EXECUTIVE SUMMARY 29 September 2006 WRI Workshop on CCS Liability

On 29 September 2006, a multi-stakeholder group including representatives from state and federal government, industry, research institutions, and non-governmental organizations met to discuss liability issues surrounding carbon dioxide capture and storage (CCS). The goal of the workshop was to identify liability risks and assess consensus on measures to address them.

There was general consensus that if siting and monitoring are done correctly, the risks associated with CCS would be small, similar to those of natural gas storage or enhanced oil recovery. Establishing a regulatory framework was seen as a key step towards encouraging CCS projects and commanding public confidence in their safety. However, given the paucity of information generated from large-scale CCS projects to date, some concern was voiced that a restrictive and inflexible policy might be called for in order ensure complete safety. One potential response to this concern is a phased liability or hybrid liability system which retains flexibility. Flexibility in the regulatory framework is also necessary in order to accommodate varying state regulatory processes.

Some discussion focused on using a federal indemnity program similar to the Price Anderson Act, which is used to insure the nuclear industry. It was noted that a federal indemnity or shared risk pooling system works well in cases where the risk of catastrophic events is small—assuming the program is properly funded. There was concern that such an indemnity program might appear as "another handout" to the oil and gas industry and that the public would get the message that the industry was uncertain of CCS safety. However, it was stressed that some companies may not undertake CCS projects *without* a federal indemnity program.

There was also discussion about the applicability CERCLA and RCRA to CCS. Some stated that these two acts are poor frameworks for CCS due to their inflexibility, ineffective risk pricing, cumbersome governmental process, and the inherently different risk structure between hazardous waste and carbon dioxide. Also examined was the current permitting process under the Underground Injection Control (UIC) framework. Questions were raised regarding the use of Class I, II, and V injection well regulation, and whether a new well category might be required. Overall, although there is no single perfect analog for CCS regulation, some aspects of these statutes may be useful in creating a regulatory framework for CCS.

WRI will continue to work in cooperation with other groups to develop a straw proposal for CCS liability policy. To that end, we will convene a group of technical and insurance experts to explore the development of actuary tables for CCS projects. We will also consider developing, as part of the ongoing activities of the Liability and Accounting Working Group, a matrix of CCS applicable consequences, hazards, and regulations to establish where the gaps exist in the current structure. Lastly, mapping the depth of wells in North America was discussed as a useful tool for better informing CCS siting.

Procedurally, some concern was raised that we need to include voices that might be more critical of CCS than those gathered in the room.

WRI wishes to thank presenters and participants for contributing to this important dialogue.