxpayers[15]

Mining Incentives

The 1872 Mining Law, intended to encourage rapid development of the West, does not require the hard rock mining industry to pay royalties to compensate taxpayers for use of the nation's resources. Now is the time to reform this law. By doing so, the Congress can generate hundreds of millions of dollars in income for taxpayers over the next five years. Moreover, some of these funds can be used to remediate the thousands of environmental and safety hazards that are the sorry legacy of the hardrock mining industry. At present, the expense of cleaning up old mining sites is being borne fully by the taxpayers.

As things now stand, Americans receive none of the revenue generated by hardrock mining on our public land. Yet we are being asked to pay millions of dollars to clean up the pollution industry has left behind.

As EWG's and Earthworks' recent "Conflict at the Canyon" report showed, uranium mining poses particularly serious water contamination dangers to major sources of drinking water.[16] Foreign-owned mining companies have staked many uranium mining claims on public lands. Unless the law is changed, when they begin mining these claims, they can exploit this valuable resource at the expense of the public.

Hard rock mining operations also enjoy special tax breaks. The Congress should repeal the percentage depletion allowance, established in 1932 to compensate mining companies for the reduced value of their mines after minerals have been extracted. Companies that have paid virtually nothing to mine public land can reap tax deductions ranging from 5 to 22 percent of the gross income from the mining operation.

The percentage depletion allowance for minerals extracted from public lands that the mining industry obtained for next to nothing have cost American taxpayers about $500 million in lost tax revenues over five years, according to a 2011 Earthworks report.[17] These tax breaks are unfair and unacceptable at a time when vital programs are being slashed as the Congress strives to reduce the federal deficit.

Recommendations

We can have sustainable energy but we must rebalance the renewable energy and energy conservation portfolio to favor options that:

- Reduce fossil fuel use
- Safeguard the environment
- Spur economic development that benefits large numbers of Americans
- Increase energy security

[14] http://www.atr.org/files/files/2011_ATR_Energy_Tax_Series-Tertiary%20Injectants.pdf
[15] http://thf_media.s3.amazonaws.com/2011/pdf/wm3251.pdf
[16] http://static.ewg.org.s3.amazonaws.com/pdf/conflict_at_the_canyon.pdf
[17] http://www.earthworksaction.org/pubs/FS_112thPercentageDepletion.pdf

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- Use scarce taxpayer resources wisely

We should begin by taking these steps:

- Eliminate tax credits and special breaks for oil, gas and mining companies
- End tax credits for corn ethanol
- Subsidize advanced biofuels only if they show clear potential to meet strict climate and environmental protection standards

Conclusion

If Congress is serious about reducing spending, eliminating oil, gas, mining and ethanol subsidies should be one of its first priorities. Such action will help reduce the national debt, streamline the tax code and move the country toward a more economically and environmentally sustainable future. These subsidies have saddled the nation with a lopsided incentive structure that picks winners and losers and rewards politically powerful industries at the expense of a diversified and sustainable energy future. America can do better.

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