

Statement of Brad Powell, Western Energy Director, Trout Unlimited

**U. S. House of Representatives, Committee on Natural Resources,
Subcommittee on Energy and Mineral Resources**

Legislative Hearing on H.R. 4381, H.R. 4382, H.R. 4383, H.R. 4402, H.R. 1192 and H.R. 2176

April 26, 2012

Mr. Chairman:

Thank you for the opportunity to testify before the House Natural Resources Committee, Subcommittee on Energy and Mineral Resources. My name is Brad Powell; I am the Western Energy Director for Trout Unlimited, a national non-profit conservation organization with more than 140,000 volunteers organized into about 400 chapters from Maine to Alaska. Our mission is to conserve, protect and restore North America's coldwater fisheries and their watersheds.

I'm also here on behalf of Sportsmen for Responsible Energy Development, a coalition of nearly 500 organizations, companies and individuals led by Trout Unlimited, the National Wildlife Federation and the Theodore Roosevelt Conservation Partnership. We are working with the energy industry, states, local communities and federal agencies to find a balance that provides for production of energy resources while ensuring the protection of key fish and wildlife habitats on public lands. Achieving this balance is essential for sustaining quality hunting and angling opportunities and the \$76 billion in economic activity attributable annually to hunting and angling. As fishing season begins anew with the approach of spring, many western communities once again await the outstanding economic benefits that it brings. It is imperative that as we develop our important energy resources we strike the proper balance of energy development and conservation of important fish and wildlife habitats.

As a sportsman and a long-time professional in the conservation field with over 30 years experience as a federal land manager, I am pleased to provide my thoughts on these important issues related to the development of energy on our public lands. I firmly believe that responsible energy production that balances the needs of fish and wildlife habitats and water resources is achievable and is an important component of a sound economy.

To be clear, Trout Unlimited and the Sportsmen for Responsible Energy Development coalition support energy development on public lands. My time as a federal land manager left me with a clear understanding of the need for efficient Federal decision and permitting processes. The suite of bills that we are discussing today attempts to speed up the permitting process and bring more certainty for oil and gas operators. Unfortunately, I believe the results will be exactly the opposite.

My testimony will focus primarily on three bills: H.R. 4381, the *Planning for American Energy Act*; H.R. 4382, the *Providing Leasing Certainty for American Energy Act*; and H.R. 4383, the *Streamlining Permitting of American Energy Act*. These bills contain provisions that would place energy development as a priority use of public lands at the expense of fish and wildlife habitats. For example, H.R. 4381 requires the Secretary of the Interior to “take all necessary actions to achieve” the objectives of a federal onshore energy production strategy. Section 5 of H.R. 4382 would undo the BLM’s leasing reforms, thus making it more difficult, if not impossible, for the public to participate in the leasing processes. The result, I fear, will be increased litigation and ultimately slower development of energy resources coupled with less trust and declining public support.

We recognize that leasing and permitting procedures and processes sometimes take longer than they should. But the fact remains that the energy industry has access to a large amount of public land, and has developed oil and gas with great success. Currently, 38 million acres of leases are held by industry. Less than half of the available acreage is in production. Industry currently holds more than 7,000 approved unused permits to drill for oil and gas public lands.

As I mentioned earlier I had a long career as a federal land manager. Having served as a Regional Forester with the U.S. Forest Service I can attest to the challenge of engaging the public in decision making. Truly involving the public in the decision process clearly adds complexity and is often frustrating, but as I found on numerous occasions when done well it results in better and more lasting decisions. These bills succumb to that temptation to shortcut public involvement and virtually assure increased conflict over implementation. A key attribute

of good land management is understanding, support and engagement of the public in decision making.

History has shown us that an approach that focuses only on production and doesn't balance the conservation of important natural resources is doomed to fail. During the 1990's energy emerged as the dominant resource on public lands. Fish, wildlife and recreation resources were not viewed for their social and economic benefits but as impediments. The Energy Policy Act of 2005 gave even more priority to energy development on public lands. Now, 7 years after the implementation of the permit streamlining brought about by the 2005 EPAct, we are hearing the same discussion that permitting is not fast enough. The results of the 2005 Act seem to indicate strongly that legislative fixes to Administrative processes often fail to achieve the desired results.

The lack of public engagement, the distrust that was created, and the damage to important fish and wildlife resources during this period of oil and gas supremacy resulted in sportsmen and other conservation groups increasing the amount of formal protests of energy projects. Between fiscal year 1998 and fiscal year 2009, the percentage of oil and gas leases protested jumped from one percent to nearly 50 percent. In some states, nearly all lease sales were protested.

Lease protests came in response to the impacts that were being seen on wildlife and their habitats. For example, mule deer populations have been declining across much of the West. Mule deer experts agree that one of the limiting factors for mule deer is available winter habitat. These winter habitats are deemed "crucial" for survival by state game and fish agencies. A recent report evaluating the decline of mule deer in the Green River basin in Southwestern Wyoming and Northwestern Colorado revealed that 2.4 million acres of the 10.2 million acres of mule deer crucial winter range has been leased for development.

At the Pinedale Anticline in western Wyoming, the mule deer population has dropped by over 60 percent from levels that were documented before development began (approximately 6,000 deer used to winter on the mesa area of the project before development, now approximately 2,000 deer do so). Many state wildlife officials fear that a full recovery may not be possible without substantial changes in how energy development is managed in these critical habitats.

Engaging the public in decision making on public lands is a key component of responsible energy development. Leasing processes are complicated and difficult for the public to engage in. It has long been our hope that the Administration and the Congress will work to make these processes more transparent not less as proposed by these bills.

In 2010, Secretary Salazar announced a set of leasing reforms designed to better engage the public and balance development with the protection of key natural resources. These reforms included an improved review prior to leasing so that decisions are made based on current information, and enhanced public participation. Early engagement of the public, larger scale planning, and identifying key habitat areas early in the process are all common sense steps included in the leasing reforms. Master Leasing Plans, for example, could provide a new and powerful opportunity to avoid and minimize wildlife and other environmental conflicts.

The lease reforms are in their early stages of implementation but we are already seeing benefits. Lease protests are declining. In 2011 protests were down to 35 percent (still too high, but trust is being built), and in particular the protests by sportsmen groups declined to a trickle during a period that lease sale revenues were increasing. Why stop this progress before it has even had a chance to fully mature?

In Montana, working with the BLM staff at the Butte field office, we have an example of the leasing reforms working to resolve conflicts. Trout Unlimited volunteers identified a few important areas with critical habitat for Yellowstone cutthroat trout within a planned BLM lease sale. After discussions early in the planning process, prior to leasing, the BLM chose to defer those parcels. It allowed us to be supportive of the remainder of the lease sale and not start down a path of contention. The decision making process resulted in a strong degree of trust and more certainty for the oil and gas companies.

We believe that these changes are resulting in less conflict, better conservation and—as our experience in Montana illustrates—more certainty for the industry. These bills would put a stop to those efforts and replace them with a process that all but ensures conflict. To use an old adage lets not throw the baby out with the bath water.

I also want to highlight a few other specific issues related to the bills we are discussing today:

- HR 4383 requires a \$5,000 documentation fee to protest. We believe this fee is punitive and makes it very difficult for most members of the public to participate.
- HR 4382 mandates leasing and requires issuance of the leases within 60 days after payment receipt regardless of the presence of protests or litigation. It also requires the BLM to utilize the terms in the existing Resource Management Plan regardless of new information that may be available, and ends the implementation of the leasing reforms that are beginning to show promise for increasing the certainty for the industry and reducing conflicts.
- HR 4381 requires a strategic plan for energy development. We support this concept as long as it fairly balances conservation of fish and wildlife resources. Unfortunately, this bill establishes oil and gas as the dominant resource on public lands, thus guaranteeing conflicts with important recreation, fish and wildlife resources.

Finally, I want to speak to the topic of permit processing revenue which is included in two of the bills we are discussing today. H.R. 2176 would take wind and solar energy right-of-way rental fees and dedicate up to \$5 million per fiscal year to a wind and solar permit processing improvement fund. Similarly, H.R. 4383 would send 50 percent of solar right-of-way fees to BLM field offices to process permits, rights-of-way applications for renewable energy development. We are pleased to see the committee considering the appropriate use of revenues derived from public land wind and solar development, and would encourage the committee to look at this topic more comprehensively to include revenues for states, counties, and resource conservation. A bill, S. 1775, was recently introduced by Senators Risch (R-ID) and Tester (D-MT) that dealt with the distribution renewable energy revenues in this fashion. We urge the members of this committee to explore introducing a similar bill.

FY 2010 saw more than 58 million visitors to BLM lands with a resulting benefit of \$7.4 billion to the economy. Most of these visits were to enjoy scenery, hunt, fish, camp, watch wildlife or have other great outdoor experiences. Americans and people from all over the world come year after year to experience our public lands, and they bring the economic benefits with them. This sustainable economic engine is dependent on healthy environments, clean air, clean water and abundant fish and wildlife. In 2010 in Wyoming, Colorado and Utah, more than 2.2 million

hunters and anglers bought licenses, providing license revenues of more than \$1.2 billion back to those states. Nationwide it is estimated that 1.2 million jobs are provided annually by the outdoor industry, many hunting and fishing related.

In closing, sportsmen and women recognize the importance of energy development on public lands. We also believe that it's essential for the public to be integrally involved in the leasing processes. The oil and gas leasing process needs to provide an opportunity to identify areas of important fish and wildlife habitats early on. Ideally with this early identification we can design projects that provide for the development of energy from public lands and develop safeguards to ensure that fish and wildlife population remain abundant for the future. Hunting and fishing are a part of the heritage of America, a part of our way of life, and an important part of our economy. We need to ensure that public lands are conserved and managed appropriately as we develop our energy resources. Unfortunately, some of the bills that we are discussing today will result in significant impacts to fish and wildlife populations and result in more gridlock because of the lack of public engagement.

Thank you for the opportunity to testify.

Brad Powell

Western Energy Director

Trout Unlimited

210 West Corral Drive

Payson, Arizona 85541