

**Statement of Brad Powell, Senior Policy Director, Sportsmen Conservation Project,
Trout Unlimited
U. S. House of Representatives, Committee on Natural Resources,**

April 17, 2013

Mr. Chairman:

Thank you for the opportunity to testify. My name is Brad Powell; I am the Senior Policy Director of the Sportsmen Conservation Project for Trout Unlimited (TU), 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 trout and salmon fisheries and their watersheds.

TU works with partners to fulfill our mission: with state and federal agencies to clean up pollution from abandoned mines, with farmers and ranchers to improve riparian habitat and restore stream channels, with Western irrigators to improve water management and restore stream flows, and with energy companies to lessen the impacts of development. TU also works with sportsmen who care about protecting great hunting and fishing places on public lands.

In short, we work to ensure a bright future for hunting and fishing in America.

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 while ensuring the protection of key fish and wildlife habitats on public lands. This balance is essential for sustaining quality hunting and angling opportunities and the \$90 billion in economic activity that hunting and angling generates annually.¹

Springtime is always a great time for us sportsmen. All across the West we are preparing for the season and beginning yet again the cycle of creating memories and continuing our hunting and

¹ U.S. Department of the Interior, U.S. Fish and Wildlife Service, and U.S. Department of Commerce, U.S. Census Bureau. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.

angling traditions. Western communities will once again also benefit from the outstanding economic benefits that hunting and fishing bring.

As a sportsman and a long-time professional in the conservation field with over 30 years of 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 responsible 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-making and permitting processes.

Federal Lands are managed to balance multiple uses: State and private lands often are not.

The purpose of this hearing is to conduct oversight on the difference between regulation of oil and gas development on state lands and federal lands. As the Committee considers the differences between energy resource development on federal vs. non-federal lands an important distinction to keep in mind is that federal lands are managed for multiple uses—energy, fish and wildlife, timber, grazing, and others—whereas state and private lands generally are not. This guiding multiple-use principle for the BLM and national forest lands has its basis in legislation and has been through decades of development and refinement. Resource uses such as energy development have to be balanced with the needs of other uses. One type of use, cannot, by law and by the expectation of the public be allowed to dominate to the significant detriment of others.

State lands often are not managed under multiple-use requirements. Many western states have constitutional mandates requiring the managing agency to maximize revenues from commodities and have little obligation or authority to consider fish and wildlife values or hunting and fishing impacts when drilling permits are issued. On private lands the landowners choose how to manage their lands and are not required to manage for multiple uses. Thanks to their multiple-use

management requirements, federal lands can produce energy while also sustaining outstanding hunting and fishing.

Public lands are vitally important to hunters and anglers.

The federal public lands are of great importance to hunting and fishing in the U.S. because of the outstanding fish and wildlife resources they harbor. Fiscal 2010 saw more than 58 million visitors to BLM lands with a resulting benefit of \$7.4 billion to the economy. In 2011 our national forests had over 165 million recreation visits with a \$13 billion contribution to the Gross Domestic Product (GDP), and they sustained more than 200,000 full- and part-time jobs. 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 hunting supports 680,300 jobs,² and recreational fishing 828,000 jobs.³

Hunters and anglers in our western states depend on public lands for access to fish and wildlife. As an example, according to the U.S. Fish & Wildlife Service, in Montana over 75 percent of all hunters statewide hunt on public lands. Similar statistics are repeated all across the West. We need more, not fewer, quality hunting and fishing opportunities on our public lands. Sportsmen throughout the West rely on public lands to fill their freezers, make memories and pass on our traditions to our sons and daughters.

² Southwick Associates. *Hunting in America: An Economic Force for Conservation*. Produced for the National Shooting Sports Foundation in partnership with the Association of Fish and Wildlife Agencies. 2012.

³ Southwick Associates. *Sportfishing in America: An Economic Force for Conservation*. Produced for the American Sportfishing Association (ASA) under a U.S. Fish and Wildlife Service (USFWS) Sport Fish Restoration grant (F12AP00137, VA M-26-R) awarded by the Association of Fish and Wildlife Agencies (AFWA), 2012.

Where we have failed to balance uses, hunting and fishing has suffered.

Federal land managers have not always succeeded in striking a balance between energy development and other multiple uses. For example, mule deer populations have been declining across much of the West and experts agree that one of the limiting factors is available winter habitat. Much of the winter habitat being developed by energy activities, including roads and well pads, is identified by state wildlife management agencies as “crucial” for survival. 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.

In the Pinedale Anticline gas field, a 30 percent population decline in the Sublette mule deer herd unit has occurred between 2001 and 2012 (Sawyer and Neilson, WEST Inc. 2012). According to the Wyoming Game and Fish Department, the statewide mule deer harvest in 2011 was the lowest in a decade, and much of this may be attributable to loss of habitat due to development, coupled with drought and tough winter conditions. Permits for hunting licenses have had to be decreased to accommodate such losses. In south-central Wyoming, an area with significant oil and gas development, a decrease in the population of the Bitter Creek pronghorn herd unit has resulted in the Wyoming Game and Fish Department issuing just over 200 licenses in 2011, down from a high in the 1990s of more than 3,700 licenses. Energy development is thought to be the main cause, though drought, fencing, and feral horse impacts may also contribute to their decline. All of this underscores the need for up-front analysis before leases are offered for sale, so that input from stakeholders informs the BLM’s decisions and the cumulative problems facing these big game herds are not exacerbated.

Pollution from energy development on public lands—including spills and stormwater runoff from roads and well pads—threatens watersheds with important trout fisheries. In Colorado, for example, insufficient stormwater controls caused sedimentation in the headwaters of Parachute Creek, a class one wild trout fishery. Now proposed development on Colorado’s Roan Plateau presents similar risks for some of Colorado’s best remaining Colorado River cutthroat trout fisheries. TU has worked for years to restore and protect these fisheries, and we continue to

pursue a solution with the BLM that adequately recognizes the value of these native fisheries and protects them during development.

We need to do energy development right on the public lands so that we don't lose the great hunting and fishing available there. The impacts cited above are avoidable, and improved up-front analysis of areas to be leased as well as ample opportunity for public involvement can lead to better management decisions.

Leasing reforms lead to better management decisions and the reduction of conflict.

The comparison between state and federal permitting for oil and gas often centers on the amount of time it takes to process permits. In 2010, Interior Secretary Salazar announced a set of reforms that can improve the leasing process by reducing the prevalence of lease protests. By providing for up-front analysis and public engagement, the leasing reforms created a way to resolve potential conflicts without filing a protest. 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 identification of 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 powerful opportunity to avoid and minimize wildlife-related and other environmental impacts.

One example of leasing reforms reducing conflict is from the Beartooth Game Range near Helena, Montana. The BLM had proposed a lease along a stream that had been restored with cutthroat trout, but they were not aware of the restoration project. After receiving our comments, the BLM revised the lease to account for this oversight and then offered it for sale. Previously, we would have had to protest this lease, but with the pre-leasing review we were able to help the BLM make an informed decision and offer a lease unencumbered with a protest. For TU, that is what these reforms are all about – making informed decisions on the front end in order to prevent conflicts later on.

Where the leasing reforms are being implemented they are resulting in less conflict, better conservation and, as the example in Montana illustrates, more certainty for the industry. These improvements are largely attributable to the opportunity to consult on the front end of the leasing

process, before it becomes contentious. In the past, damage to important fish and wildlife resources resulted in sportsmen and other conservation groups increasing the amount of formal protests of energy projects. Between fiscal 1998 and fiscal 2009, the percentage of oil and gas leases protested jumped from 1 percent to nearly 50 percent. In some states, nearly all lease sales were protested. Now lease protests are declining. In 2011 lease protests were down to 35 percent, and in particular the protests by sportsmen groups declined to a trickle during a period that lease sale revenues were increasing.

Prior to the reforms, the only way that TU or other conservationists could officially consult with the BLM was to file a protest. We don't like filing protests – it's time consuming and a diversion of resources for us just like everyone else. Now with the pre-leasing review, we are able to share information and present our perspective before a lease is offered for sale, and by working through concerns early in the process we can avoid the need to file protests.

Just as industry needs certainty that they will be able to develop their leases, sportsmen need certainty that our public lands will remain a great place to hunt and fish. The reforms help to ensure that the BLM is able to identify important habitats for protection prior to development, make informed decisions about the leases they offer, and do their best to balance diverse uses. It is not a perfect process and not everyone is always happy, but the 2010 lease reforms, if implemented broadly and consistently, would result in a far better process than the one that has been used for the past several decades and is still largely still in place today. Last year the U.S. House of Representatives tried to undo the leasing reforms as part of broader energy legislation (H.R. 4480) aimed at expanding production. The more likely result of overturning the leasing reforms would be greater conflict and more lease protests, not an outcome we welcome and certainly not one the industry would want to see. As this Committee considers legislation after this oversight hearing, we urge you not to pursue these counterproductive provisions.

As I mentioned previously 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. Involving stakeholders in energy decisions on the public lands in an early and meaningful way is the key to success in striking the right balance of uses on the public lands. Involving the public in the decision process adds complexity and is often frustrating, but

when done well, it results in better and more lasting decisions. Nobody, including TU, likes unnecessary process, but with so many diverse interests who have a stake in how their public lands are managed, everyone deserves to be heard and to be engaged in an open process.

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 1990s, energy emerged as the dominant resource on public lands. Fish, wildlife and recreation resources were not viewed as socially and economically beneficial but as impediments. The Energy Policy Act of 2005 gave even more priority to energy development on public lands by exempting development from the Safe Drinking Water Act and the stormwater provisions of the Clean Water Act. Now, eight years after these congressional efforts to speed up permitting, we are hearing again that permitting is not fast enough. The previous fallout from that approach strongly indicates that legislative fixes to administrative processes often fail to achieve the desired results. We believe that better implementation of the 2010 leasing reforms including proper master leasing plan development and implementation could result in a reduction of controversy and quicker, more efficient development of energy resources on federal public lands. Furthermore, an effective hydraulic fracturing rule for federal lands would increase public confidence that water resources will be adequately protected during development.

Balancing multiple uses on the federal lands is a tough job. It is not easy to do it well and it seems that at times all parties are at odds with the BLM and the Forest Service. We recognize that leasing and permitting procedures and processes sometimes take longer than they should, but we do not feel that sustaining great hunting and fishing and developing energy on public lands are mutually exclusive outcomes, or that the measures in place to help balance multiple uses are unduly impacting the timelines to approve permits. The fact remains that the energy industry has access to a large amount of public land, has developed oil and gas with great success and will continue to do so. As of December 31, 2011, approximately 56% of the total acres of public land under lease in the lower 48 States – totaling approximately 20.7 million acres – are not undergoing either production nor exploration activities. As of September 30, 2011, there are over 7,000 approved permits to drill on public and Indian lands that have not yet been acted on by companies.

Conclusion

Due to the extraordinary fish and wildlife values on public lands and the agencies' multiple use mandates, it is important to have the right protections for fish and wildlife habitat in place. Trout Unlimited and Sportsmen for Responsible Energy Development is committed to working constructively with the industry, the public land management agencies, the states and local counties and communities, to enable energy development to move forward in the right places, in a way that provides certainty for both industry and the future of hunting and fishing.

In closing, sportsmen and women recognize the importance of energy development on public lands. We also believe in transparency and opportunities for the public to be meaningfully involved in decision that affect the places we hunt and fish. The oil and gas leasing process needs to provide an opportunity to identify areas of importance to fish, wildlife and sportsmen 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 populations remain abundant now and for future generations of sportsmen. Hunting and fishing are a part of our American heritage, a part of our way of life, and an important part of our economy. If managed appropriately for multiple uses, we can develop energy resources and ensure that our public lands remain a great place to hunt and fish.

Thank you for the opportunity to testify.

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