Should the Federal Government or the States Manage Energy Production on Public Lands?

IOGCC Public Lands Committee
May 20, 2013

Historical Perspective

Historical Perspective

October 10, 1780 To resolve a dispute about claims to the western lands and to pay the debts from the Revolutionary War, Congress passes a Resolution affirming that it will hold title to western lands only “to create new states” and to pay the national debt “and for no other use or purpose whatsoever”.

Historical Perspective

October 10, 1780 To resolve a dispute about claims to the western lands and to pay the debts from the Revolutionary War, Congress passes a Resolution affirming that it will hold title to western lands only "to create new states" and to pay the national debt "and for no other use or purpose whatsoever.

August 13, 1787 Northwest Ordinance provides for "the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States" (Sec. 13); and that the state legislatures "shall never interfere with **the primary disposal of the soil by the United States** in Congress assembled, nor with any regulations Congress may find **necessary for securing the title in such soil to the *bona fide* purchasers."** (Sec. 14, Art. 4).

Historical Perspective

October 10, 1780 To resolve a dispute about claims to the western lands and to pay the debts from the Revolutionary War, Congress passes a Resolution affirming that it will hold title to western lands only "to create new states" and to pay the national debt "and for no other use or purpose whatsoever.

August 13, 1787 Northwest Ordinance provides for "the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States" (Sec. 13); and that the state legislatures "shall never interfere with **the primary disposal of the soil by the United States** in Congress assembled, nor with any regulations Congress may find **necessary for securing the title in such soil to the *bona fide* purchasers."** (Sec. 14, Art. 4).

September 17, 1787 U.S. Constitution, Article IV (the New States Article) grants to Congress "the **power to dispose"** of the lands in the territories and to make needful rules and regulations to dispose of the lands (Note: Art. I, Sec. 8, cl. 17 (Powers Delegated to Congress) <u>only delegates power to own limited "enclaves," for limited purposes, and only if purchased and only with the consent of the state legislature</u>).

Historical Perspective

October 10, 1780 To resolve a dispute about claims to the western lands and to pay the debts from the Revolutionary War, Congress passes a Resolution affirming that it will hold title to western lands only "to create new states" and to pay the national debt "and for no other use or purpose whatsoever.

August 13, 1787 Northwest Ordinance provides for "the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States" (Sec. 13); and that the state legislatures "shall never interfere with **the primary disposal of the soil by the United States** in Congress assembled, nor with any regulations Congress may find **necessary for securing the title in such soil to the *bona fide* purchasers."** (Sec. 14, Art. 4).

September 17, 1787 U.S. Constitution, Article IV (the New States Article) grants to Congress "the **power to dispose"** of the lands in the territories and to make needful rules and regulations to dispose of the lands (Note: Art. I, Sec. 8, cl. 17 (Powers Delegated to Congress) <u>only delegates power to own limited "enclaves," for limited purposes, and only if purchased and only with the consent of the state legislature</u>).

1782-1802 In reliance on the 1780 Resolution, States cede title to the western lands to the United States ***in trust***, but only to create new states and to pay the national debt.

THE 1828 WESTERN STATES

- ✓The federal government is not disposing of our public lands as it promised;
- ✓We can't tax the lands to adequately fund education
- ✓Our ability to grow our economy and generate well-paying jobs is stifled; and
- ✓The federal government is hoarding our abundant minerals and natural resources.

20th Congress, 1st Session, House of Reps., Rep. No. 125, Graduate Price of Public Lands, February 5, 1828

Mr. Duncan, from the Committee on the Public Lands, to which the subject had been referred, made the following

REPORT:

If these lands are to be withheld from sale, which is the effect of the present system, **in vain may the People of these St** tial to **the education of youth**, and to the ruction. **Those States will, for many gen rease their comfort and wealth**, by mea **power, incident to all sovereign States, c er by roads and canals**.

When these States stipulated not to tax the lands of the United States until they were sold, they rested upon the implied engagement of Congress to cause them to be sold, within a reasonable time. No just equivalent has been given those States for a surrender of an attribute of sovereignty so important to their welfare, and to an equal standing with the original States.

When thes es until they were sold, they reste m to be sold, within a reason s for a surrender of an attribute c ual standing with the original States.

A remedy for such great evils may be found in carrying into effect the **spirit of the Federal Constitution**, which **knows of no inequality in the powers and rights of the several States**;

20th Congress No. 726. 2d Session

APPLICATION OF MISSOURI FOR A CHANGE IN THE SYSTEM OF DISPOSING OF THE PUBLIC LANDS.

To the

That th

injurio

conditi in

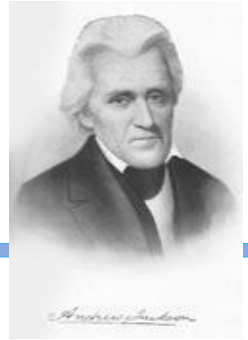
the pre

betwee

could

United States whilst unsold; and not to tax the lands sold until five years thereafter, if it had been understood by the contracting parties that a system was to be pursued which would prevent nine-tenths of those lands from ever becoming the property of persons in whose hands they might be taxed.

the State of Missouri never could have been brought to consent not to tax the lands of the United States whilst unsold … if it had been understood by the contracting parties that a system was to be pursued which would prevent nine-tenths of those lands from ever becoming the property of persons in whose hands they might be taxed.

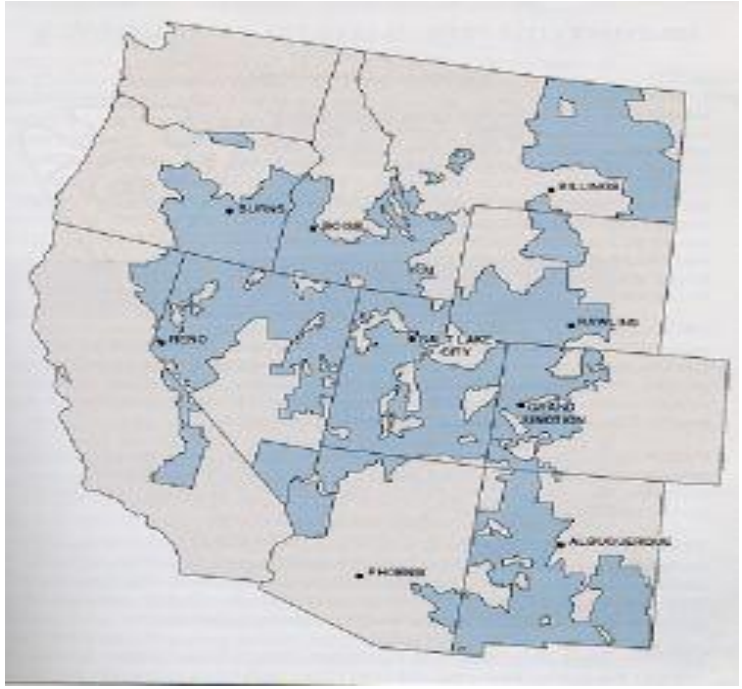


Andrew Jackson Land Bill Veto Message

December 4, 1833

"I do not doubt that the real interest of each and all of the States in the Union, and particularly of the new States, is that the price of these lands shall be reduced and graduated, and that **after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn. It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States** ….."

Historical Review

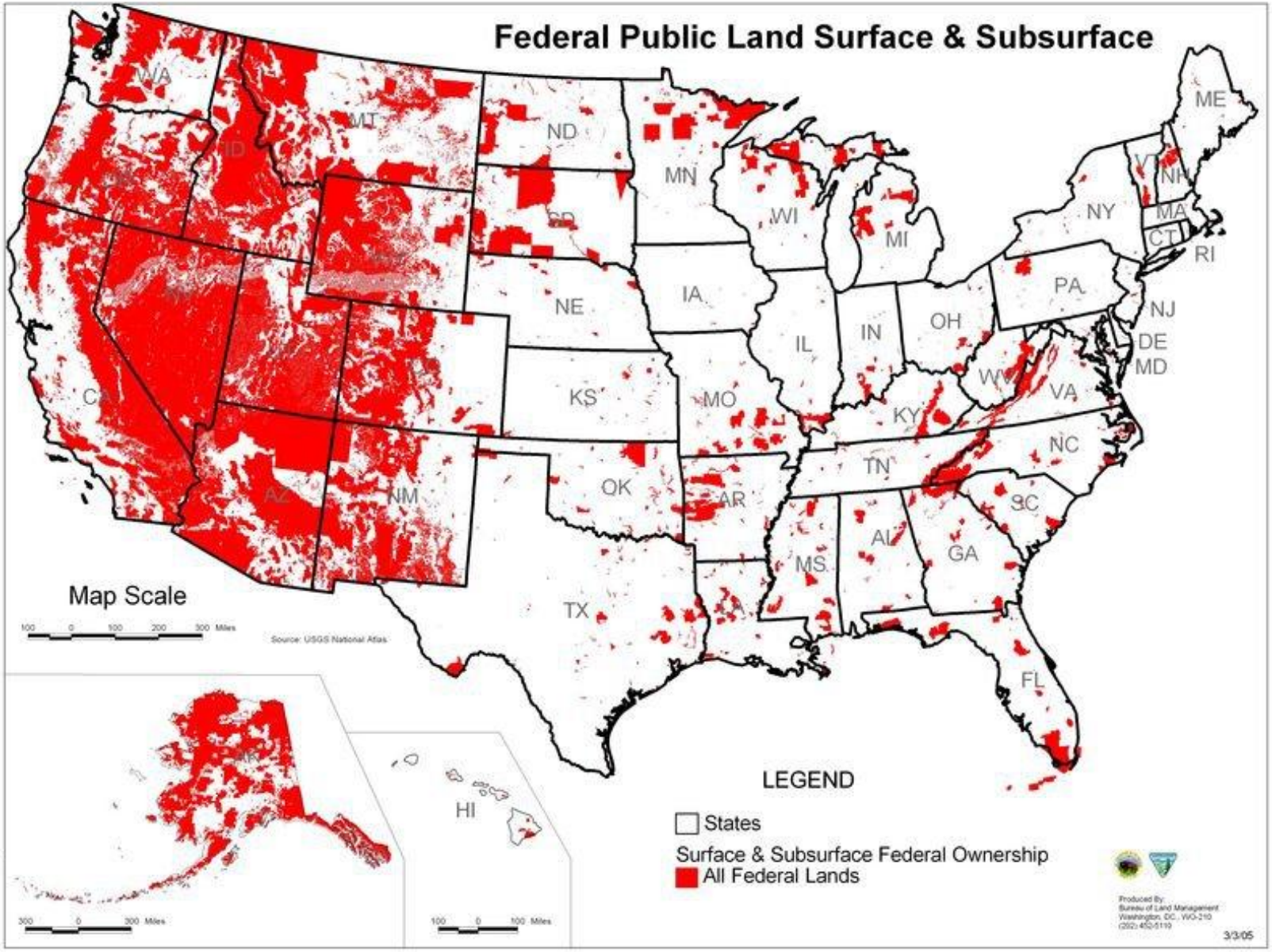


1934

Taylor Grazing Act (precursor to the BLM) provided that it was merely a management act "pending **final disposal of the lands.**"

Historical Review

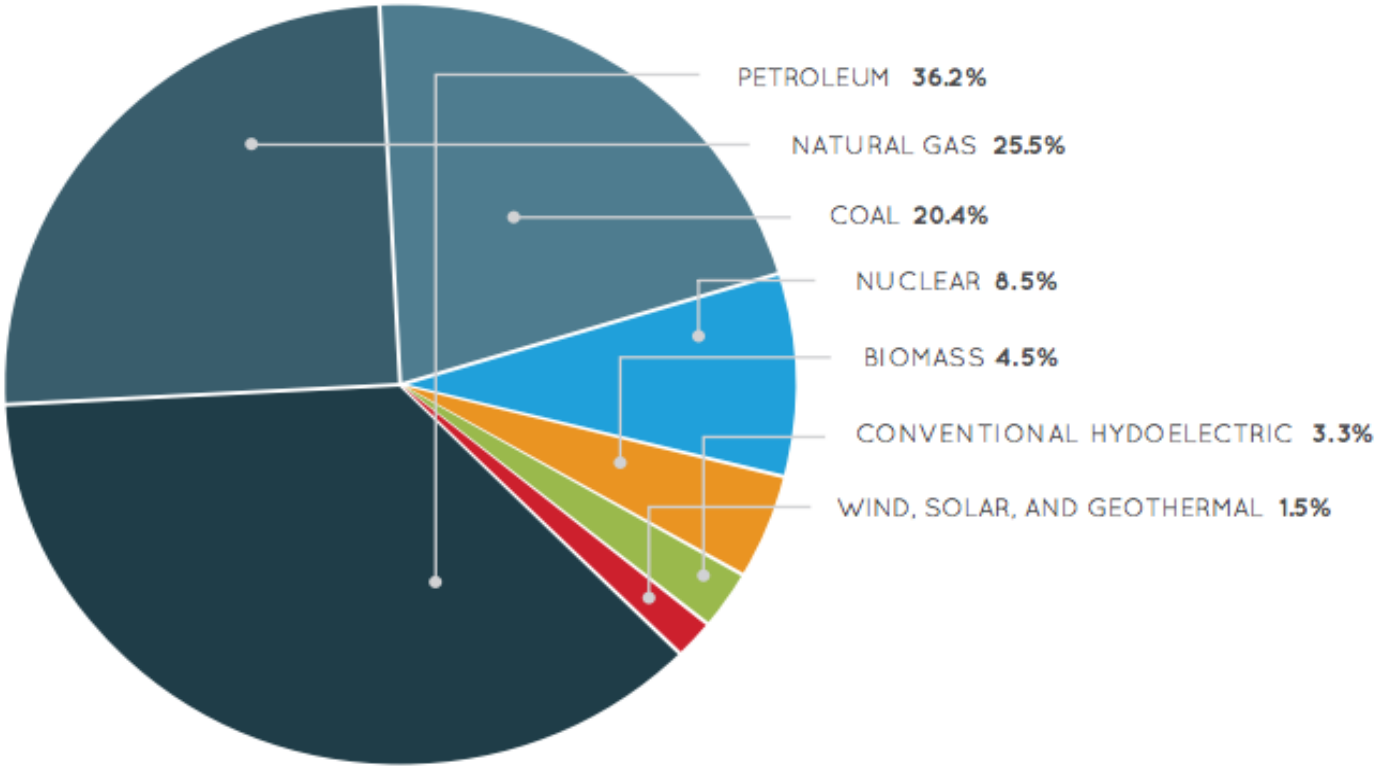
The Federal Land Policy and Management Act of 1976 (FLPMA) ***"Congress declares that it is the policy of the United States that <u>the public lands be retained in Federal ownership</u>, unless … it is determined that disposal of a particular parcel will serve the national interest."*** FLPMA, sec. 102(a)(1)


Federal Public Land Surface & Subsurface
WA
MT
ND
MN
WI
MI
NY
ME
VT
NH
MA
CT
RI
PA
NJ
DE
MD
IA
NE
IL
IN
OH
WV
VA
KS
MO
KY
NC
TN
OK
AR
SC
AL
GA
MS
TX
FL
NM
AZ
CA
HI
Map Scale
100 0 100 200 300 Miles
Source: USGS National Atlas
300 0 300 Miles
100 0 100 Miles
LEGEND
States
Surface & Subsurface Federal Ownership
All Federal Lands
Produced By:
Bureau of Land Management
Washington, DC., WO-210
(202) 452-5119
3/3/05

“There is no substitute for energy. The whole edifice of modern society is built upon it…It is not “just another commodity” but the precondition of all commodities, a basic factor equal with air, water, and earth.”

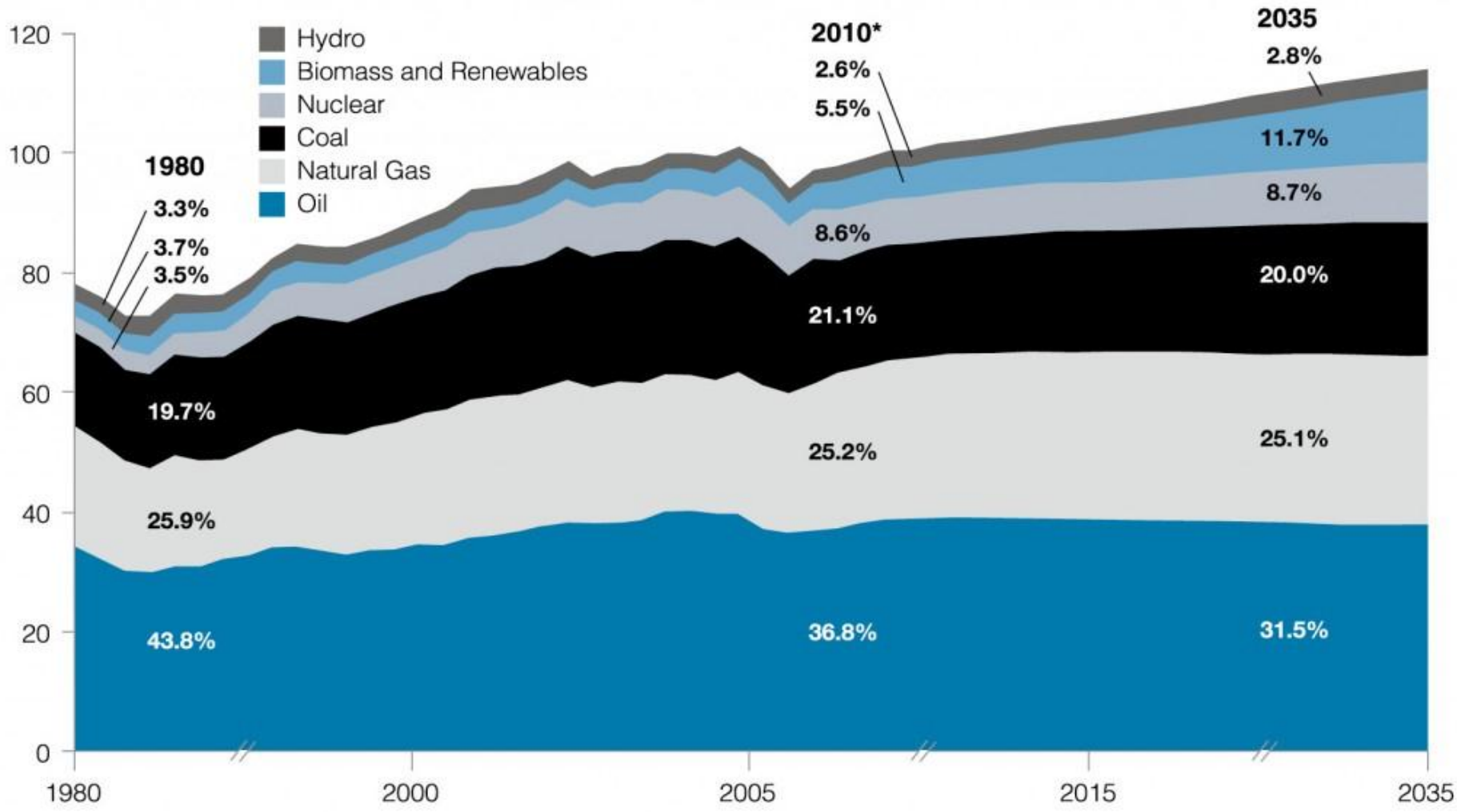
E. F. Schumacher, 1973

U.S. ENERGY CONSUMPTION BY SOURCE 2011

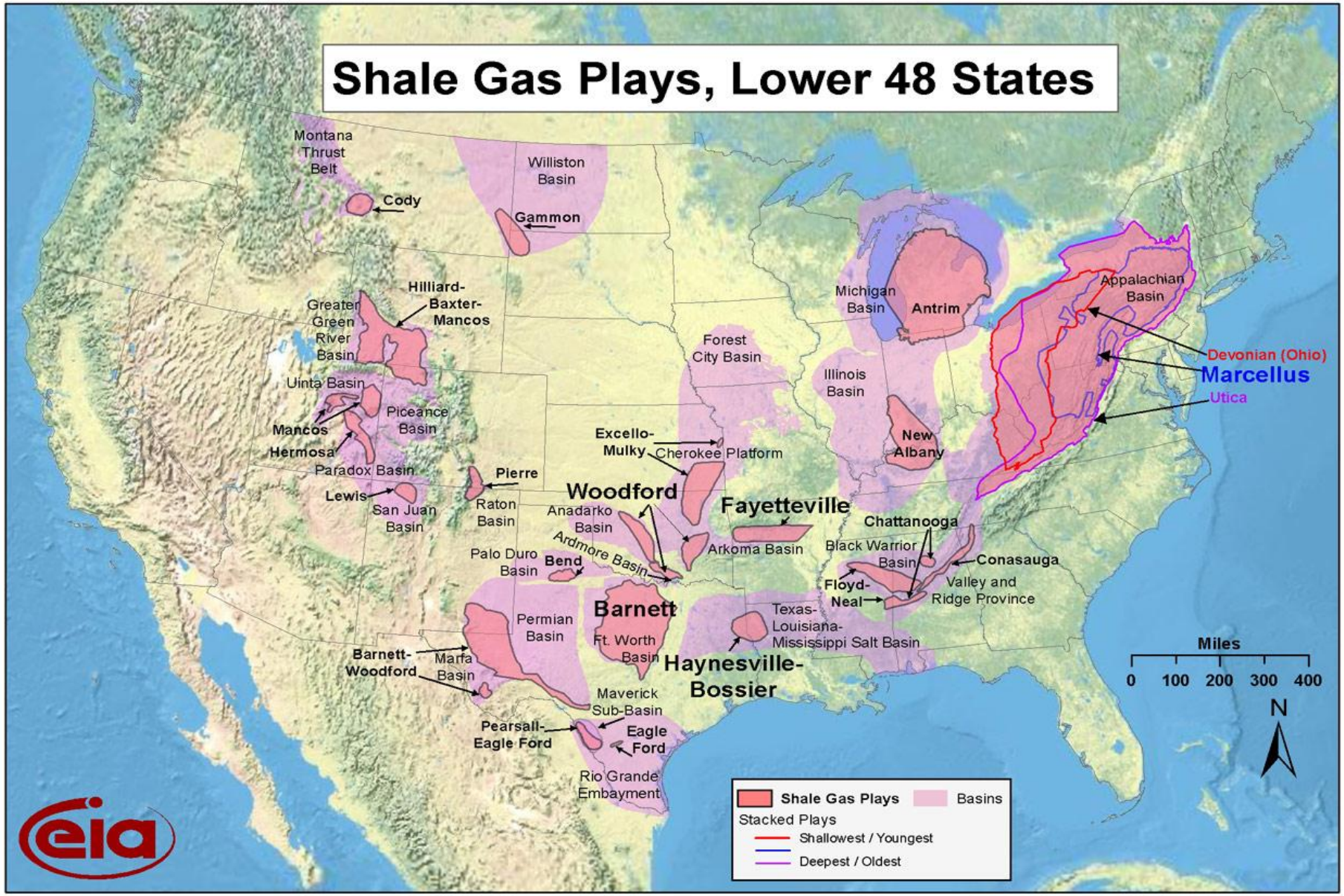


SOURCE: EIA, MONTHLY ENERGY REVIEW, MARCH 2012, TABLE 1.3
PRIMARY ENERGY CONSUMPTION BY SOURCE (QUADRILLION BTU), 7
HTTP://WWW.EIA.GOV/TOTALENERGY/DATA/MONTHLY/PDF/MER.PDF

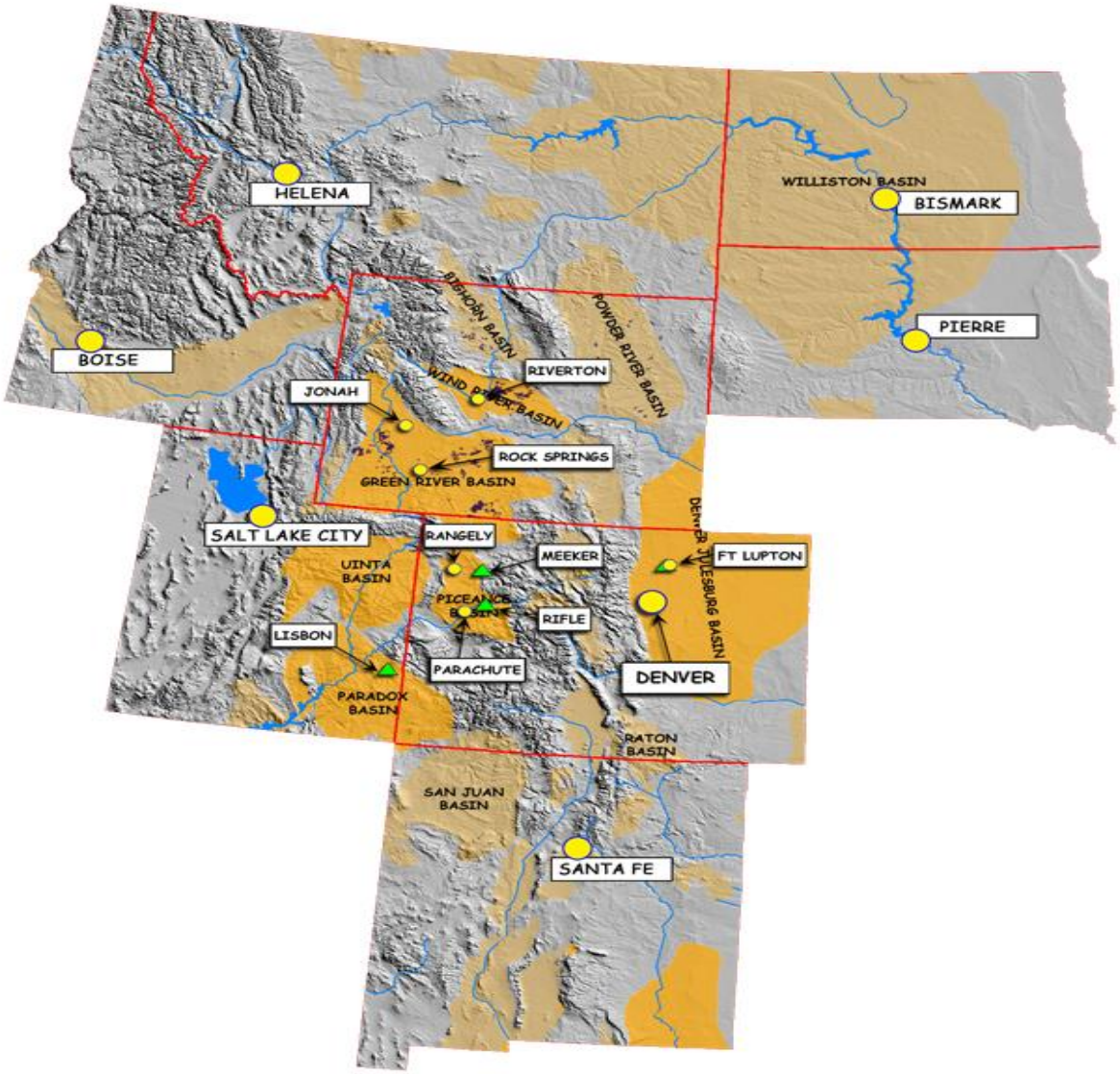
Future U.S. Energy Demand (Quadrillion Btu)



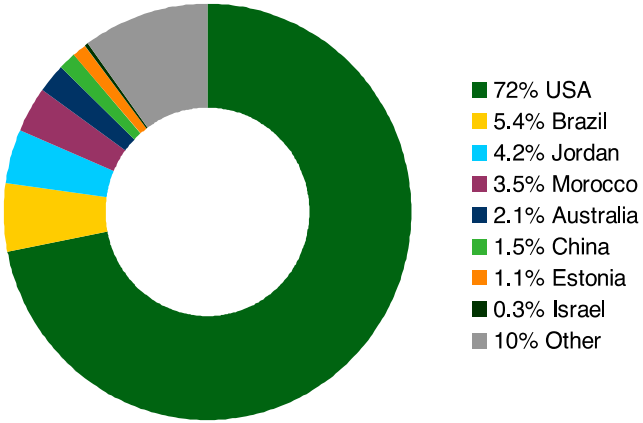
Source: EIA, *Annual Energy Outlook 2012*, Tables A1 and A17



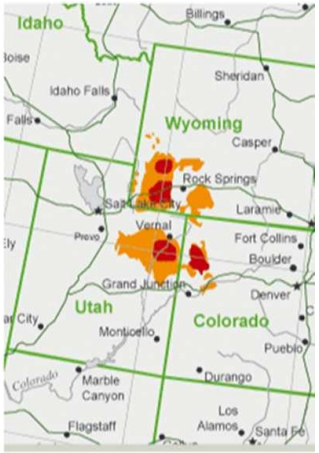
Source: Energy Information Administration based on data from various published studies.
Updated: March 10, 2010


HELENA
WILLISTON BASIN
BISMARK
BIGHORN BASIN
POWDER RIVER BASIN
PIERRE
BOISE
RIVERTON
WIND RIVER BASIN
JONAH
ROCK SPRINGS
GREEN RIVER BASIN
SALT LAKE CITY
RANGELY
MEEKER
FT LUPTON
UINTA BASIN
PICEANCE BASIN
RIFLE
DENVER JULESBURG BASIN
LISBON
PARACHUTE
DENVER
PARADOX BASIN
RATON BASIN
SAN JUAN BASIN
SANTA FE

Why talk about oil shale?



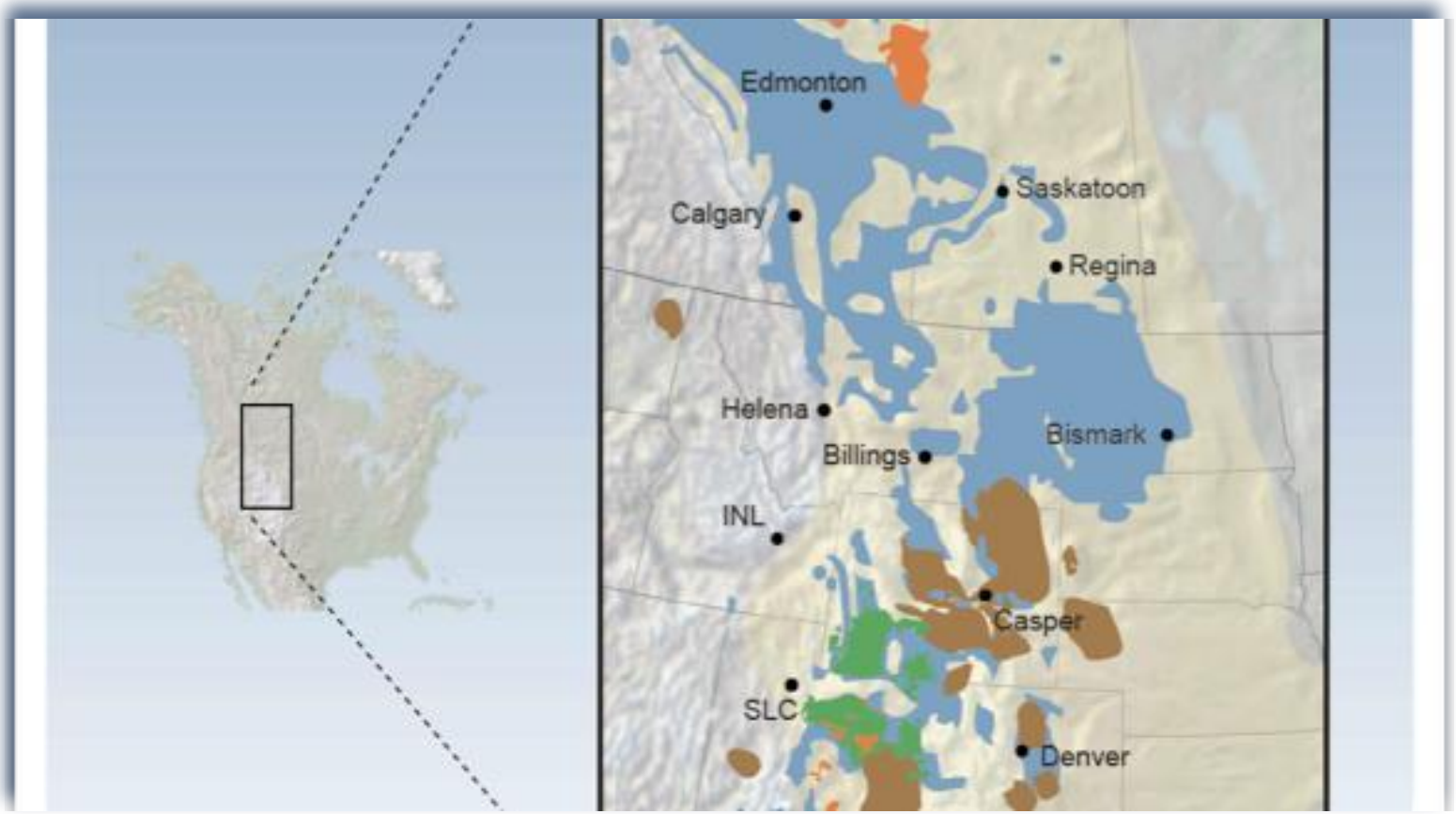
Source: The Boston Globe, 2005-12-11

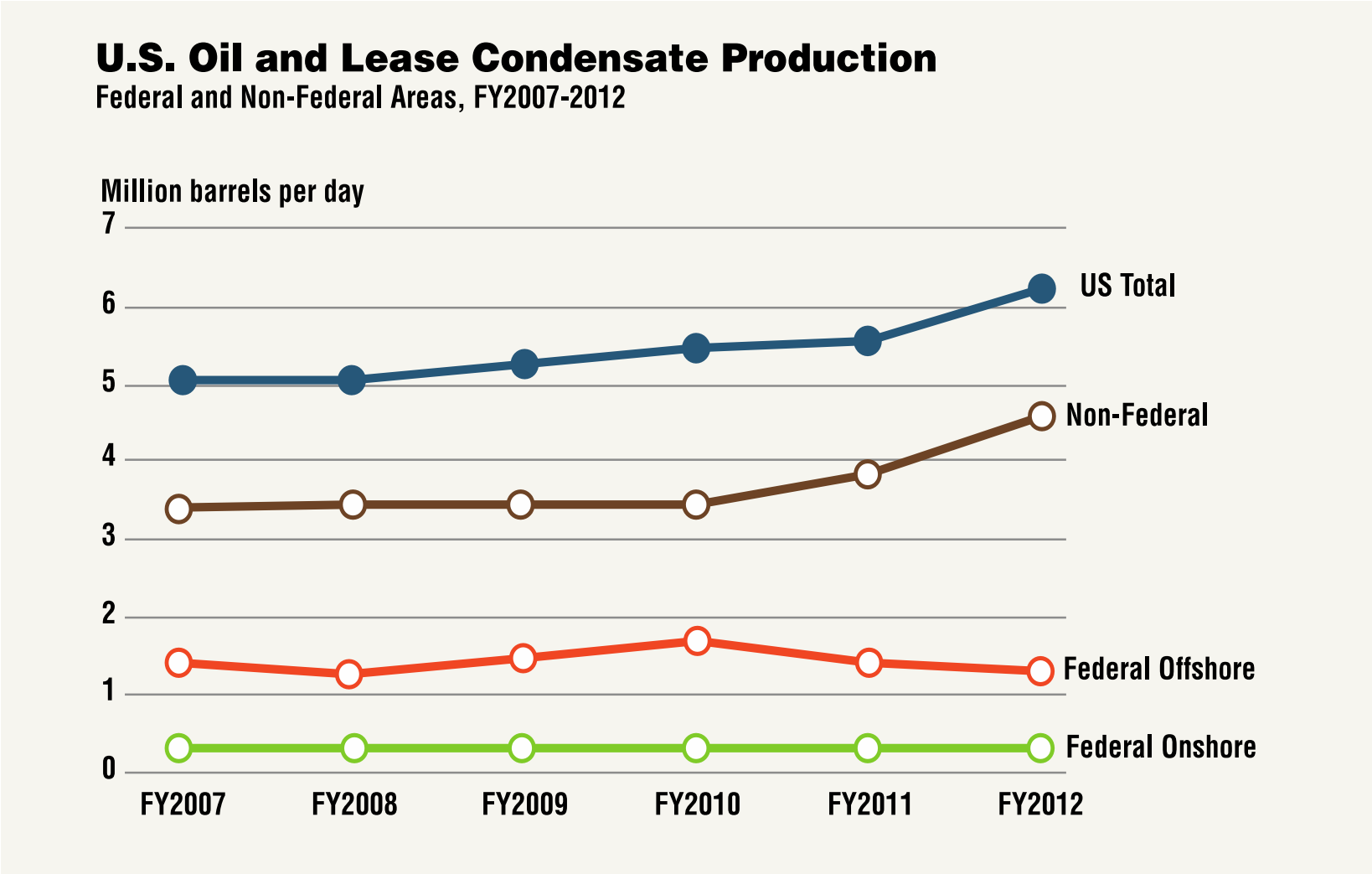


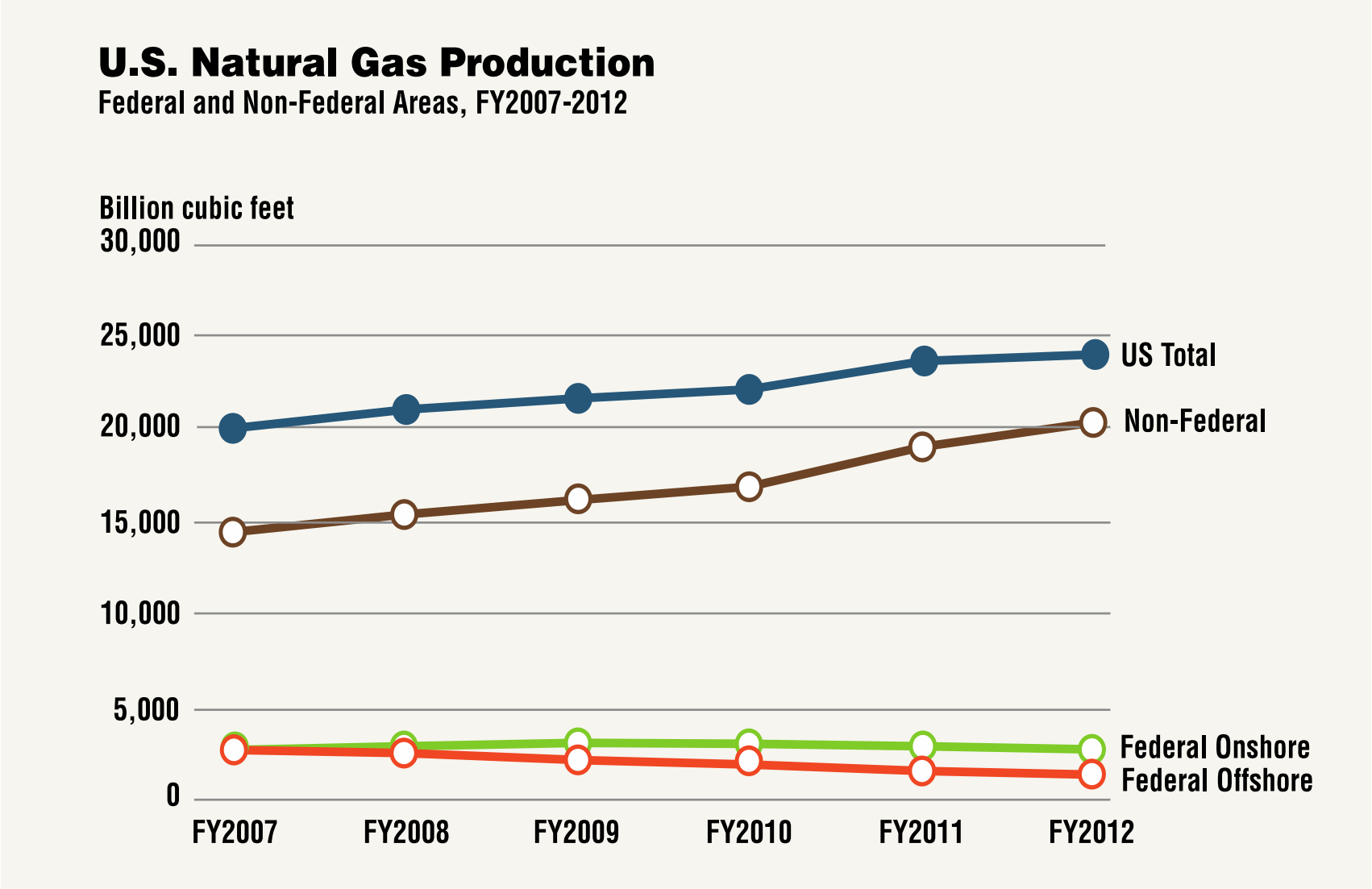
Low calorific value oil shale

Oil shale resource stratum more than 3m thick giving more than 25 gallons per tonne

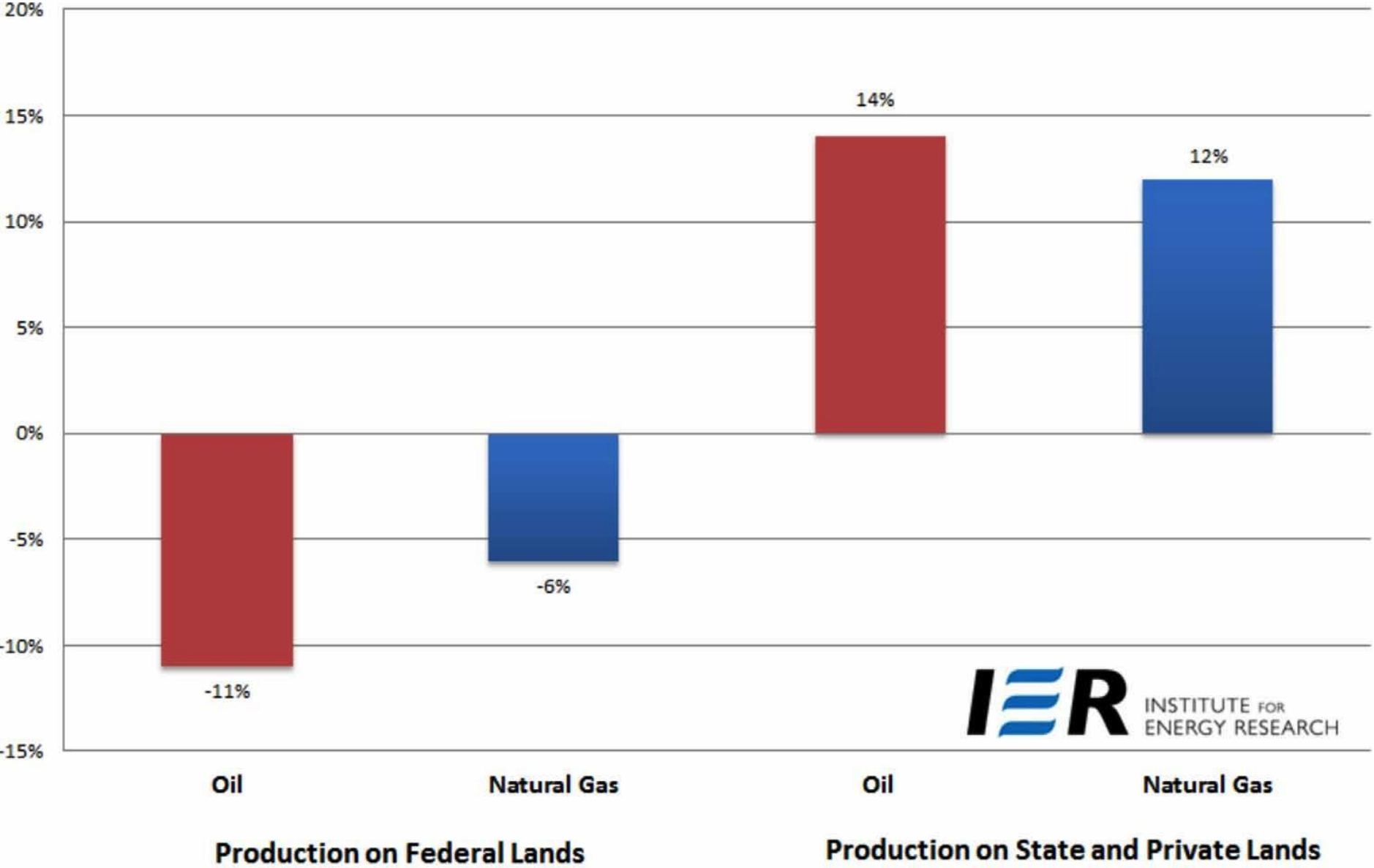
WESTERN ENERGY COORIDOR
World Class Energy



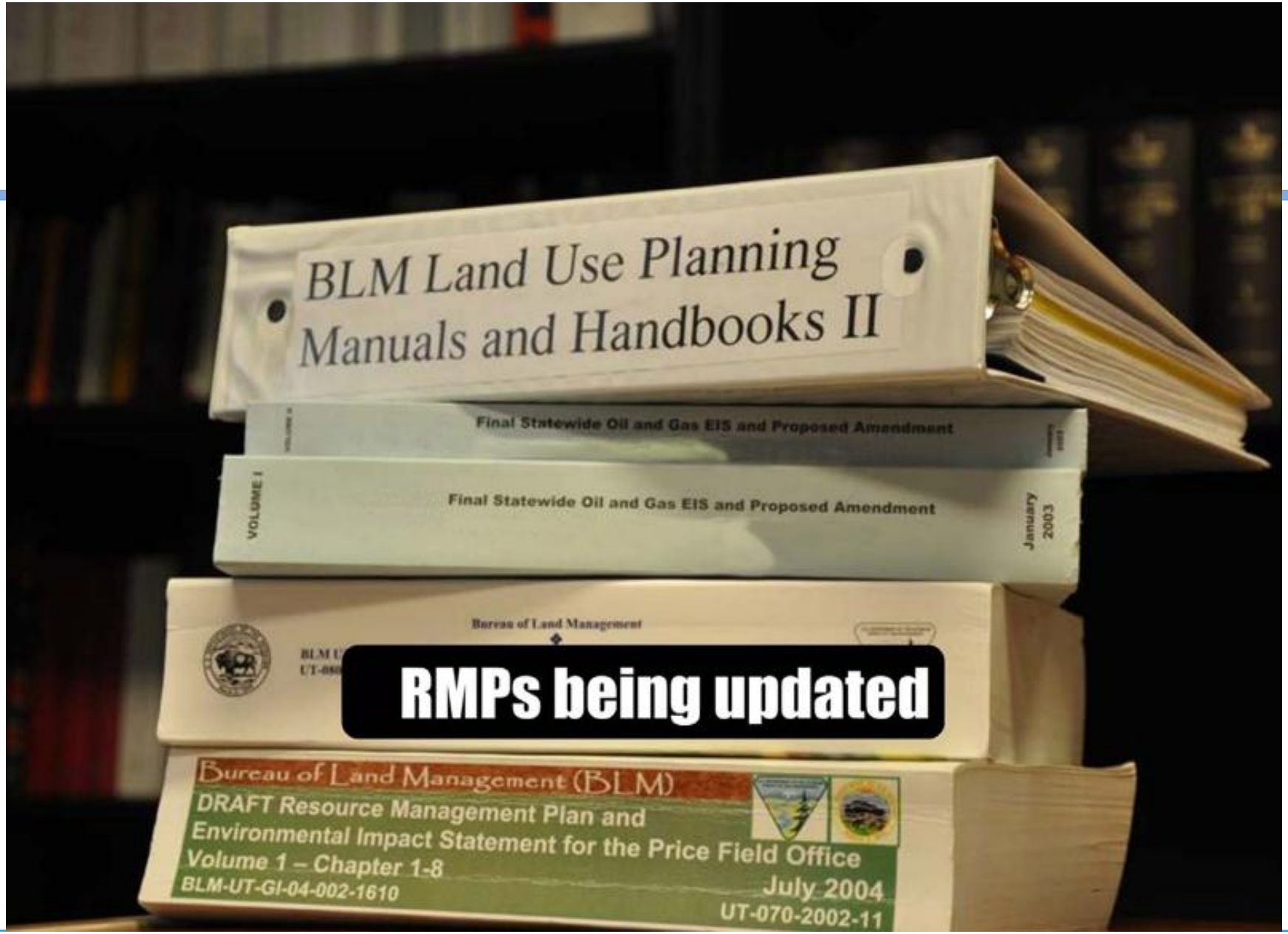

U.S. Oil and Lease Condensate Production
Federal and Non-Federal Areas, FY2007-2012
Million barrels per day
7
6
5
4
3
2
1
0
US Total
Non-Federal
Federal Offshore
Federal Onshore
FY2007
FY2008
FY2009
FY2010
FY2011
FY2012


U.S. Natural Gas Production
Federal and Non-Federal Areas, FY2007-2012
Billion cubic feet
30,000
25,000
20,000
15,000
10,000
5,000
0
FY2007
FY2008
FY2009
FY2010
FY2011
FY2012
US Total
Non-Federal
Federal Onshore
Federal Offshore

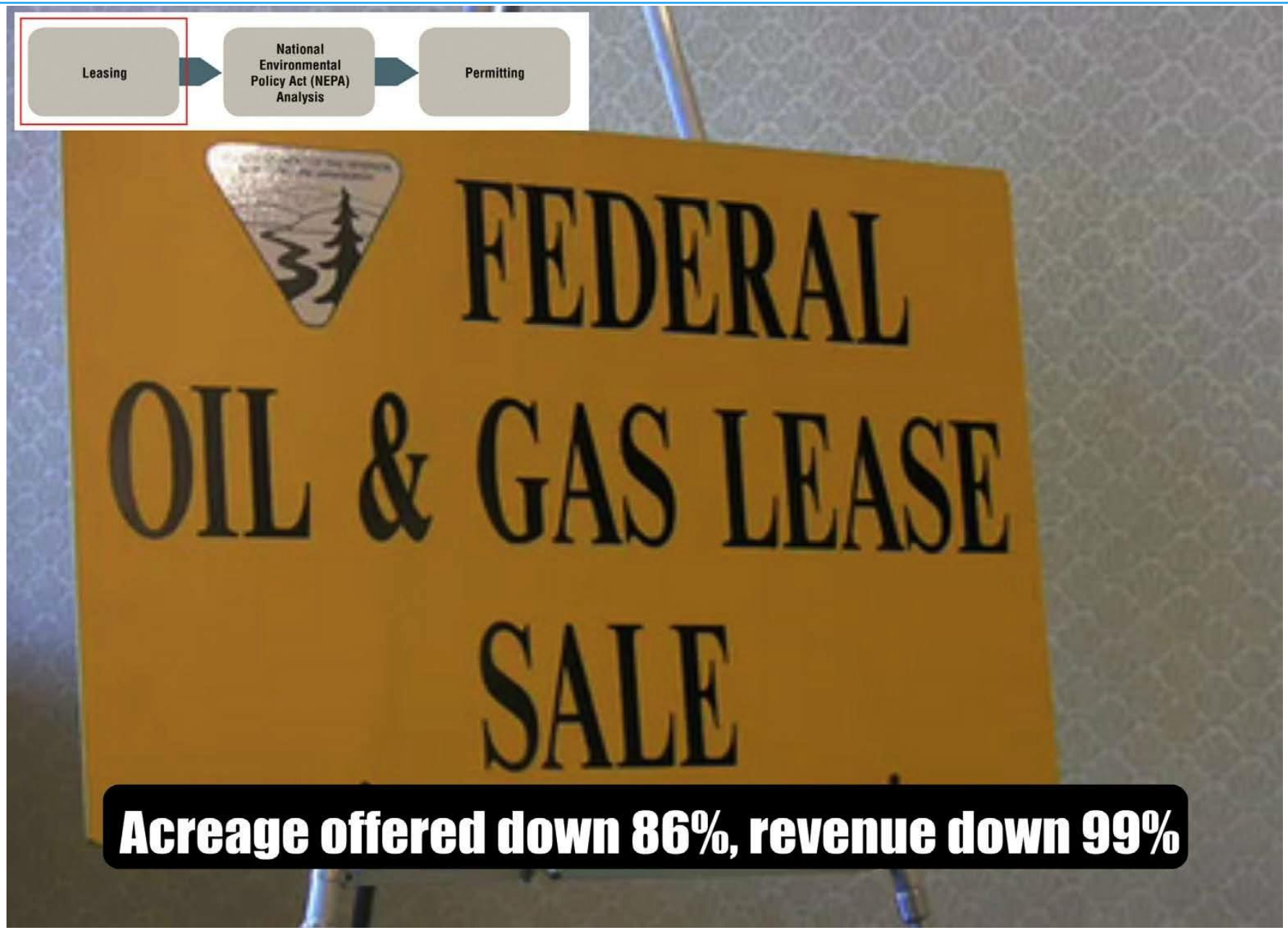
Change in Oil and Gas Production on Federal vs. State and Private Lands, FY2010-FY2011

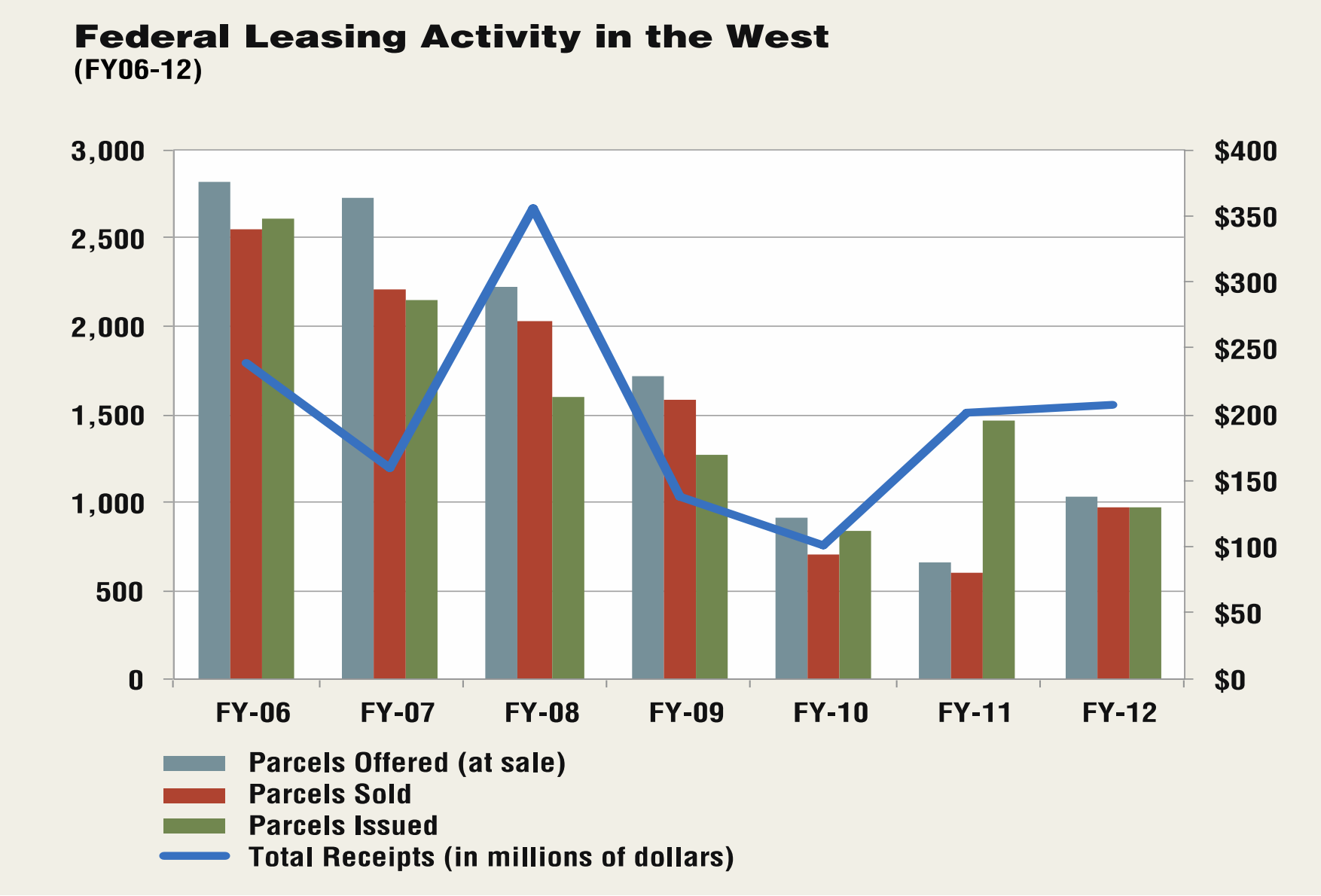


Federal policies disadvantage public lands states in the West


BLM Land Use Planning
Manuals and Handbooks II
Final Statewide Oil and Gas EIS and Proposed Amendment
VOLUME I
Final Statewide Oil and Gas EIS and Proposed Amendment
January
2003
Bureau of Land Management
RMPs being updated
Bureau of Land Management (BLM)
DRAFT Resource Management Plan and
Environmental Impact Statement for the Price Field Office
Volume 1 – Chapter 1-8
BLM-UT-GI-04-002-1610
July 2004
UT-070-2002-11

Current federal onshore process is limiting energy production and economic growth


Leasing
National Environmental Policy Act (NEPA) Analysis
Permitting
FEDERAL
OIL & GAS LEASE
SALE
Acreage offered down 86%, revenue down 99%


Federal Leasing Activity in the West
(FY06-12)
3,000
2,500
2,000
1,500
1,000
500
0
$400
$350
$300
$250
$200
$150
$100
$50
$0
FY-06
FY-07
FY-08
FY-09
FY-10
FY-11
FY-12
Parcels Offered (at sale)
Parcels Sold
Parcels Issued
Total Receipts (in millions of dollars)

Source: BLM

Master Leasing Plans

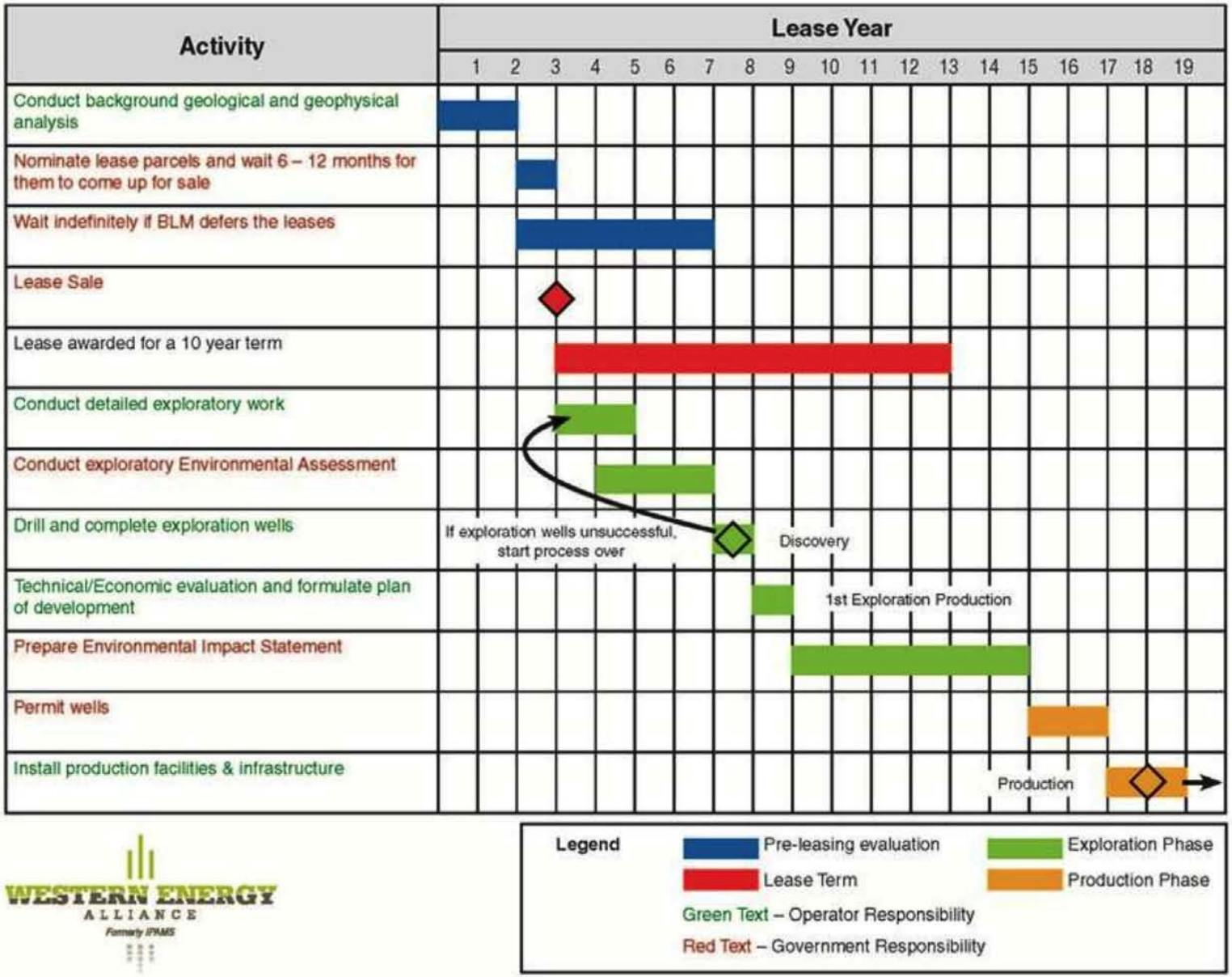
Could place off limits 92 million barrels & 1.6 Tcf

NEPA Only Required on Federal Lands

BLM permitting - 307 days v. about 30 days for states

Federal Onshore Oil and Gas Process Time Line

From Prospect to Production

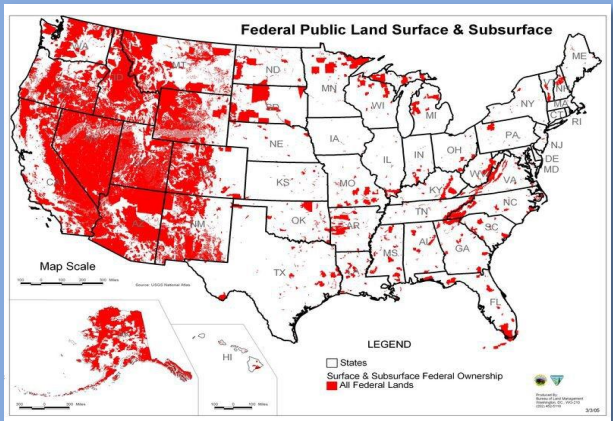


WESTERN ENERGY ALLIANCE
Formerly IPAMS

BLM Fracking Rule
$1.6B Annual Cost

Impact of Federal Land Ownership on Energy Production

- 13 Western States Average - 51.9%
- 37 Other States Average - 4.1%



Regulation

Access

Wilderness

School Trust Lands

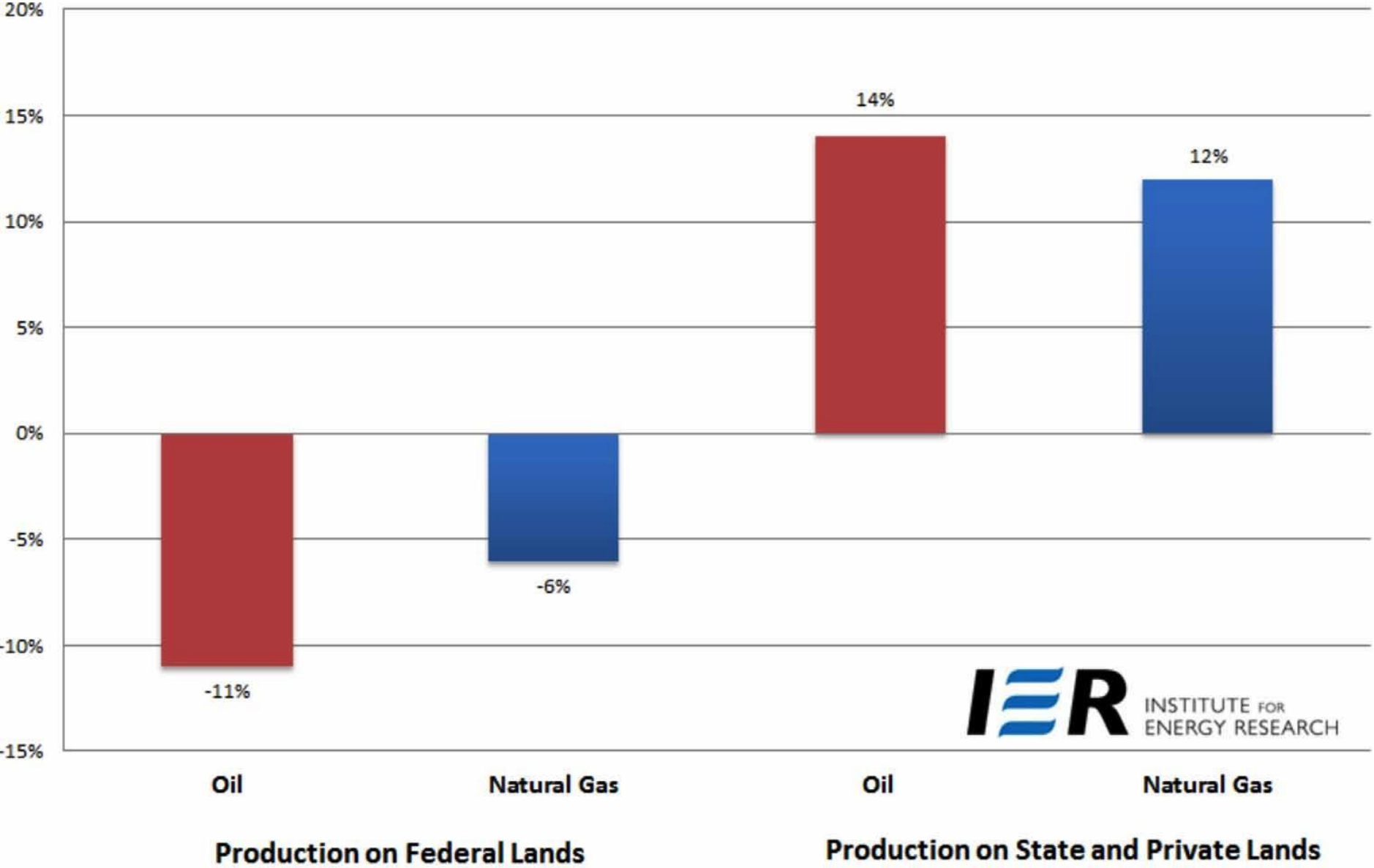
Enabling Act

Taxes

Royalties

Competitiveness

Change in Oil and Gas Production on Federal vs. State and Private Lands, FY2010-FY2011



Your Thoughts

<u>Processes for Managing Energy Production</u>

- **Federal Government**
- **States**

Who does it Best?