December 29, 2020

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW. Suite 3E-218
Washington, DC 20219

Fair Access to Financial Services
Docket ID OCC-2020-0042

These comments are filed on behalf of the Independent Petroleum Association of America (IPAA). IPAA represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will be the most significantly affected by the actions resulting from this regulatory proposal. Independent producers drill about 90 percent of American oil and gas wells, produce 54 percent of American oil and produce 85 percent of American natural gas.

The Office of the Comptroller of the Currency (OCC) solicits comments on issues related to the fair access to financial services related to potential actions taken by the largest banks that might categorically exclude certain sectors or industries from access to the capital they need to develop their businesses. As the Federal Register Notice states:

> Despite the OCC's statements and guidance over the years about the importance of assessing and managing risk on an individual customer basis, some banks continue to employ category-based risk evaluations to deny customers access to financial services. This happens even when an individual customer would qualify for the financial service if evaluated under an objective, quantifiable risk-based analysis. These banks are often reacting to pressure from advocates from across the political spectrum whose policy objectives are served when banks deny certain categories of customers access to financial services.
>
> The pressure on banks has come from both the for-profit and nonprofit sectors of the economy and targeted a wide and varied range of individuals, companies, organizations, and industries. For example, there have been calls for boycotts of banks that support certain health care and social service providers, including family planning organizations, and some banks have reportedly denied financial services to customers in these industries. Some banks have reportedly ceased to provide financial services to owners of privately owned correctional facilities that operate under contracts with the Federal government and various state governments. Makers of shotguns and hunting rifles have reportedly been debanked in recent years. Independent, nonbank automated teller machine operators that provide access to cash settlement and other operational accounts, particularly in low-income communities and thinly-populated rural areas, have

> been affected. Globally, there have been calls to de-bank large farming operations and other agricultural business. And companies that operate in industries important to local economies and the national economy have been cut off from access to financial services, including those that operate in sectors of the nation's infrastructure "so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof."

OCC is rightfully concerned about such a de facto "redlining" of certain industry categories based on issues that are not related to their financial soundness and relying on external characterizations of their soundness, particularly by entities that seek to harm these industries. It is equally important to understand that the proposal is not intended to create a blanket acceptance of any proposal from a company to any financial institution. The proposal applies only to the large national banks (defined as those with more than $100 billion in assets), limiting its impact to institutions with sufficient market power to affect the price of financial services or to institute *de facto* limits on bank access. The proposal makes clear that banks are not required to offer every conceivable product or service in every geographic market—simply that those services that are offered must be available on a fair basis. Similarly, the proposal explains that banks can still deny services (including to politically unpopular businesses) if the decision is justified by the potential customer's "quantified and documented" failure to meet quantitative, impartial risk-based standards established in advance. Thus, the sole limitation imposed by the proposed regulation is that a denial of service cannot be influenced by the bank's subjective opinions (or the subjective opinions of its employees or customers) about a business and its lawful activities.

Unfortunately, for the past several years, America's essential oil and natural gas production industry has become a target for several "Keep It in the Ground" environmentalist lobbying operations. These organizations have turned from their historic regulatory focus to a broader arena of actions including attacking capital sources. These groups have used their presumed integrity to distort the value of American natural gas by creating a myth about "fracked" gas being different. They have lied about the risks of regulated hydraulic fracturing. They have distorted the 1.2 percent of the Greenhouse Gas inventory from oil and natural gas production methane emissions trying to suggest it poses an unreasonable threat. They have conspired to abuse federal delegation of Clean Water Act authority to prevent the rightful permitting of interstate commerce based projects. They have repeatedly used the courts to challenge permitting of essential infrastructure projects such as pipelines. They attempted prevent any COVID relief funding to be directed to oil and natural gas production companies facing unprecedented financial threats.

They have also turned to press banks to stop lending to oil and natural gas projects. For example, the January 20, 2020, Greenwire article, "Campaign Targets 'Money Pipeline' Behind Fossil Fuels", included the following material:

> "If the banks weren't lending, the giant asset managers weren't buying stock, and the insurance companies weren't insuring, then the fossil fuel industry couldn't go on expanding," McKibben wrote.
>
> The campaign is the latest — and potentially the most significant — in a series of recent efforts by advocates to push major banks, insurers and asset managers to

> stop funneling capital into industries and energy development projects that contribute to climate change.
>
> The Sierra Club, the Rainforest Action Network, DivestInvest, Native Movement and 350.org are among the organizations that will "unify around this message of putting pressure on the financial industry," said Ben Cushing, a Sierra Club campaign representative.
>
> According to Ross Hammond, a senior strategist with the Sunrise Project, financial institutions have long avoided taking responsibility for their role in "fueling the climate crisis." In turn, he said, it's "incredibly significant that U.S. groups have finally come together to take on one of the biggest drivers of climate change on the planet — Wall Street."

As this material demonstrates, the intent to use political pressure to limit capital to an essential energy industry is a prime objective of these radical “Keep It in the Ground” environmental groups.

If they succeed, it will be a devastating blow to the American economy, America’s national security, and American oil and natural gas producers. But, it is an entirely flawed and unworkable strategy. It hinges on the fundamental assumption that preventing the development of American oil and natural gas and crushing American companies will result in the elimination of fossil energy use with no harm to the economy or the nation’s security.

One of the fundamental flaws in the strategy is a presumption that removing American supply will eliminate American demand. The United States currently consumes about 100 quadrillion BtUs of energy (quads) each year. About 37 percent of it is used to generate electricity and 28 percent for transportation. In the transportation sector, there are over 280 million vehicles in the United States of which approximately 600,000 are all electric vehicles. New vehicle sales are on the order of 17 million per year; in 2019, there were approximately 250,000 all electric vehicles sold. All of the vehicles that are not all electric require carbon based fuels, overwhelming from oil and natural gas. Clearly, there is no feasible way to supply the essential transportation needs of the United States without oil and natural gas. Nor will it be feasible to do so for the foreseeable future.

Since it is infeasible to supply American transportation needs without oil and natural gas, the consequence of preventing capitalization of American oil and natural gas companies shifts international energy power to foreign countries. About two-thirds of oil reserves in the world are owned by countries and increasingly produced by their national oil companies. Even the United States owns substantial oil reserves underlying its federal lands onshore and offshore, but it is one of the few countries where individuals own mineral rights. Eliminating access to capital to American companies accentuates the shift of production to foreign sources, particularly if it is accompanied by limitations of federal resource development and regulatory policies that prevent private resource activities. Thus, after 50 years of living with energy costs being defined by foreign production and the national security consequences of that dependence, actions by banks in response to the political pressure of environmental activists would return the United States to its subservient role in international energy markets. And, it would reverse the benefits that have accrued from American shale oil and shale gas development and the subsequent growth of oil and natural gas exports.

In his recent book, The New Map, energy expert Dan Yergin described the framework that will exist as the world copes with the major changes is must confront in the coming years as follows:

> Yet the notion of a fast track to a wholesale energy transition runs up against major obstacles—the sheer scale of the energy system that supports the world economy, the need for reliability, the demand for mineral resources for renewables, and the disruptions and conflicts that would result from speed. On top of all of that is the high cost of a fast transition and the question of who pays for it—especially given the staggering amounts of debt that governments took on in 2020 to fight the health and economic consequences of the coronavirus. In the spring of 2020, estimates based on OECD analysis indicated that its members, the developed countries, had already accumulated an additional $17 trillion dollars of debt to deal with the COVID-19 crisis. Environmental ministers may seek to push aggressively ahead, but they will have to contend with finance ministers, who are worrying about budgets and deficits and the primary need to heal the economic wounds, promote recovery, and get people back to work. In short, for the next few decades, the world's energy supplies will come from a mixed system, one of rivalry and competition among energy choices.
>
> In this system, oil will maintain a preeminent position as a global commodity, still the primary fuel that makes the world go round. Some will simply not want to hear that. But it is based on the reality of all the investment already made, lead times for new investment and innovation, supply chains, its central role in transportation, the need for plastics from building blocks of the modern world to hospital operating rooms, and the way the physical world is organized. As a result, oil—along with natural gas, which now is also a global commodity—will not only continue to play a large rule in the world economy, but will also be central in the debates over the environment and climate, and certainly in the strategies of nations and in the contention among them.
>
> How fast the mix changes will be determined, of course, not only by politics and policies, but by technology and innovation, which have been the ingredients of energy transitions since Abraham Darby lit up his furnace in 1709. That means the ability to move from idea and invention to technologies and innovation and finally into the marketplace. This is not something that necessarily happens fast—energy is not software. After all, the lithium battery was invented in the middle 1970s but took more than three decades before beginning to power cars on the road. The modern solar photovoltaics and wind industries began in the early 1970s but did not begin to attain scale until after 2010. Yet the pace of innovation is accelerating, as is the focus, owing in part to the climate agenda and government support, in part to decisions by investors, in the part to the collaboration of different kinds of companies and innovators, and in part to the convergence of technologies and capabilities—from digital to new materials to artificial intelligence and machine learning to business models and more. The timing of what eventuates will also depend on the talent engaged, the financial resources that support that work, commitment, sheer grit, and the well of creativity upon which to draw. These will lead to the new technologies, disruptive and otherwise, that will shape the new map of energy and geopolitics.

America and the world face enough challenges in coping with the essential changes that will arise in the coming years. Efforts by extreme political groups to compel unnecessary chaos must be prevented. The OCC proposal is a significant step in preventing the abuse of public forums to twist banking decisions away from sound individual determinations toward a new version of "redlining" applied to entire categories of businesses and industry sectors.

IPAA appreciates the opportunity to present these comments. If there are any questions, please contact Dan Naatz by email at dnaatz@ipaa.org or at 202-857-4722.

Sincerely,

Barry Russell
President and CEO