Written by Bob Adelmann on November 17, 2014

Pressure Building to Repeal Two Laws Keeping Oil and Gas Prices High

Alaskan Republican Senator Lisa Murkowski, soon to chair the Senate Committee on Energy and Natural Resources, is already setting the table for a serious conversation about getting rid of at least one archaic law dating back to the mid-1970s: the Energy Policy and Conservation Act of 1975.

That law bans the export of crude oil (with some minor exceptions) and could endanger the oil shale boom as a result. Said Murkowski:

> The price American drivers pay for gasoline at their local station is linked to the price of oil set by the global market.
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> Exporting U.S. oil to our friends and allies will not raise gasoline prices here at home and should, in fact, help drive down prices.

As the price of crude oil drops, it increases the chances that smaller marginal crude oil producers will be forced to close unless they are allowed to find buyers outside the United States willing to pay more for their product. One of the bottlenecks has already been opened: Two-tiered pricing for oil essentially ended in 2010, bringing high-priced low-sulfur crude into line with lower-priced crude. Up until then, it was Oklahoma-priced oil (West Texas Intermediate or WTI) versus London-priced oil (Brent), and the difference between them often exceeded $10 a barrel.

But a bottleneck exists, keeping oil (and gasoline) prices higher than they would be in a free market. Producers in North Dakota are unable to send their product to East Coast refiners efficiently, and so the resulting glut in the Midwest has forced prices down below what they otherwise would be. Part of the reason is lack of sufficient pipeline capacity from west to east and part is the high cost, thanks to the Jones Act of 1920, of requiring ships carrying crude from Texas to the East Coast to be American-built and flagged and manned by at least 75-percent American crews. Further, the Jones Act requires those U.S.-flagged vessels hulls and superstructure to be at least 90-percent American steel, which all but eliminates Jones Act ships from being refurbished in foreign shipyards.

Crude producers and those politicians representing them are all in favor of getting rid of these bottlenecks. That would include Representative Joe Barton (R-Texas), whose district is home to numerous oil producers. When running for reelection, the long-term congressman told his constituents in September:

> The shale revolution has changed the energy landscape in our country. It is time to change our laws to match this new reality.
>
> I'm in favor of overturning the ban on crude oil exports.

Barton is getting some unexpected support in the Senate: along with Murkowski, otherwise unlikely

Democrat Mary Landrieu of Louisiana. Murkowski is pushing the changes for all the obvious reasons: As the Prudhoe Bay formation's production continues to decline, oil, gas, and diesel prices there are increasing. For Landrieu, however, it's more a matter of survival: In a runoff election on December 6, Landrieu is doing everything she can to appear supportive of the energy industry, despite being an establishment Democrat on other issues (her Freedom Index rating, which rates her on her adherence to the Constitution and fiscally sound politics, is an abysmal 19 out of 100).

Not everyone supports repeal, however. Massachusetts Democrat Senator Edward Markey and New Jersey Democrat Senator Robert Menendez support the ban because, if lifted, it would only encourage producers to produce more and customers to use more as the price comes down. These two hard-left Senators would just as soon leave all oil in the ground and let Americans make do with solar, wind, and water power.

Also opposed, predictably, are the oil refiners, as they have enjoyed lower-than-market crude prices, and they refine it into diesel and gasoline, and ship the more expensive finished products abroad, as these are exempt from the export ban. Said one oil industry lobbyist: "We wouldn't be doing as well financially if it weren't for [the ban]."

The ban on exports was part of a law passed in response to the 1973 oil crisis to limit demand and remove Americans from the volatility of oil prices resulting from OPEC's influence at the time. It established the Strategic Petroleum Reserve and established for the first time the Corporate Average Fuel Economy (CAFÉ) standards. It also gave the Department of Energy the "authority to develop, revise, and implement minimum energy conservation standards for appliances and equipment," which the DOE now applies with vigor on more than 50 products ranging from residential to commercial and industrial lighting and plumbing applications.

So out of touch is the 1975 act that it even mandated the use of coal to drive power plants instead of oil or natural gas!

If both of these acts are repealed and the free market left to sort things out, then consumers could expect even lower prices at the pump, producers would see increased incentives to develop the abundant oil shale resources lying underground, tax revenues would continue to increase in states favoring such development, and in general the one part of the national economy that has been driving the otherwise sluggish economy would continue to flourish. The world economy would benefit as well, as lower energy costs generate economic growth even in highly regulated economies.

Politics and politicians will likely remain the main stumbling block, but the trend is clear. The oil shale revolution is forcing even those reluctant politicians to recognize the new reality. It's just a matter of time before the Energy Act and the Jones Act will be historic relics.

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