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BEFORE THE SENATE COMMITTEE
ON ENVIRONMENT AND PUBLIC WORKS
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My name is Stephen Bloch and I am a staff attorney for the Southern Utah Wilderness Alliance (SUWA). SUWA is a non-profit organization with over 15,000 members in all fifty states. SUWA's mission is the preservation of the outstanding wilderness at the heart of the Colorado Plateau, and the management of these lands in their natural state for the benefit of all Americans. SUWA promotes local and national recognition of the region's unique character through research and public education; supports both administrative and legislative initiatives to permanently protect Utah's wild places within the National Wilderness Preservation System or by other protective designations where appropriate; builds support for such initiatives on both the local and national level; and provides leadership within the conservation movement through uncompromising advocacy for wilderness preservation.

SUWA is a founding member of the Utah Wilderness Coalition, a group of 240 national, regional, and local organizations that advocates for the passage of America's Redrock Wilderness Act (ARWA) (S. 639/H.R. 1796) and the designation of roughly 9 million acres of Utah's stunning Bureau of Land Management (BLM) lands as Wilderness.

I appreciate the opportunity to testify today regarding the environmental impacts of natural gas leasing, exploration, and development. Because SUWA's mission focuses solely on protecting and preserving public lands and resources in Utah, my testimony will address natural gas issues on Utah's public lands, and in particular the lands managed by the BLM.

A close review of the undiscovered natural gas resources on the BLM lands in Utah proposed for wilderness designation in America's Redrock Wilderness Act reveals that drilling these lands will have an absolutely insignificant impact on the price of natural gas. A balanced approach of energy conservation, resource extraction, and public land protections, however, will ensure that our country has both the natural gas and intact wild places it needs for sustained growth, security, and sustainability. This is precisely the approach advocated by SUWA and the conservation community.

Developing Utah's Wild Places Would Produce Only Insignificant Amounts of Natural Gas

According to the Department of Energy (DOE), over 13,500 wells have been drilled since oil and gas exploration and development first began in earnest in Utah in the 1940s, and as of October 2003 the total gas production had been 7.65 TCF (trillion cubic feet). *See* Mark Lemkin, *An Analysis of Utah Oil and Gas Production, Leasing, and Future Resources* (2003) (Lemkin), at 1 (citing Utah Geologic Survey and DOE sources). Put in a broader context, the total gas extracted in Utah since the 1940s would supply the country with natural gas for just over four months at current national consumption levels. *Id.*

A closer look at DOE figures on Utah's recent annual gas production – a level which is consistent

with production from the past several years – indicates that the state produced 273 BCF (billion cubic feet) of natural gas. This is not even enough natural gas to supply the country for 5 days.

An analysis of information compiled by DOE, the United States Geological Survey (USGS), and the State of Utah's Division of Oil, Gas, and Mining (UDOGM) indicates that approximately 95% of gas and oil production in Utah both historically and more recently between 2001-03 has come from seven "hot spots." *See* Exhibits 1 and 2 (Lemkin, Figure 3, Location of principal areas of oil and gas production in Utah and Figure 5, Location of principal areas of oil and gas production in Utah: 2001 to present).[1] None of these areas are proposed for wilderness designation in America's Redrock Wilderness Act. *See id.* (illustrating areas of production and BLM lands proposed for wilderness).

According to DOE, the entire state of Utah has proven gas reserves of 4.6 TCF (or 2.5% of U.S. proven gas reserves). Using the USGS's own methods for predicting Utah's statewide inferred reserves (a figure that must be estimated because it is not publicly available), another 6.1 TCF of gas may be extracted from within or immediately adjacent to existing fields. Finally, according to USGS, Utah may have as much as 15,668 BCF of gas that is technically recoverable undiscovered resources.[2]

An analysis of the most current USGS data estimates that the technically recoverable undiscovered natural gas resources within America's Redrock Wilderness Act amounts to 1495 BCF, or less than 4 four weeks of natural gas at current consumption levels. Lemkin, at 4.

If the more appropriate economically recoverable screen were applied, this 1495 BCF figure would no doubt be much less because of these lands' relatively remote location and lack of infrastructure, as well as non-market costs, including the loss of wildlife habitat, water quality, and wilderness values.[3]

In sum, even if we sacrifice one of America's crown jewels – Utah's redrock wilderness – we cannot meaningfully reduce the price of natural gas. Instead, a sound national energy policy that emphasizes conservation and renewable energy sources, hand-in-hand with environmentally sensitive natural gas exploration, is a better approach to stabilizing natural gas prices. *See* Natural Resources Defense Council, *Managing America's Natural Gas "Crisis"*(2004), available on-line at www.nrdc.org/air/energy/fnatgas.asp; Union of Concerned Scientists, *Renewable Energy Can Help Ease Natural Gas Crunch* (2004), available on-line at www.ucusa.org/clean_energy.

SUWA Advocates A Balanced Approach To The Protection of Utah's Wild Places and Gas Development

The sacrifice of Utah's BLM wilderness quality lands to industrial development will only provide the country with a few weeks of natural gas, estimated at 1495 BCF. There is little question, however, that exploration and development will leave lasting scars on this magnificent landscape, including: the fragmentation of wildlife habitat, long term damage fragile desert soils (estimated by USGS at between 50-300 years),[4] and the loss of wilderness values (*i.e.*, outstanding solitude, including things such as night skies and irreplaceable quiet). *See* Exhibits 3 and 4 (Exhibit 3 – sludge pit at Long Canyon well outside Moab, Utah; Exhibit 4 – seismic truck in Yellow Cat seismic project area near Arches National Park).[5] Quite simply, once these lands are gone, they are gone forever and thus future leasing and development of these should be prohibited.[6]

Far from advocating a broad "no lease/no drill" policy, SUWA and the conservation community are extremely selective about filing administrative or legal challenges to gas exploration or development projects in Utah, and throughout the intermountain west. An analysis by the Natural Resources Defense Council (NRDC) revealed that these figures are representative for the number of legal challenges to gas and oil related projects throughout the intermountain west. NRDC, *Managing America's Natural Gas "Crisis*," at 3. For example, conservationists appealed or litigated only 0.2% of the APDs approved by the BLM between 2001-2002, and only 5% of the leases issued by BLM from the beginning of FY 2001 to the end of FY 2003. The conservation community will continue to closely monitor mineral leasing and development for full compliance with federal environmental and preservation laws, and will continue to challenge BLM decisions that flaunt these laws, and thus put sensitive resources at risk.

In Utah, the vast majority of these legal challenges have been brought because the action threatened lands proposed for wilderness designation (either citizen proposed or existing WSAs). For example, between January 2000 and March 2004, there were over 3200 APDs approved in Utah; conservationists challenged fewer than ½ of 1 percent of these drill projects. Thus, legal challenges are clearly not an impediment to gas development and production.

Likewise, between 2000-2004, the BLM approved ten seismic exploration projects proposed in eastern Utah. SUWA challenged four of the projects in federal court and before the Interior Board of Land Appeals (IBLA) because they threatened to damage wilderness quality lands. *See* Map, *Seismic Exploration in the Heart of Redrock Country* (2004), attached as Exhibit 5. SUWA prevailed on one of these four challenges, and is appealing a second. [7]

The balanced approach advocated by SUWA and others of permitting gas exploration and development in less sensitive public lands, and in full compliance with federal environmental laws, will secure both continued natural gas production and the protection of our country's irreplaceable national heritage.

The Bush Administration is Creating Conflict By Flaunting Environmental Laws

Since 2001, this Administration has misled the American public by focusing the Nation's attention and imagination on drilling and developing natural gas and oil resources on the country's few remaining wild places as a means of achieving energy independence. To the contrary, the development of Utah's wilderness quality and roadless lands will not produce any meaningful amount of natural gas.

First, President Bush issued Executive Order 13212 in May 2001, which required federal land management agencies to expedite their review of gas and exploration permits and thus accelerate completion of energy projects. Second, and at about the same time the Administration released the National Energy Plan (NEP), which required, among other things, the opening of more western public lands to gas and oil drilling. Neither of these policies provide for a thoughtful, measured approach to ensuring a continued supply of natural, while at the same time protecting and preserving our treasured wild places and resources.

In response to the NEP, the BLM identified 40 tasks to implement the NEPA, including establishment of a charter team to evaluate bottlenecks and to streamline methods to expedite the agency's processing of applications for permit to drill (APDs). *See* BLM Information Bulletin 2001-138, *Status of Bureau of Land Management's National Energy Policy Implementation Plan* (Aug. 15, 2001). After an on-site review from the BLM's Washington, D.C. headquarters office in the summer of 2001, Utah BLM staff were told in no uncertain terms that gas and oil leasing and the issuance of new APDs were their "No. 1 priority," and that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq*., and wilderness reviews were the primary reason for unacceptable delays:

> The purpose of the subject review is to improve the oil and gas program in Utah. The review team believes the oil and gas program should be a high priority program in Utah. Utah management should work with Washington to acquire whatever resources are necessary to reduce oil and gas leasing delays and drilling backlogs.
>
> The leasing delays and APD backlogs are created by the people responsible for performing the wilderness reviews and NEPA analysis. Utah needs to ensure that existing staff understand that when an oil and gas lease parcel or when an APD comes in the door, that this work is their No. 1 priority.

Information Bulletin UT 2002-008, *Oil and Gas Program Review Final Report* (January 4, 2002) (emphasis added).

In addition, the BLM has produced a series of agency Instruction Memoranda and Information Bulletins that have implemented the Administration's call for the easing of restrictions on leasing and development of the public lands. In July 2003, the BLM's Washington office issued an Instruction Memorandum which revealed that the agency was abandoning its Congressionally mandated multiple use mission for the promotion of a single resource – oil and gas. Instruction Memorandum 2003-233, *Integration of the Energy Policy and Conservation Act (EPCA) Results into the Land Use Planning* Process (July 28, 2003). This internal agency document made clear that the BLM would "eliminate" protective special lease stipulations (*i.e.*, timing of operations stipulations designed to protect critical wildlife winter habitat) that were deemed "duplicative" *Id.* At the same time, the Instruction Memorandum directed agency staff to use unenforceable "lease notices," in lieu of protective special lease stipulations whenever possible and to use the "least restrictive" mitigation necessary to protect sensitive resources *Id.* at Attachment 3-3.

Most recently, in February 2004, the BLM's Washington, D.C. office issued guidance making it even more difficult for State Directors to defer leasing the most sensitive public lands for gas development, even when the agency has been presented with significant new information – never before considered by BLM – about those very same lands. Instruction Memorandum 2004-110, *Fluid Mineral Leasing and Related Planning and National Environmental Policy Act (NEPA) Processes* (Feb. 23, 2004).

> It is Bureau policy that a decision not to implement oil and gas or geothermal leasing decisions, as contained in current [land use plans] must be made by the State Director with appropriate input from the affected Field Manager. The State Director must provide a letter to those who submitted the expression of interest for the tract, stating the reasons for not offering the parcel(s), the factors considered in reaching that decision, and approximate date when analysis of new information bearing on the leasing decision is anticipated to be completed and when a decision to lease (or amend the plan) is expected to be made.

Id. This guidance turns well established caselaw regarding the Interior Department's broad discretion whether to offer federal oil and gas leases on its head, and places the burden on an already overextended agency to explain to industry why it is not offering lands for lease. *See Marathon Oil Co. v. Babbitt*, 966 F. Supp. 1024 (D. Colo. 1997), *aff'd* 166 F.3d 1221 (10th Cir. 1999). The Department has imposed no similar obligation or additional workload requirement regarding any other type of public resource such as wilderness, wildlife habitat, and water quality.

Finally, in April 2003, the Administration eased the way for the leasing and development of the country's wildest BLM lands when Secretary of the Interior Gale Norton settled a long moribund lawsuit with then Utah Governor Michael Leavitt (now EPA Administrator), which asserted, among other things, the novel position that the BLM lacks the authority to establish new wilderness study areas (WSAs) after 1993. *See State of Utah v. Norton*, 2:97CV479, Stipulation and Joint Motion to Enter Order Approving Settlement

and to Dismiss Third Amended and Supplemented Complaint (April 11, 2003).[8] In the wake of this settlement, the BLM has halted consideration of public lands with wilderness character from becoming WSAs and, tragically, has targeted these same wilderness quality lands for mineral leasing.[9] A coalition of eleven national and regional conservation organizations, including SUWA, have challenged the settlement order in federal court.

As noted above, a review of where the natural gas resources lie in Utah confirms that the Administration's focus on easing restrictions to lease and develop the state's BLM wilderness quality lands is unsound. As USGS and DOE own figures confirm, a continued emphasis on leasing and producing from established areas of production and their inferred reserves will produce vastly more gas and oil than will the development of these wilderness quality lands. Indeed, it is the Administration's persistent efforts to lease and develop these wild lands that has created much of the perceived and unnecessary "conflict" between resource extraction and preservation.

For example, in November 2003 and February 2004, Utah BLM – under the direct supervision of BLM's Washington, D.C. office, offered and sold 26 oil and gas leases in lands that the BLM itself recognizes as having wilderness character. According to USGS and DOE data, these leases – if ever fully developed and brought on-line – would produce absolutely insignificant amount of natural gas. These wilderness quality lands, however, would be scarred with drill pads, access roads, pipelines, sludge pits, and other by-products that development brings with it.

Moreover, in its rush to lease Utah's wilderness quality lands, the BLM is flaunting NEPA's mandate that the agency "think first, then act," by refusing to fully analyze the impacts of leasing, exploration, development, and reclamation before it engages in an irretrievable commitment of resources – the sale of an oil and gas lease. The BLM is also ignoring NEPA's requirement that the agency take a "hard look" at its own new information about the wilderness values of these lands – information that it has never before considered. SUWA, the Natural Resources Defense Council, and The Wilderness Society have challenged Utah BLM's sale of wilderness quality lands at its November 2003 lease sale.

Nevertheless, there is certainly no shortage of public lands throughout the west that have already been leased and thus are available for development. According to BLM, there are currently over 42,000,000 acres of onshore federal lands under lease across the country. In addition, a 2003 report from BLM indicates that only 11,000,000 acres of federal leases – less than one-third of the total acreage of leased lands – were actually in production in 2003. *See Public Rewards from Public Lands*, Bureau of Land Management (2003). *See also* Exhibit 6 (Lemkin, Figure 7, Current lease and production status [in Utah]). Finally, the Interior Department itself acknowledges that roughly 88% of federal gas resources in the Rocky Mountain region are already available for leasing and development. *See* Statement of Rebecca Watson, Assistant Secretary for Lands and Minerals Management, Oversight Hearing on "The Energy Policy and Conservation Act Inventory," House Resources Subcommittee on Energy and Mineral Resources (June 24, 2003).

Conclusion

In sum, the current high prices for natural gas cannot reasonably be attributed to "impediments and restrictions" to federal natural gas resources as alleged by industry advocates and the Administration. Moreover, the data shows that attempts to exploit the minimal gas resources beneath Utah's wilderness quality BLM lands will damage priceless wilderness treasures with little corresponding benefit to the public. Based on my experiences in Utah, I believe that the enforcement of existing environmental laws and regulations have not posed any serious impediment to gas development.

Thank you again for the opportunity to testify on these important issues.

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[1] *See* Lemkin, at 2-3 (noting that wells drilled outside these seven areas are "six times more likely to be dry, and have an expected production level less than one-tenth that of wells drilled inside" of the seven hot spots).

[2] The use of "technically recoverable" versus "economically recoverable" undiscovered resources has been heavily criticized because it ignores market (transportation, infrastructure, etc.) and non-market (wildlife, wilderness values, etc.) costs, and thus overemphasizes the amount of reserves. *See* The Wilderness Society, *Energy & Western Wildlands, A GIS Analysis of Economically Recoverable Oil and Gas* (2002). The USGS estimates that less than 20% of technically recoverable gas is economically recoverable in the intermountain west. *Id.* at 17.

[3] According to The Wilderness Society, the amount of economically recoverable undiscovered natural gas resources in Utah's Forest Service roadless lands is between 182-295 BCF, or between three to five days at current national consumption levels. The Wilderness Society, *Estimates of Economically Recoverable Gas and Oil on National Forest Roadless Areas in Utah on the USGS Low and High Price Scenarios*. This analysis, and an analysis of other western states roadless areas is available at The Wilderness Society's webpage: www.wilderness.org/standbylands/roadless/.

[4] *See* Biological Soil Crusts: Ecology and Management, U.S. Department of the Interior, BLM Technical Reference 1730-2 (2001).

[5] *See* The Wilderness Society, *Fragmenting Out Lands: The Ecological Footprint from Oil and Gas Development* (2002).

[6] Existing leaseholders, of course, would be allowed to proceed with development, but only in the most environmentally sensitive manner.

[7] In *Southern Utah Wilderness Alliance v. Norton*, 237 F. Supp.2d 48, 52 (D.D.C. 2002), federal district judge James Robertson admonished BLM for its hurried decision to approve a seismic exploration project on the doorstep of Arches National Park: "What does appear from this record is a sense that the agency (a) was in hurry to approve the Yellow Cat Swath [seismic] project and (b) considered the damage that would be done by the [seismic] trucks relatively insignificant." The BLM did not appeal this decision.

[8] In 1999, Utah BLM completed its wilderness "re-inventory" of over 3 million acres of public lands and concluded that over 2.6 million acres of those lands had wilderness character. *See* Utah Wilderness Inventory, Bureau of Land Management, at xiv-xv (1999). These lands, identified as "wilderness inventory areas" or "WIAs" were to have been studied in an environmental impact statement for designation as wilderness study areas. This analysis never took place.

[9] The Settlement Agreement also required that the BLM rescind its Wilderness Inventory Handbook (WIH) – a vehicle for the public to bring new information about undesignated wilderness quality lands to the BLM's attention - and other guidance which explained that the BLM's work of protecting currently undesignated wilderness quality lands was not yet finished. *See also* Instruction Memorandum 2003-195, *Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning* (June 23, 2003).