

**Statement of  
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Before the  
House Natural Resources Committee  
Subcommittee on Energy and Mineral Resources  
Oversight Hearing on Implementation of Title III  
of the Energy Policy Act of 2005**

**April 17, 2007**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear here today to discuss the Department of the Interior's implementation of the Energy Policy Act of 2005 (EPAAct), in general, and the milestones and accomplishments the Bureau of Land Management (BLM) has achieved with respect to Title III, in specific.

Before I speak to the specifics of implementation of EPAAct, I would like to mention a high priority of Secretary Kempthorne, the Healthy Lands Initiative included in the President's FY 2008 budget. As activities on public land increase, we are seeing growing conflicts among recreation users, energy developers, hunters, ranchers, and others all competing to protect, access, and use these public lands. BLM will join with the U.S. Geological Survey and the Fish and Wildlife Service to identify, restore, and mitigate the potential impacts of increased energy production in wildlife-energy interface areas and potentially prevent the listing of certain species such as sage grouse.

The potential listing of sage grouse as an endangered species could severely constrain public land use, particularly for current and future energy production. The habitat of the sage grouse covers over 100 million acres. Interior's Healthy Lands Initiative includes \$22.0 million in new funds, which combined with existing program resources, will allow Interior to implement a strategic vision to protect and restore sage grouse habitat, maintain migratory corridors for other species, and assure continued access to energy. These investments will support new land use planning techniques and new policy tools that will complement current activities and enable us to work with non-Federal partners to restore and conserve habitat and maintain access for energy and other uses.

Focused on six strategic areas, these funds will transform land management from the current parcel by parcel approach to landscape-scale decision making, drawing upon partnerships and new policy tools to help BLM provide increased access for energy and other uses, while simultaneously preserving important habitat corridors and sites for the benefit of species. In 2008, including this increase, over 400,000 acres will be restored in partnership with Federal leaseholders, private landowners, state, local, and tribal governments – to benefit wildlife. The Healthy Lands Initiative includes \$15.0 million for BLM to conduct landscape-scale conservation, \$2.0 million for U.S. Fish and Wildlife Service, and \$5.0 million for USGS.

### **EPAct and Title III Implementation**

There is within the Department an Interior Energy Coordination Council (ECC), the stated purpose of which is to:

- coordinate the implementation of the EPAct throughout Interior;
- ensure the allocation of current efforts and resources are appropriately focused;
- ensure the timelines of EPAct are met;
- ensure that policy decisions are made promptly and in a coordinated manner; and
- ensure viability and consistency among the various interests within Interior and within the Administration.

The membership of the ECC, which continues today, includes all of the Assistant Secretaries and the Solicitor, with the Bureau and the Office Directors participating on an issue-by-issue basis. The ECC is chaired by the Senior Advisor to the Secretary. I am its lead coordinator. With this responsibility comes the leadership of the ECC Liaison Group, the senior career staff support group that deals with the day to day implementation of the EPAct and which identifies the cross-cutting issues needing resolution by the ECC. It is in this role that I appear before you today to report on both Interior's and the BLM's progress in implementing the EPAct.

The ECC identified 101 tasks mandated by the various provisions in the titles of EPAct. Of these, 57 have statutory due dates, with 44 due prior to today. Another 44 tasks have no

statutory due date. Interior has completed 65 of the mandated tasks, including three-quarters of those without statutory due dates. For example, in titles other than Title III, Interior has issued the joint hydropower licensing rules, established the technical advisory panel for the North Slope Science Initiative, established and implemented an Indian Energy Resource Development Program, submitted a plan to Congress for the National Geological and Geophysical Data Preservation Program, conducted an offshore oil and gas inventory as well as completed a number of reports. Interior continues to make great progress in completing the remaining tasks.

Because of the role the BLM plays in managing onshore energy development on the public lands, it was given a role to play in the implementation of 60 provisions of the EPAct; for 52 of those provisions the BLM was tasked as the lead agency. Of the 56 provisions within Title III in which Interior identified tasks, the BLM is involved in 34 of those and has the lead responsibility for 31 provisions and 33 tasks. Twenty of the provisions in Title III include statutory due dates, five of which are in the future; 14 have no statutory due date. BLM's success at completing its tasks is high. They have finished almost 70 percent of the tasks for which they are responsible, thus far, and three more tasks are expected to be completed in the next three months, bring their success rate to almost 80 percent. (*See attached chart*)

### **Highlights of BLM's Successes in Meeting Title III Requirements**

Among the many tasks required by Title III, there are three BLM efforts I would like to highlight: first, the pilot project to improve Federal permit coordination; second, best management practices (BMPs) for oil and gas development; and, third, the oil shale program.

#### ***Pilot Project to Improve Federal Permit Coordination, Section 365***

A significant EPAct implementation effort for the BLM has been establishing the Section 365 Pilot Project to Improve Federal Permit Coordination. On October 24, 2005, ahead of the 90-day timeframe in EPAct, the Environmental Protection Agency (EPA), the U.S. Department of Agriculture, and the Corps of Engineers and Interior signed an Interagency Memorandum of Understanding (MOU) to implement the oil and gas Pilot Offices. The Interagency MOU establishes the roles, responsibilities and delegations of authority among the federal agencies for

streamlining Application for Permit to Drill (APD) processing and Inspection and Enforcement (I&E) activities in the seven BLM Pilot Offices (in Rawlins, WY; Buffalo, WY; Miles City, MT; Farmington, NM; Carlsbad, NM; Grand Junction/Glenwood Springs, CO; and, Vernal, UT) identified in EAct.

The Minerals Management Service established a Treasury Account for the Permit Processing Improvement Fund for the Pilot Offices on November 1, 2005. The BLM completed fund transfers for six Forest Service positions, ten U.S. Fish and Wildlife Service positions, 3.5 Corps of Engineers positions, and one Bureau of Indian Affairs position for these agencies to support the Pilot Offices under the Interagency MOU – and the BLM is currently reviewing additional funding requests for additional positions for the Forest Service and the U.S. Fish and Wildlife Service for FY 2007.

In October 2005, the BLM began the recruitment process for an initial 105 positions to support the APD approval process and I&E activities.. Bureau-wide vacancy announcements for Petroleum Engineering Technicians and Natural Resource Specialists in the seven BLM Field Offices were issued on October 5 and October 7, 2005 respectively. Because the BLM Vernal Field Office noticed a substantial increase in APD workload during the first half of FY 06, it identified a need for additional positions to meet that workload demand. On June 9, 2006, BLM approved 11 additional BLM positions for the Vernal Pilot Office. Further, in February 2007, the BLM management approved another 34 BLM positions for the Pilot Offices. This increased the total number of approved BLM positions for the Pilot Offices to 150 positions. A total of 116 BLM Pilot Office positions have been filled to date. In addition, the BLM has hired seven contract positions to support the Pilot Offices.

With regard to staff from other federal and state agencies:

- All collateral duty Corps of Engineer positions (total of 3.5 FTE) are on board.
- The U.S. Fish and Wildlife Service positions in all of the offices have been filled.
- The Forest Service positions in Farmington, Buffalo, Vernal and Glenwood Springs have been filled. Under the terms of the MOU, the BLM and the Forest Service are cooperating closely to administer oil and gas development on lands managed by the

Forest Service. Particular attention is being given to improving communication and information-sharing, field reviews, and I&E activities. Furthermore, the BLM and Forest Service are ensuring increased cooperation concerning threatened and endangered species during project planning and implementation.

- The Bureau of Indian Affairs has agreed to fill a position in the BIA Gallup Regional Office and BLM signed the transfer of funds letter for the position on May 26, 2006. The BIA has designated an individual as a point of contact until the position is filled on a permanent basis.
- The BLM New Mexico State Office and the Bureau of Reclamation signed an Interagency Agreement for a Reclamation position in Carlsbad, New Mexico.
- An agreement on two positions with the New Mexico Oil and Gas Conservation Commission (Carlsbad and Farmington) was reached in mid August. The Oil and Gas Commission plans to use existing staff for the two positions, with a six month rotation for the staff in order to provide an opportunity for more staff to work directly with the BLM.
- The BLM Montana State Office and the Montana State Department of Environmental Quality (DEQ) signed an agreement on June 1, 2006, to fill one hydrologist position and one air quality specialist position in Miles City and one permitting position in Helena. The Montana DEQ permitting position in Helena has been filled. BLM Montana also has entered into an agreement with the Montana Department of Fish, Wildlife and Parks for a wildlife position in Miles City. Interviews for this position began in January 2007.
- The BLM Wyoming State Office has met with the State Game and Fish Department to discuss participation in the Pilot Project and is working with the State DEQ for a position in Buffalo and a position with the State Historic Preservation Office (SHPO) under a new statewide cultural resources protocol agreement.
- The BLM Utah State Office has had discussions with the State Division of Wildlife Resources and the SHPO regarding assistance in the Vernal Field Office.
- The BLM Colorado State Office has visited with the State Department of Natural Resources to discuss support to the Pilot Project.

Staffing at the pilot offices is nearly complete as the result of the BLM's planning and recruitment efforts, and the new staff are now engaged in intensive training. The number of

APDs submitted has risen steadily over the last three years - from 6,979 in 2004 to 8,351 in 2005 to 10,220 in 2006. BLM has been working hard to keep pace with the increase, processing 7,351 APDs in 2004, 7,736 in 2005, and 8,854 in 2006 and approving 6,452 APDs in 2004, 7,018 in 2005, and 7,743 in 2006. With regard to I&E, since 2001, the number of inspections completed increased from 12,785 to 16,967. With the recent staffing efforts, the BLM anticipates that both APD and I&E outputs will increase further during this fiscal year

The BLM, through the Interior's National Business Center, contracted with Booz Allen Hamilton on December 22, 2005, to assist in the review and reporting of implementation and performance of the Pilot Office streamlining efforts over a 3-year period. An initial contract meeting with Booz Allen Hamilton was held on January 10, 2006 in Denver. The contractor worked with BLM in the development and tracking of performance measures for the Pilot Offices, the preparation of site visit reports, and a 1-year progress report.

***Management of Federal Oil and Gas Leasing Programs, Section 362(b) -- Best Management Practices (BMP)***

In order to improve the administration of the onshore oil and gas program, the BLM and the Forest Service have developed and implemented BMP. The BLM has updated the Gold Book of "Surface Operating Standards and Guidelines for O&G Exploration and Development" and posted the update on September 28, 2005, on the BLM Best Management Practices webpage at [www.blm.gov/bmp](http://www.blm.gov/bmp). The BLM also issued Instruction Memorandum No. 2005-069 on February 1, 2005, that established offsite compensatory mitigation guidelines for oil and gas authorizations, to provide additional opportunities to address impacts of proposed projects. The BLM further issued Instructional Memorandum No. 2006-071 on January 19, 2006, that established oil and gas process improvement teams in BLM Field Offices. Furthermore, the BLM issued Instructional Memorandum No. 2006-206 on August 3, 2006, that provided guidance on the review of bonding requirements for oil and gas operations.

The BLM continually seeks new ways to minimize, mitigate, or compensate for any adverse impacts from development activities. Innovation of the type envisioned in EPAct is already underway at the BLM. For example, BLM is:

- initiating a pilot block survey in the Carlsbad Pilot Office to identify cultural resource properties in the area;
- evaluating an experimental drilling technique proposed by the operator in the Jonah Field in Wyoming using temporary wooden pallets for roads and well pads to determine if this technology reduces impacts to surface vegetation and soil; and
- incorporating advanced technologies and environmental Best Management Practices, such as drilling multiple wells from a single location, centralizing production facilities or relocating them offsite. For example, in the Pinedale area of Wyoming, 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. As a consequence, the BLM has achieved an overall reduction in the footprint of development involved in winter drilling projects in the Pinedale Anticline relative to what would otherwise have resulted.

Some of the recently developed land use plans have been among the most restrictive ever developed for oil and gas leasing on Federal lands. The BLM's land use planning process seeks to ensure that domestic oil and gas development on public lands is done in a way that protects the environment.

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 2006, the BLM 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. The BLM believes that offsite mitigation can potentially become an increasingly useful tool for improving habitats adjacent to certain natural gas development areas.

***Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels, Section 369***

In section 369 of EPLA, Congress declared that it is the policy of the United States that oil shale, tar sands, and other unconventional fuels are strategically important domestic resources. Under that section, the Secretary of the Interior is required to make available for leasing lands necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sand resources on public lands in Colorado, Utah, and Wyoming. In addition, the Secretary is also required to develop a program for the commercial leasing of oil shale and tar sands resources on public lands.

The BLM published a call for nominations for 160-acre Research, Development and Demonstration (RD&D) oil shale leases on public lands in Colorado, Utah, and Wyoming in the Federal Register on June 9, 2005. It received 20 nominations for RD&D leases. After review of the nominations, eight were further evaluated and six proposals were selected. Five of the selected nominations were for lands in Colorado, and the other selected nomination was for lands in Utah.

The BLM Colorado and Utah State Offices worked with each of these proposals to complete the NEPA review process, which included opportunities for public input. Public open houses were held in Rangely (March 28, 2006), Meeker (March 30, 2006), Rifle (April 4, 2006), and Grand Junction, Colorado (April 6, 2006) as part of the public comment process.

The preliminary Environmental Assessment for the one proposal in Colorado was released on July 28, 2006, for a 30-day public review. The preliminary Environmental Assessments for the remaining Colorado proposals were released on August 15, 2006. The preliminary Environmental Assessment for the Utah proposal was released on September 18, 2006, for a 30-day public review period. The final Environmental Assessments for the Colorado proposals were completed on November 9, 2006. The Colorado leases were executed on December 15, 2006. The final Environmental Assessment and decision record for the Utah proposal is currently being reviewed by the BLM Washington Office.

The BLM engaged in a number of other activities with respect to oil shale.



- A 90-day report to Congress was provided on December 6, 2005, that discussed the status of implementation actions to: 1) promulgate regulations; 2) to prepare a Programmatic Oil Shale/Tar Sands Leasing EIS; and 3) to develop a leasing program.
- On August 25, 2006, the BLM published an Advance Notice of Proposed Rulemaking in the Federal Register to solicit public comment on royalty rates, due diligence, and other provisions of the oil shale regulations. On September 26, 2006, the Advance Notice was reopened and extended to October 26, 2006 for additional public comment.
- The states of Colorado, Utah and Wyoming requested an opportunity to provide input on preparation of the oil shale regulations. A listening session was held with these States on December 14, 2006, in Denver to provide this opportunity. Another listening session is scheduled for April 26, 2007, in Salt Lake City.
- The Federal Register Notice of Intent for the EIS was published in the Federal Register on December 13, 2005, and the Draft EIS is currently scheduled for release late in the summer of 2007.
- Finally, Argonne National Laboratory was selected as the contractor to prepare the Programmatic EIS required by Section 369(d) of EPAct.

## **Conclusion**

Mr. Chairman, thank you for the opportunity to testify today. I hope my remarks have illustrated the careful diligence with which Interior and the BLM are engaged in EPAct implementation, and the efforts that we have made to encourage public participation and solicit public input at every turn. This concludes my prepared remarks. I would be happy to respond to questions you may have.