

Testimony of
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Before the
Governmental Affairs Committee of the U.S. Senate
On
The Impact of the National Energy Policy on Western Public Lands
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Introduction

My name is Stephen C. Torbit, and I appreciate the opportunity to submit this statement to the Senate Governmental Affairs Committee. I am testifying today on behalf of the National Wildlife Federation, Wyoming outdoor Council, Biodiversity Associates and myself.

The National Wildlife Federation (NWF) is the nation's largest member-supported conservation education organization. For more than 65 years, millions of NWF members and supporters from across America have invested their time, energy, passion, and grassroots action in conserving and restoring the living legacy we will bequeath to our children--in keeping the wild alive.

Established in 1967, the Wyoming Outdoor Council is the state's oldest and largest independent statewide conservation organization. Their mission is to protect and enhance Wyoming's environment by educating and involving citizens and advocating environmentally sound public policies and decisions.

Biodiversity Associates is a Wyoming-based conservation group dedicated to preserving wildlife and wild places. This group serves as a voice for native species and public lands in the Red Desert and other parts of the Intermountain West and Great Plains.

I earned my Ph. D. in Wildlife Ecology from Colorado State University in 1981, and have worked as a wildlife educator, researcher and biologist for the Colorado Division of Wildlife, the Wyoming Game and Fish Department and the U.S. Fish and Wildlife Service. I currently am the Senior Scientist for the National Wildlife Federation.

I am a native of the west and have been involved with energy development on western public lands for more than 20 years. I am here today to discuss this Administration's National Energy Policy and its impacts on our western landscape. Although this Congress is currently considering legislation to enact this National Energy Policy, I can assure you that significant pro-energy development policies have already been put in place by this Administration. These radical changes have completely reversed the logical sequence of environmental analysis, public input and agency decision. This has occurred in a vacuum of no public input and in a manner that compromises unbiased environmental analysis and disregards the other public-trust resources on the federal estate.

I also understand the debates in this Congress concerning the opening the Arctic National Wildlife Refuge for oil and gas development. NWF has been actively engaged on this issue and has been working to protect the wildlife values of this unique area. In addition to the Arctic Refuge, NWF is extremely concerned about the many other actions already threatening wildlife and other resources on our western public lands. In my testimony, I will illustrate some of the impacts of the Administration's energy policies on an area that is personally and professionally very important to me, Wyoming's Red Desert.

As a professional biologist, I have been engaged with wildlife issues in Wyoming's Red Desert since the late 1970s. Additionally, I have used the Red Desert personally for recreation including hunting, hiking, photography and camping. The Red Desert epitomizes the west; its wide-open spaces and its abundant wildlife resources allow me to reconnect to my western heritage. I have harvested significant numbers of mule deer and pronghorn antelope from the Red Desert and those animals were an important source of food for my family when we resided in Wyoming. I continue to hunt, hike and camp in the Red Desert although I no longer live in Wyoming.

Wyoming's Red Desert

Despite its name and its appearance to the uninitiated, the Red Desert is not an empty wasteland. The Red Desert of Wyoming is truly an ecological, geological and wildlife wonder. The Greater Red Desert region includes the largest undeveloped high elevation desert left in the United States, the continent's largest active sand dune system, two-thousand-

year-old rock art and Shoshone spiritual sites, portions of the Oregon, California and Pony Express Trails and 10 Wilderness Study Areas. This special area is rich in wildlife because of the integrity of the habitat. More than 350 wildlife species call this area home including the largest desert elk herd in North America, and the largest migratory game herd in the United States outside of Alaska consisting of some 45,000 - 50,000 pronghorn. The Red Desert also provides important habitat for mule deer, sage grouse, numerous small mammals and nesting and wintering habitat for birds of prey. It was principally because of the integrity and viability of these habitats that the Department of Interior chose not to list ferruginous hawks under the authorities of the Endangered Species Act of 1973, as amended.

Since 1898, there have been efforts to set aside and protect portions of the Red Desert and the wildlife habitat it supports. In 1935, the Governor of Wyoming proposed establishing the Great Divide Basin National Park. In 1973 and again in 1976, the National Park Service reviewed Adobe Town, a series of badlands formations on par with Badlands and Bryce Canyon National Parks, for designation as a National Natural Landmark. The reviewers concluded, "the greatest natural value of this area is that it is still a 'howling wilderness,'" (1) and rated the area as having the highest rating for ecological and geological values, a rating that reflects the "high degree of national significance," (2).

But now this area rich in ecological, geological and cultural wonders is at risk from multiple entities that would cast aside these public values and dominate the landscape with energy development.

Expedited Energy Development

Our public lands already provide a substantial amount of oil and gas from an estimated 57,800 producing oil and gas wells. According to a 1999 report published by the National Petroleum Council, roughly 95% of BLM lands in the Overthrust Belt of the Rocky Mountains are already open for mineral leasing and development.

While this Congress considers and debates the National Energy Policy, many actions are already accelerating energy extraction on the Red Desert and other public areas in a way that will permanently alter the character and resources of these public lands. Currently, public land managers are not considering the multiple assets of public lands and are not working proactively to balance conservation of these assets with energy development demands. Rather, this Administration is using its discretionary authorities to totally skew decisions toward domination of the landscape by extractive industries. Indeed, we are witnessing the rapid industrialization of our western public lands.

Recent Executive Orders

There is ample evidence to justify our concern. Until now, federal land managers were expected to fully evaluate the impacts of their proposed decisions on the environment, to disclose those impacts to the public and consider public input prior to finalizing their decision. In decisions to lease or permit drilling, prescriptive restrictions were often attached to minimize or avoid impacts to public resources (water quantity and quality, air quality, historical and wildlife resources, etc). In essence, the logical framework was to "look before you leap" to assure no irretrievable commitments of resources were unknowingly made.

However, this Administration has turned this entire process on its head by ordering agencies to first analyze whether any proposed actions (e.g. winter range improvement for wildlife) will impede or accelerate energy development on public lands before issuing a final decision. Specifically, Executive Orders 13211 (3) and 13212 (4) now require an "Energy Effects Statement" to specify "any adverse effects on energy supply, distribution or use..." of federal actions. Furthermore, for energy related projects, agencies are encouraged to "expedite their review of permits or take other actions as necessary to accelerate the completion of such projects..." This message has been heard clearly by those who manage the federal estate. The result is that certain actions are discouraged if they impair the federal government's ability to extract energy reserves. If environmental protections are already incorporated into existing energy development decisions, federal managers are encouraged to be creative in circumventing those protections to benefit energy extraction.

Threats to the Red Desert

Examples of what this new policy of expedited development has meant to the Red Desert include:

- The BLM released a proposal in June 2001 to allow up to 3,880 coal-bed methane wells in the Atlantic Rim Project Area, an area of critical importance to wintering wildlife. Consistent with new policies to accelerate oil and gas development on public lands, the BLM is proposing piecemeal development of up to 200 wells before completing a thorough and comprehensive environmental analysis of the entire proposal. This piecemeal approach is designed to leverage the ultimate decision by establishing a "beach head" for energy development by first minimizing the environmental impacts of these smaller projects.
- In August 2001, the BLM approved seismic exploration in the Adobe Town area. Seismic trucks drove through roughly 50,000 acres of citizen-proposed wilderness areas in September through December 2001, degrading this fragile landscape, laying the foundation for future development and thus undermining the integrity of the citizen's proposal. Exploration continued within crucial wildlife winter ranges during the winter months, in violation of

agency commitments to avoid the area during that sensitive time.

- The BLM proposed in December 2001 to permit an eight-mile long hand-laid seismic study entirely within the boundaries of the Adobe Town Wilderness Study Area. Thereby, BLM may have undermined wilderness designation for Adobe Town.

The Administration's National Energy Policy

There are more examples of the Administration expediting permits evaluating impediments to leasing public lands and removing these impediments as "unnecessary" obstacles to energy production. These examples come from many areas in the west in the new rush for energy development, including:

- BLM authorizing seismic exploration in Utah's Dome Plateau, just outside of Arches National Park. The Interior Office of Hearings and Appeals (OHA) halted this project finding it was likely that BLM had inadequately considered the environmental impacts of this action on public lands.
- In January 2002, the Wyoming State BLM Director presented an Award for Excellence to the Buffalo Field Office. This one field office was recognized for approving more drilling permits than all other BLM offices combined, excluding New Mexico. This one area of northeastern Wyoming is proposed to soon be home to tens of thousands of gas wells. The Buffalo Field office was praised for working "diligently" and "creatively" with industry in approving the record number of oil and gas permits.
- BLM is characterizing wildlife lease stipulations as obstacles to production. These minimal measures are now the only wildlife mitigation measures found on drilling permits and leases. They are intended to balance natural resource values against energy development and protect critical wildlife habitats, such as crucial winter ranges, migration corridors, calving and nesting grounds. If these protections are stripped, the vast array of wildlife species calling the Red Desert home will diminish in the onslaught of energy development.
- Overturning lease stipulations designed to protect important wildlife habitats. The Wyoming BLM has already approved nearly 70 percent of the 88 requests for exceptions to lease stipulations requested by the natural gas industry for the Green River Basin this winter. These waivers follow two years of extensive drought when wildlife and wildlife habitat is already stressed.
- Opening "all public lands" regardless of existing environmental safeguards as promoted by the National Energy Policy. This attitude is manifested by BLM's seismic testing operations in federally designated Wilderness Study Areas in the Red Desert. It is important to point out that all of the seismic operations in the Red Desert were proposed after the Administration's National Energy Policy was released.

Previous legislation enacted by Congress, approved by other Administrations and consistently upheld in the courts, promote multiple uses of public lands where a mix of resource values are developed or maintained across the public estate. The provisions of the National Energy Policy ignore the multiple use mandate and propose to eliminate even the token balance between resource conservation and energy exploitation and substitute a dominant use for multiple use.

Certain special areas on our public lands are simply too wild to waste. These areas include our National Parks, National Monuments, National Wildlife Refuges, roadless areas, and lands with special values such as Wyoming's Red Desert, Montana's Rocky Mountain Front and Colorado's Vermillion Basin.

Well-planned, responsible development can balance our country's energy needs with the conservation of wildlife habitat and other natural treasures for future generation to enjoy. Responsible development requires thorough pre-leasing environmental review, full compliance with all environmental and land management laws, measures to protect wildlife migratory routes and other sensitive lands, full reclamation of developed areas once operations cease and minimization of road building.

Unfortunately, rather than encouraging a thoughtful, strategic and balanced approach to energy development, the Administration's National Energy Policy is recreating the chaos of the western gold rush of the 1800s. Like that archaic approach, these new tactics give no consideration for other users or resources. Like the old western gold rush, this new "western energy rush" will leave impoverished natural resources and cleanup as the legacies for future generations. I invite the members of this committee or their staff to come to Wyoming with me and visit Adobe Town, Jack Morrow Hills and other unique and valuable areas of the Red Desert to view these areas and the consequences of industrialization. I appreciate the Committee's interest in these critical issues and urge you to take action to ensure that we do not replicate the mistakes of the past and instead manage the public lands in the public interest not only for today but for tomorrow as well.

References

1. McGraw, P.O., T.M. Brown, M.W. Hager and B. Mears. Inventory of Significant Geologic Areas in the Wyoming Basin Natural Region, Prepared

- for U.S. National Park Service Under Contract # 9900X20047. Laramie, WY; Department of Geology, University of Wyoming. 1974.
2. Knight, D.H., R.J. Hill and A.T. Harrison. Potential Natural Landmarks in the Wyoming Basin: Terrestrial and Aquatic Ecosystems, Prepared for U.S. National Park Service Under Contract # 9900X20047. Laramie, WY; Department of Botany, University of Wyoming. 1974.
 3. Executive Order No. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," on May 18, 2001.
 4. Executive Order No. 13212, "Actions to Expedite Energy-Related Projects," on May 18, 2001.