

**Statement of Kathleen Clarke, Director,
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and
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U.S. Fish and Wildlife Service
U.S. Department of the Interior
before the
Senate Committee on Energy and Natural Resources
Oversight Hearing on Pilot Project Implementation under
Section 365 of the Energy Policy Act of 2005**

June 27, 2006

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear here today to discuss the Bureau of Land Management's (BLM) and U.S. Fish and Wildlife Service's (Service) efforts to improve oil and gas permitting pursuant to the Energy Policy Act of 2005 (EPAAct). Our testimony today will highlight our efforts and achievements to date implementing the Pilot Project to Improve Federal Permit Coordination under Section 365 of the EPAAct.

Bureau of Land Management

At the BLM, we are dedicated to ensuring that the American people – regardless of where they live – benefit from the agency's multiple-use mandate. Recent natural disasters and the price of energy serve as reminders of the extent to which the availability of energy affects our quality of life. Our agency plays an important role in providing an appropriate mix of both renewable and conventional energy supplies from the public lands and, in turn, contributes to a more secure and reliable energy future for our Country.

We can accomplish all that we do only by involving the public through partnerships and working with our cooperating agencies. Our track record in developing and maintaining partnerships is second to none and in each community across the West you will find the men and women of the BLM hard at work to ensure that our decisions are based on the principles of multiple-use.

The BLM manages significant oil and gas resources on the public lands. Over the next decade, demand for natural gas is anticipated to increase by more than 25 percent. Public lands and the BLM play a key role here, as they currently provide 18 percent of the Nation's natural gas production. Our inventory of public lands in five key western basins identified nearly 140 trillion cubic feet (TCF) of natural gas, enough to heat more than 55 million homes for nearly 40 years. In the Pinedale area of Wyoming, industry expects to produce 15 TCF of gas over the life of the field. This would supply nearly 10 million homes for 20 years. Natural gas reserves of this magnitude are relatively rare. For example, Alaska's Prudhoe Bay field, the largest oil and gas field on the North American continent, contains 35 TCF of gas. Although much of the Nation's domestic oil production takes place offshore, oil production from the onshore public lands is still significant, totaling more than five percent of all domestic production.

U.S. Fish and Wildlife Service

The Mission of the U.S. Fish & Wildlife Service is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The agency's role regarding energy development is multifaceted. For example, the Service facilitates the environmentally sound exploration and production of privately held minerals on National Wildlife Refuge System lands in order to minimize impacts to those resources. We work in partnership with oil and gas operators to streamline this process so that the financial and operational needs of the operator are met, while fulfilling our role in protecting species and ecosystems for the enjoyment of the American public. We also work closely with other entities, such as the BLM, Environmental Protection Agency, and the Army Corp of Engineers, in the assessment of potential impacts to natural resources, when the requirements of the National Environmental Policy Act (NEPA) apply, and we consult with state and local agencies to ensure their regulatory requirements are met. The Service participates in necessary clearances for protected resources, such as Endangered Species Act consultation for threatened and endangered

species, monitoring and compliance activities, and establishing mitigation and reclamation standards for individual projects. The Service consults with the oil and gas operators on all phases of exploration. This has helped in establishing effective relationships with the oil and gas community, and has effectively reduced delays and/or issues that may arise for either side. The Service works with partners to streamline regulatory processes, while fully supporting the conservation, protection and enhancement of wildlife and wildlife habitat.

Background

The demand for onshore oil and gas is reflected in the dramatic increase in the number of applications for permit to drill (APDs) the BLM receives from one year to the next. The number of APDs received by the BLM has increased every year since 2002, and we anticipate this trend to continue into 2007 and beyond. A recitation of the numbers illustrates this dramatic trend. The BLM received 4,585 APDs in 2002; 5,063 in 2003; 6,979 in 2004; and 8,351 in 2005. Our current projection is that we will receive over 9,300 in 2006 and over 10,500 in 2007. We are proud of the progress we have made in response to this increasing demand; in 2005, we processed 7,736 APDs, a record number. However, despite this significant achievement, it is clear that more needs to be done to improve the APD process.

By signing the EAct into law, and again more recently in the State of the Union Address, President Bush declared his continuing intention to secure America's energy future, which includes promoting dependable, affordable, and environmentally-responsible domestic energy production while reducing U.S. dependence on foreign oil. In passing the EAct, Congress also signaled that it shares the President's goal of providing access to reliable domestic energy supplies that are crucial to the economic health and security of every American household and business. The EAct creates an innovative way for Federal resource management agencies to cooperate in meeting this challenge through the Pilot Project.

In order to address the increasing demand for drilling permits, Section 365 of the EAct authorized the creation of the seven Pilot Project Offices, where interagency coordination improvements can be developed and tested, along with other methods to improve permit processing. These Pilot Project Offices (Buffalo and Rawlins, Wyoming; Carlsbad and Farmington, New Mexico; Grand Junction/Glenwood Springs, Colorado; Miles City, Montana; and Vernal, Utah) are existing BLM offices within the five key western basins that have processed about 70 percent of the APDs received by the BLM in the last three years. Their workload and location makes them ideal for permit processing innovations.

In addition, Section 365 authorized an estimated \$20 million in mandatory funding for these offices from the Federal share of rental receipts from onshore oil and gas leasing. The Treasury Account for the Permit Processing Improvement Fund for the Pilot Project Offices was established on November 1, 2005, and the authorized receipts are now being placed in that account.

The track record of the BLM and the Service for cooperation will serve as a solid foundation for the efforts underway in the Pilot Project Offices. We understand that your interests today are in the progress made by the BLM and the Service in implementing the Pilot Project for improved oil and gas permitting, pursuant to Section 365 of the EAct. We will now turn to discussion of the efforts underway to implement the Pilot Project.

Implementing the Pilot Project

Together, we recently toured the Pilot Project Offices. Key leaders of many of our Federal and state partnership agencies joined us on these tours. Based upon what we have seen we are pleased to report to you that the BLM and the Service are making considerable progress implementing the Pilot Project.

The Pilot Project provides a vehicle to bring more resources to accomplish permitting, increased inspection and enforcement, foster innovation, test more efficient interagency processes, and try new and emerging technologies. The Pilot Project Offices will be laboratories of efficiency and environmental protection, providing one-stop coordination for review of oil and gas development and for conducting inspection and enforcement activities.

Interagency MOU

An Interagency Memorandum of Understanding (MOU) to implement the oil and gas Pilot Project Offices was signed by the Administrator of the Environmental Protection Agency (EPA), the Secretary of Agriculture, the Assistant Secretary of the Army for Civil Works, and the Secretary of the Interior on October 24, 2005, ahead of the 90-day requirement in the Act. The MOU establishes the roles, responsibilities, and delegations of authority among the Federal agencies. In order to implement the terms of the MOU, BLM managers and their counterparts at partner agencies have been engaged in intensive planning and recruitment efforts to ensure that staff and support are in place in the Pilot Project Offices to meet the responsibilities outlined in the MOU and in the EAct.

Under the terms of the MOU, the BLM and the Forest Service will continue cooperating closely to administer oil and gas development on lands managed by the Forest Service. Particular attention will be given to improving communication and information-sharing and to field reviews and inspection and enforcement activities. Furthermore, the involvement of the Service will ensure increased cooperation concerning threatened and endangered species during project planning and implementation. Staff from the Forest Service and the Service will be collocated in a number of the BLM Pilot Project Offices. Together with BLM staff, they will complete environmental analysis required by NEPA; develop necessary clearances for threatened and endangered species and cultural resources; conduct monitoring and compliance activities; and establish mitigation and reclamation requirements for individual projects.

The Service is working with the BLM at all levels to implement Section 365 of the EAct. A memorandum of understanding between the BLM and the Service identifies six specific responsibilities that, once fully implemented, will allow the Service to streamline its efforts under the permit review process. The two agencies are customizing the duties of positions at collocated offices to improve permitting processes, while protecting of natural resources. Adaptive, programmatic measures will reduce the Service's permit review time while enhancing stewardship of endangered species and other Federal resources. By integrating Service personnel with BLM staff early in the land use planning process, the Service anticipates greater regulatory flexibility, fewer delays, and an overall reduction in related negative environmental effects.

The Service has filled positions in five of the seven Pilot Offices and has assigned temporary staff to the remaining two offices that will remain in place until the Service can complete the hiring process for those positions. These staffs are supported by three full-time existing Service employees who will oversee the initial stages of implementation of the pilot program. Critical to the Service's long-term success is the identification and application of new and improved procedures to address the high volume of APD workload anticipated by the BLM, and increasing staff in the pilot offices (and elsewhere) as workload increases and additional pilot program funding become available.

The recent increase in approved APDs will lead to increases in the need for inspection and enforcement activities. Accordingly, the BLM will work to focus appropriate resources on inspection and enforcement activities.

State Coordination

We are also working with state governments to bring state wildlife, environmental quality, oil and gas commission, and historic preservation staff into the Pilot Project. This will further coordinate energy development activities and further ensure the protection of important species and cultural resources.

Staffing and Administrative Efforts

One of the very important items for the BLM has been meeting staffing needs for the Pilot Project Offices. To date, a total of 99 BLM Pilot Project Office positions (out of 105 identified) have been filled. The agency has hired a total of 19 Petroleum Engineering Technicians and 21 Natural Resource Specialists for the Pilot Project Offices as well as other subject matter experts and the necessary support staff to meet the goals of the Pilot Project.

On February 23, 2006, the BLM transferred funds to the Forest Service for 6 Pilot Project Office positions, to the Fish and Wildlife Service for 10 Pilot Project Office positions, and to the Army Corps of Engineers for three and one-half Pilot Project Office positions. We also have transferred funds to the Bureau of Indian Affairs to add one position in Farmington, New Mexico, and are working with the Bureau of Reclamation to add one position in Carlsbad, New Mexico.

The BLM, through the Department of the Interior National Business Center, has hired a contractor to assist in the review and reporting of implementation and performance of the Pilot Project streamlining efforts over the next three-year period. This independent review will assure an impartial analysis of our performance on the Pilot Project implementation.

Additionally, the BLM has issued interim guidance for APD processing that incorporates the timeframes required by the EAct. These processing timeframes will also be incorporated into a reissuance of Oil and Gas Onshore Order No. 1, which will be published in the Federal Register. The BLM has also issued interim guidance to implement the statutory categorical exclusions contained in the EAct.

Responsible Development

As we implement Section 365, it is important to bear in mind that the EAct does not change the requirements of the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, the Clean Air Act, the National Wildlife Refuge Improvement Act, or Federal Land Policy and Management Act. The BLM looks forward to cooperating closely with its Pilot Project partners, such as the Service, in continuing to implement these important laws that protect our environment and cultural resources.

One of the BLM's responsibilities is managing wildlife resources, which is an important aspect of our multiple-use mandate. Some have questioned BLM's practice of using its wildlife biologists in the permitting process, but doing so specifically ensures that wildlife needs are considered in areas slated for energy development.

BLM wildlife biologists are involved in the permitting process from an early stage in order to ensure the best protection for wildlife near proposed well drilling sites. They work with companies to identify areas where there are wildlife concerns; attend onsite meetings with the operator at proposed drilling points; make recommendations regarding necessary Section 7 consultations for threatened or endangered species; and consult with state game and fish agencies concerning species of state interest. They are also an important part of the interdisciplinary NEPA team responsible for the preparation of environmental analysis and development of appropriate mitigation and protective measures.

Through the EAct, Congress directed the BLM to work on a number of important initiatives relating to energy development. The BLM continually seeks new ways to minimize, mitigate, or compensate for any adverse impacts from development activities.

Innovation of the type envisioned in the Pilot Project is already underway at the BLM. Some examples include a pilot block survey BLM initiated in the Carlsbad Pilot Office to identify cultural resource properties in the area, and the incorporation of advanced technologies and environmental Best Management Practices (BMPs), such as drilling multiple wells from a single location, centralizing production facilities or relocating them offsite, minimizing road construction, and performing interim mitigation. In the Jonah Field, the BLM is evaluating an experimental drilling technique proposed by the operator using temporary wooden pallets for roads and well pads to determine if this technology reduces impacts to surface vegetation and soil.

The BLM is also using performance-based standards to challenge industry to reduce emissions, minimize surface disturbance, and develop quick and effective reclamation techniques to improve restoration of disturbed areas. If on-site mitigation measures do not achieve the desired conditions, companies have the option of undertaking off-site mitigation measures. For example, in March of this year, we announced

that EnCana is contributing up to \$24.5 million over ten years toward an office dedicated to funding offsite mitigation and monitoring in the Jonah Field, Wyoming. We expect that offsite mitigation will become an increasingly useful tool for improving habitats adjacent to natural gas development areas.

In the Pinedale area of Wyoming, for example, concerns about impacts to wildlife have resulted in reduced surface disturbance compared to past development. By implementing such measures as the consolidation of infrastructure, such as roads, pipelines, and production facilities, we have achieved an overall reduction in the footprint of development involved in winter drilling projects in the Pinedale Anticline.

Conclusion

In conclusion, Mr. Chairman, energy is vital to expanding our economy and enhancing Americans' quality of life. The Administration is proud of the progress we have made in responding to the increased demand for access to the Federal onshore oil and gas resources we manage. As noted at the beginning of our statement, over the next decade, demand for natural gas alone is anticipated to increase 25 percent. The BLM and the Service plan to help meet this unprecedented demand by using tools provided under the EAct, such as the Pilot Project, and developing and applying program innovations and process efficiencies that improve inter-agency coordination and effectiveness.

The Pilot Project will further enhance our ability to respond to the demand for oil and natural gas, while meeting the other goals of our multiple-use mandate. In the 10 months that have elapsed since the enactment of the EAct, we have made substantial progress in our ongoing efforts to respond to this demand.

Thank you for the opportunity to testify today about the Pilot Project. We would be happy to answer any questions you have.