

## DECEMBER 2006 TREND EVENTS

**Blowing the Whistle on Big Oil**, By Edmund L. Andres — *The New York Times*, December 3, 2006

Honolulu — During a 22-year career, Bobby L. Maxwell routinely won accolades and awards as one of the Interior Department's best auditors in the nation's oil patch, snaring promotions that eventually had him supervising a staff of 120 people.

He and his team scrutinized the books of major oil producers that collectively pumped billions of dollars worth of oil and gas every year from land and coastal waters owned by the public. Along the way, the auditors recovered hundreds of millions of dollars from companies that shortchanged the government on royalties.

"Mr. Maxwell's career has been characterized by exceptional performance and significant contributions," wrote Gale A. Norton, then the Secretary of the Interior, in a 2003 citation. Ms. Norton praised Mr. Maxwell's "perseverance and leadership" while cataloguing his "many outstanding achievements."

Less than two years later, the Interior Department eliminated his job in what it called a "reorganization." That came exactly one week after a federal judge in Denver unsealed a lawsuit in which Mr. Maxwell contended that a major oil company had spent years cheating on royalty payments.

"When I got this citation, they told me this would be very good for my career," said Mr. Maxwell, smiling during an interview here. "Next thing I knew, they fired me." Today, at 53, Mr. Maxwell lives on a \$44,000 annual pension in a two-bedroom bungalow in the hills outside the Hawaiian capital.

But Mr. Maxwell has hardly disappeared. Instead, he is at the center of an escalating battle with both the oil industry and the Bush administration over how the federal government oversees about \$60 billion worth of oil and gas produced every year on federal property. In the process, he has become one of the most nettlesome whistleblowers Big Oil has ever encountered, a face-off that offers an inside look at how the industry and the government do business together.

Invoking a law that rewards private citizens who expose fraud against the government, Mr. Maxwell has filed a suit in federal court in Denver against the Kerr-McGee Corporation. The suit accuses the company, which was recently acquired by Anadarko Petroleum, of bilking the government out of royalty payments. It also contends that the Interior Department ignored audits indicating that Kerr-McGee was cheating. Three other federal auditors, who once worked for Mr. Maxwell and still work at the Interior Department, have since filed similar suits of their own against other energy companies.

Several of the nation's biggest oil producers, including Exxon-Mobil, Chevron, Shell, and Conoco-Phillips, failed in an effort to block Mr. Maxwell's suit, arguing before an appellate judge that his case would "open the floodgates" to suits by other federal auditors; but the court rejected their pleas, and a trial is set to start on Jan. 16.

Mr. Maxwell's self-interest is as much in play in the suit as is the public interest. If he wins, Kerr-McGee could be forced to pay more than \$50 million in unpaid royalties and penalties, Mr. Maxwell said. Mr. Maxwell and his lawyers could be entitled to keep as much as 30 percent of any funds the government recovers — enough to make him a wealthy man.

Anadarko says that the government's rules were followed and that it owes no money, because the Interior Department never asked it to pay more, but it is now trying to negotiate a settlement before the trial begins. "We believe the case is without merit," said John Christiansen, an Anadarko spokesman. "However, as is a fairly common practice, both sides have agreed to meet with a mediator prior to trial."

The actions of Mr. Maxwell and the other auditors have coincided with broader investigations by Congress and the Interior Department's own inspector general into whether the agency properly collects the money for oil and gas pumped from public land. Investigators say they have found evidence of myriad problems at the department:

cronyism and coverups of management blunders; capitulation to oil companies in disputes about payments; plunging morale among auditors; and unreliable data gathering that often makes it impossible to determine how much money companies actually owe. In February, the Interior Department admitted that energy companies might escape more than \$7 billion in royalty payments over the next five years because of errors in contracts signed in the 1990s that officials are now scrambling to renegotiate. The errors were discovered in 2000, but were ignored for the next six years and have yet to be fixed.

Congressional investigators are worried about other problems, as well. The Interior Department's inspector general told a House subcommittee in September that senior officials at the agency had repeatedly glossed over ethical lapses and bungling. "Short of crime, anything goes at the highest levels of the Department of the Interior," declared Earl E. Devaney, the inspector general.

The Interior Department, which has described Mr. Maxwell as a renegade former employee motivated by the riches his lawsuit might bring, said its auditing efforts received a clean bill of health from an outside accounting firm in 2005. "The results are clear and irrefutable," the agency said in a statement, adding that it was "accomplishing its job on behalf of the American public."

But Republican leaders on the House Government Reform Committee, which has been reviewing the flawed leases, recently accused Interior officials of perpetuating a "culture of irresponsibility and lack of accountability" at the agency. The committee ordered the Government Accountability Office, the investigative arm of Congress, to begin a broad examination of issues ranging from the agency's rules and enforcement practices to the accuracy of its most rudimentary data.

The Interior Department "clearly doesn't view their responsibility as maximizing revenue to the American people for resources that belong to the American people," said Representative Darrell E. Issa, a California Republican who oversaw hearings on the flawed leases. "We don't have a system that accurately tells us how much oil is being taken out of the ground." No one, says Mr. Maxwell, knows that better than he does.

Born "Bobby," not "Robert," Mr. Maxwell is bald, burly, and speaks with a backcountry drawl that is occasionally punctuated by a cackling laugh. He said he thrived in the world of wells, pipelines, and offshore rigs and meshed comfortably with the oil cultures of Texas and Oklahoma. Genial and unflappable, he describes his politics as "very conservative" and cringes at being labeled a rebel. "I like the oil and gas industry," he said, as he reminisced about his years as a federal auditor. "We are neither for nor against the profits they make. Our job is to make sure the American public gets a fair return on its assets."

Mr. Maxwell grew up in a poor family in rural Tennessee. After serving in the Army in Hawaii, he earned a bachelor's degree in business at Chaminade University here. He later became a certified public accountant and earned a master's degree in business from Texas A&M. In 1983, after stints as an auditor with the Air Force and the Department of Energy, he joined the Minerals Management Service of the Interior Department. The M.M.S. is responsible for collecting and overseeing the royalties for all the oil, gas, timber and coal that is produced on federal property. Last year, companies paid nearly \$10 billion in royalties on oil and gas alone.

"I loved going to the oil companies," Mr. Maxwell recalled, saying he spent about half of his time on the road — some of it at offshore drilling rigs. "Sometimes, there would be nothing more than a room and a helicopter pad to land on, but it was an education, and it was highly practical."

Despite Mr. Maxwell's placid demeanor, friends and former colleagues say he was a dogged auditor who sometimes rankled his own bosses. In 1988, he visited a coal mine on federal land in Montana even though, he says, his supervisors scoffed at the trip, because they thought that the mine was too small to scrutinize. When Mr. Maxwell arrived, he found that the mine only looked small because it had been underpaying royalties for years. Within months, the company agreed to pay \$43 million in back royalties, and it eventually paid more than \$100 million. In 1993, during the Clinton administration, officials in Washington told him to drop a complex dispute with ARCO because they thought his reasoning was dubious, but just as he was about to back down, ARCO executives volunteered to pay \$20 million.

The Interior Department gave Mr. Maxwell an award that year, noting that he had "vehemently pressed his position" even though "support seemed lacking." It attributed his success to both his "measured combatant style" and his personal rapport with ARCO executives. "If he thought there was a case, he had a reason," said Barbara Rothway, a retired Interior Department auditor — but, she added, "I could see how he might sometimes bother the people he worked for."

Patient and stubborn, Mr. Maxwell spent years poring over the accounts of the Jicarilla Apache Tribe in New Mexico, which had long complained that companies were underpaying them for natural gas extracted on their tribal lands. Tribal officials said Interior Department officials had paid little heed until Mr. Maxwell came along. He collected and organized data going back 30 years and found pervasive errors by both oil companies and the government. The tribe eventually recovered more than \$20 million in back royalties.

"Anyone knowledgeable about the way Interior processes payments knows there are all sorts of ways for companies to underpay," said Alan R. Taradash, a lawyer in Albuquerque who has represented the tribe for years. "Bobby was one of the few who stood up with us and demanded that the auditing be done properly."

Mr. Maxwell says his first serious doubts about the Interior Department originated in 1998, when the agency reluctantly began to investigate accusations of systematic cheating on royalties for oil. Several of the nation's biggest oil companies eventually settled that investigation by paying nearly \$440 million. The investigation occurred only after outside whistle-blowers argued for years that the government was losing billions. The cases had been sparked in part by a former oil trader at ARCO named J. Benjamin Johnson Jr., known as Benji, who contended that oil companies had used elaborate swapping schemes to cheat on royalties owed to private and state landowners, as well as the federal government. Mr. Johnson and another former ARCO trader quit their jobs and became expert witnesses for landowners and state governments who wanted to sue oil companies for back payments. The two traders soon realized that the biggest case by far belonged to the federal government, but no federal officials were interested.

"It was unbelievably difficult," Mr. Johnson recalled in a recent interview. "They brought me to Denver, to the M.M.S. office, in a room with about 30 auditors and managers from the solicitor's office. Their reaction was that I was crazy, that it was impossible, that there was no way they could have actually missed this." — but Mr. Johnson found a way to recover the federal royalties on his own. In 1995, he filed suit under the False Claims Act, a long-standing law intended to encourage whistle-blowers. Under the act, best known for its use against overbilling by military contractors, a private citizen can sue a company, contending that it defrauded the federal government. Companies found guilty have to pay as much as three times the amount of their fraudulent gains, and any person who files a suit is entitled to keep up to 30 percent of the money recovered.

The Justice Department initially refused to join Mr. Johnson's suit, but it eventually did so in 1998 after concluding that he and other whistle-blowers, including a nonprofit group called the Project on Government Oversight, were on to something. That was when Mr. Maxwell became involved. Working for the Interior Department, he collected data on a number of oil companies, pooling his material with that of Mr. Johnson. "Bobby was with us," Mr. Johnson recalled. "He was a straight shooter, and he saw it." Mobil was the first to settle and paid more than \$40 million in 1998. Chevron paid \$95 million. Shell paid \$110 million. By 2002, 15 oil companies had paid a total of almost \$440 million.

The Johnson lawsuit taught Mr. Maxwell three lessons. One was that Mr. Johnson became a wealthy man. (The oil trader and his lawyers received more than \$30 million, while two other groups of whistle-blowers received more than \$40 million.) The second was that top Interior officials had been obstinately blind to the oil industry's practices. The third was about the power of the False Claims Act. Until Mr. Johnson came along, no one had used it to go after royalty underpayments. Created in 1849 to manage the nation's publicly owned natural resources, from national forests to parks and waterways, the Interior Department oversees timber, grazing, mining, and oil drilling operations over many tens of millions of acres; and while the agency has often tried to increase drilling and mining under Democrats and Republicans alike, current and former officials say the Bush administration elevated that goal above almost all of the department's other mandates.

Mr. Maxwell says his frustrations with the Interior Department escalated after the Bush administration took office in 2001. The Interior Department's top priorities became increasing domestic oil and gas production, offering more incentives to drillers in the Gulf of Mexico and pushing to open the Arctic National Wildlife Refuge and other wilderness areas to drilling. The department trimmed spending on enforcement and cut back on auditors, and sped up approvals for drilling applications. The agency's senior ranks also became more heavily populated with

officials friendly to the energy industry. For example, its new deputy secretary, J. Steven Griles, worked as an oil industry lobbyist before joining the department, and Chevron and Shell had paid him as an expert witness on their behalf in the Benji Johnson case. Mr. Griles declined to comment. Auditors, according to Mr. Maxwell and many others, were told to devote less energy to time-consuming audits and rely more on a computerized monitoring system called "compliance review." Auditors complained that the new system was superficial and riddled with technical problems. Even when the new system flagged potential underpayments, Mr. Maxwell said, it often failed to supply conclusive information. "We were getting shut down on all kinds of cases," he said. "We started to wish that someone would come along and file a False Claims suit, so we could jump on board."

Auditing and compliance review had generated an average of about \$176 million annually in the 1990s, with an extraordinary peak of \$331 million in 2000, according to data from the Congressional Budget Office and the Interior Department — but from 2001 through 2005, a period when energy prices soared to new highs, enforcement revenue averaged about \$46 million a year. In 2004, the Interior Department's inspector general issued a blistering report about the auditing system, saying that many auditors were unqualified, that essential documents were being lost, and that the internal review process was "ineffective."

BY 2002, Mr. Maxwell was fed up. He and a team of auditors had worked for months to dissect a complicated marketing deal by Kerr-McGee that they believed was cheating the government. He concluded that Kerr-McGee was selling all its oil at below-market prices to another company that compensated Kerr-McGee by assuming many of its marketing and administrative costs. Simply put, Kerr-McGee seemed to be getting paid in both cash and services, but it was calculating its royalties only on the cash it received. Mr. Maxwell calculated that the company had underpaid the government by as much as \$12 million between 1997 and 2002. State auditors in Louisiana had been investigating exactly the same issue in 2001, and ordered Kerr-McGee to pay an extra \$2 million in royalties on oil from state lands.

According to Mr. Maxwell and Interior Department officials, when Mr. Maxwell presented his findings to his superiors, agency lawyers told him to drop the case. When he continued to argue, he recounts in his lawsuit, the agency's chief of enforcement warned him that the director of the M.M.S., Johnnie M. Burton, would be "very upset" if he persisted. "The word came down from the top not to issue this order," Mr. Maxwell said in an interview, speaking about the Interior Department. "There have always been people who don't want to pursue things, but now it's grown into a major illness. It's dysfunctional." In a written response to questions from The New York Times, the Minerals Management Service said it was "rare" to overrule an auditor, but that Mr. Maxwell's contentions involved a "questionable application of M.M.S. regulations."

The matter might have ended there, except that Mr. Maxwell decided to retire in June 2003. As soon as he left the agency, he began researching the possibility of emulating Benji Johnson and filing his own suit under the False Claims Act. As it happened, Mr. Maxwell's "retirement" was brief. In October, the Interior Department rehired him to fill a management gap in its Denver office, and it put him in charge of a 120-person auditing team monitoring the Gulf of Mexico.

Despite rejoining the government, Mr. Maxwell filed his suit against Kerr-McGee in June 2004. The case was unsealed on Jan. 20, 2005; a week later, Mr. Maxwell lost his job. Arriving at his office shortly before 8 a.m. on Jan. 27, Mr. Maxwell said he was summoned to a meeting with a senior M.M.S. official, who had flown in from Washington. The official handed him a memo, explaining that his job responsibilities were being moved to Houston and that his position would be eliminated. To this day, Interior officials say they never fired Mr. Maxwell. They say, according to court papers, that he was merely a "reemployed annuitant" who was no longer needed. "The position disappeared," said Ms. Burton, the M.M.S. director, in a meeting with energy reporters in September.

Mr. Maxwell protested. He said he would have relocated or taken a different job. He added that he was a certified public accountant and had a master's degree in business administration; his successor lacked those degrees — but the fight did not last long. When Interior officials offered Mr. Maxwell a confidential financial settlement to leave without a fight, he took the deal and moved to Hawaii. He continued to press his case against Kerr-McGee. The company tried and failed to have the suit dismissed, arguing that a federal auditor should not be allowed to take information from work and file a lawsuit under the False Claims Act. In October, eight major oil companies, including Chevron and Exxon-Mobil, weighed in on Kerr-McGee's side.

"Government employees who uncover suspected fraud in the course of carrying out their jobs will receive a tacit invitation" to sue as private citizens, the companies argued in their brief. After the appellate court rejected the







that will eventually have to be fixed or replaced. Before the war, the Army spent \$2.5 billion to \$3 billion a year on wear and tear.

At Anniston, the sprawling lots of tanks and other armored vehicles are just the start of a huge backlog in broken-down gear.

"There's stuff — stuff everywhere," Joan Gustafson, a depot official, said as she wheeled her brown Chevrolet van through a landscape of rolling hills lined with armadas of mobile guns

"There's another field of M1s," she said, motioning toward a swath of M1A1 Abrams tanks next to the winding road. "We're just waiting for someone to tell us what to do with them."

The Army's five depots carry out the highest level of maintenance for Army gear ranging from rifles and other small arms to tanks, helicopters and missile systems. Since the U.S.-led invasion of Iraq in 2003, the Army has left behind hundreds of thousands of pieces of equipment in Iraq and has relied heavily on field maintenance facilities in Kuwait.

But as the war has continued, Army leaders have recognized that they cannot afford to wait for a drawdown of troops before they begin overhauling equipment — some of it 20 years old — that is being used at extraordinary rates. Helicopters are flying two or three times their planned usage rates. Tank crews are driving more than 4,000 miles a year — five times the normal rate. Truck fleets that convoy supplies down Iraq's bomb-laden roads are running at six times the planned mileage, according to Army data.

Equipment shipped back from Iraq is stacking up at all the Army depots: More than 530 M1 tanks, 220 M88 wreckers, and 160 M113 armored personnel carriers are sitting at Anniston. The Red River Army Depot in Texas has 700 Bradley Fighting Vehicles and 450 heavy and medium-weight trucks, while more than 1,000 Humvees are awaiting repair at the Letterkenny Army Depot in Pennsylvania.

### **Lack of funding**

Despite the work piling up, the Army's depots have been operating at about half their capacity because of a lack of funding for repairs. In the spring, a funding gap caused Anniston and other depots to lose about a month's worth of work, said Brig. Gen. Robert Radin, deputy chief of staff for operations at the Army Materiel Command at Fort Belvoir.

"Last year we spent as much time trying to find available money as managing our program," he said. "We don't want to go into the next rotation . . . with equipment that's at the far end of its expected life."

Responding to urgent requests from the Army and Marine Corps, Congress approved an extra \$23.8 billion in October to replace worn-out equipment in fiscal 2007. With the money, the Army plans to double the workload at its depots, which will repair and upgrade 130,000 pieces in 2007, up from 63,000 last year. This will include a quadrupling of the number of tanks, Bradleys, and other tracked vehicles overhauled from 1,000 to 4,000.

At Anniston, which will handle 1,800 combat vehicles in fiscal 2007, a cavernous 250,000-square-foot repair shop is humming as damaged tanks are rolled in one by one and disassembled with the help of giant cranes. Removing an M1 tank's turret alone takes a day-and-a-half, and the entire overhaul requires 54 days and costs about \$1 million, said Ted A. Law, the depot's vehicle manager.

Earnest Linn, 58, a heavy-mobile-equipment mechanic, who as of January will have worked at Anniston for 30 years, said that "it's never been like this" since the end of the Vietnam War.

In October, Anniston became the official repair facility for the Army's newest armored vehicle, the Stryker. Repairs for those vehicles will soar from 8 in fiscal 2006 to 75 this fiscal year, including 58 that received some level of battle damage, said Gregory McMath, program manager for Stryker repair. "This one hit a triple-stacked land mine," he said, peering up into the underbelly of a Stryker ripped open by the blast. Some of the Strykers are coming in with 40,000 miles on their odometers, he said.



Milan with his wife. This and an \$8,200 Italian trip by another Weldon staffer were covered by Fincantieri, an Italian ship maker fully owned by Finmeccanica.

Weldon presents himself as a fierce opponent of unfair foreign competitors who steal American jobs. At the time when Finmeccanica was accused by the European Union of receiving \$3.9 billion of interest-free, not-necessary-to-repay loans from the Italian state, Weldon appeared at promotional events for the company. On such occasions, his companions were Giovanni Castellaneta, current Italian ambassador to Washington and at the time also a vice president of Finmeccanica, and Steven Bryen, Finmeccanica USA president who previously served as the Pentagon's top cop preventing foreigners from gaining access to our technologies.

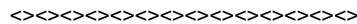
Though Weldon did not return repeated phone calls from New America Media to respond to allegations of impropriety, he has blamed many institutions and individuals for conducting a "smear campaign" against him, including the FBI, the CIA, the Pentagon, Bill Clinton, Sandy Berger (former National Security Adviser), and Mary McCarthy (the discharged CIA officer who exposed the CIA's secret prisons).

Weldon's campaign slogan is "Curt Weldon, Independent Fighter for US." However an analysis of contributions received by the congressman's campaign over the years identifies a number of defense industry contractors, especially foreign ones. For example, employees of companies represented by CeCe Grimes — including Oto Melara, another fully-owned Finmeccanica subsidiary — have contributed \$27,300 to Weldon's current re-election campaign, while the CEO of Oto Melara contributed \$2,700 alone. Agusta-Westland and Agusta Aerospace donated \$7,000.

If Weldon is defeated\* and the Republicans lose their majority in the House, the Congressman most likely to pick up more military-industrial clout is John Murtha, D-Pa., ranking minority member on the House Defense Appropriations Subcommittee. Because of his prominent opposition to the Iraq War, grateful Democrats are likely to approve whatever military appropriations Murtha wants. Is Murtha less corrupt than Weldon? Back in the 1980 Abscam scandal, the FBI captured Murtha on tape saying he wasn't interested "at this point" in taking a \$50,000 payment from the FBI agents posing as Arab sheiks, but he was open to further discussions.

Early drafts of President Eisenhower's famous Farewell Address warned that in the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by "the military-congressional-industrial complex." He dropped the word "congressional" because he didn't want his parting words to be seen as partisan, Congress being controlled by the Democrats at the time. But Ike got it right from the start.

\* Curt Weldon represented the 7<sup>th</sup> district of Pennsylvania for 10 terms until his Nov. 2006 defeat by Joe Sestak, [www.beyonddelay.org](http://www.beyonddelay.org)



People are concerned about injustice... You will find some injustice in the above articles, in addition to which could be included: unemployment, poverty, homelessness, drug addiction, lack of healthcare, crime, war, terrorism, globalization, specie extinction, natural resource depletion, pollution, global warming, and many other miseries. The truth is, **injustice follows the money**, i.e., the motivation for all listed examples and more, too numerous to list.

Some 70 years ago, Technocracy stated that an intelligent society would operate in a scientific manner by using an energy distribution system instead of money... The first 25 years of life would be devoted to schooling and/or job training, limited only by aptitude and ability; the system would eliminate debt, now required by the demand destruction of consumerism. The working age would be from 25 to 45, due to the limited working hours required by scientific government, followed by the freedom to pursue one's own dream goals. These would be every citizen's birthright if we would apply the knowledge available in this scientific age in which we live.

What are the fundamental birthrights of human beings? No one would need to, or could, prostitute themselves in a Technocracy — and no more wars! Imagine what it could be like... **INVESTIGATE TECHNOCRACY NOW !**

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