

Statement of Peggy Utesch  
Western Organization of Resource Councils  
Western Colorado Congress

House Committee on Natural Resources  
Subcommittee on Energy and Mineral Resources  
Subcommittee on National Parks, Forests and Public Land

Hearing on "Land-Use Issues Associated with Onshore Oil and Gas Leasing Development"

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My name is Peggy Utesch. I am a Colorado landowner who lived for four years in and around natural gas drilling in the Piceance Basin. During that time, I worked hard to expose illegal and unethical industry practices, with the intention of improving the system. In 2005, I spearheaded a collaborative project that brought a drilling company together with a rural community. The resulting agreement - called the Rifle, Silt, New Castle Community Development Plan - has been endorsed by Senator Ken Salazar as a new model for how industry and communities can work together.

I am here today representing the Western Organization of Resource Councils (WORC) and the Western Colorado Congress, two non-profit organizations that have worked proactively for responsible energy development in the West for nearly 30 years. WORC is a network of grassroots organizations from seven western states that include 9,700 members and 44 local community groups. About a third of WORC's members are family farmers and ranchers, many of whom are directly impacted by oil and gas development. Western Colorado Congress is an alliance for community action made up of eight chapters and over 3,200 members on the Western Slope of Colorado.

The Rocky Mountain West has become the nation's new center for natural gas production. The scale of development is unprecedented, with the number of wells being drilled doubling annually in some areas. This energy boom affects public and private lands; water, soil and air quality; agriculture, quality of life; property values; wildlife habitat; local economies and health.

Congress and the Bush Administration have facilitated this boom by offering energy companies tax breaks, easing regulations and directing the Bureau of Land Management (BLM) to issue more permits at a faster pace. Although industry complained a few years ago that the permitting process was too slow, they now sit on more leases than they can drill with a year's time.

Mr. Chairmen, I'm here to tell you that this emphasis on production has come at a great cost. It undermines the BLM's inspection and enforcement responsibilities and sends the message that drilling should not be slowed for any reason and human beings are simply collateral damage. Taking the time to listen to substantive public concerns, mitigate drilling impacts and ensure that we have enough inspectors and an adequate bonding system are viewed by the current system as unacceptable delays.

In this climate, the industry has no incentive to operate responsibly and, to no one's surprise, it is not doing so. I know. In Garfield County, where I live, there are over 50 drilling rigs operating full-time. Over 18,000 wells were permitted in 2006 alone. Within three years, more than 30 natural gas wells were drilled within a mile of my home, and I lived with the consequences of an oversight system that is inadequate. The single largest accident in Colorado history, happened three miles from my home.

Due to faulty well-bore cementing, 115 million cubic feet of gas were released underground. The gas leaked to the surface and sickened ranch families and livestock, as well as contaminating water wells and West Divide Creek. The accident could have been prevented.

Today I'm here to outline specific problems and propose solutions in two areas:

- 1) reclamation bonding; and
- 2) oversight inspections.

The state and federal bonding and reclamation systems have not changed since 1960, even though gas production has changed significantly. During the last 45 years, well pad spacing has been reduced from one well pad per 640 acres to one per ten acres in some areas, and the rise of coal bed methane development has brought impacts on a scale that was previously unimaginable. Twelve to fifteen years ago, some of the technologies that are making this boom possible didn't even exist.

The current bonding system allows operators to post state or national blanket bonds that cover their operations whether they drill 30 wells or 3,000. The minimum federal bond amounts are \$10,000 per lease, \$25,000 covering all of a company's leases statewide, or \$150,000 covering all of a company's leases nationwide. Although the BLM has the authority to require higher bonds, they rarely do, and still in those cases, the amounts fall far short of the what is necessary to repair the unprecedented level of disturbance we are seeing on the ground today. Unlike coal and hard rock mining industry bonds, the BLM does not require bonding at the true cost of reclamation for oil and gas operators.

In 2005 WORC asked the professional engineering firm of Kuipers and Associates to investigate the adequacy of the bonding and reclamation system. The findings are contained in a report called "Filling the Gaps." In general, it was found that land management agencies are not balancing booming energy development with protecting taxpayers, landowners, local economies and natural resources:

1. In Colorado in 2005, EnCana Oil and Gas had 3,652 wells covered by federal bonds of \$300,000 and a state bond of \$235,000, or \$146 per well.
2. In Montana, Fidelity Exploration and Production Company operated 571 wells under a federal blanket bond of \$220,000 or \$736 per well.

How can we believe that removal of equipment, re-vegetation of drilling sites and reclamation of roads and pipeline corridors can be accomplished for these insignificant amounts? Environmental engineers have estimated the bond shortfalls for these projects and others amount to hundreds of thousands at each site, and in some cases several million.

The BLM and the State of Wyoming estimated in 2004 that it will cost \$4 million dollars to reclaim 120 well sites that were abandoned by Emerald Restoration and Production in 2001. The state's blanket bond of \$125,000 didn't begin to touch the actual cost. The Wyoming Conservation Fund contributed \$2.6 million dollars to fund the state of Wyoming's share of this reclamation effort. For the 64 wells on federal land that will cost an estimated \$1.4 million to clean up, the only funding available is the \$25,000 federal bond. The rest will be paid by taxpayers or the cleanup will not happen.

We are looking at the tip of an iceberg called taxpayer liability if this problem is not addressed. Under the current administration, the Department of Interior has refused to finalize a rulemaking effort begun during the Clinton Administration that would have raised the minimum bond amounts and have also rejected a rulemaking initiative proposed by WORC.

If the federal oil and gas bonding program is going to be fixed in the next few years, Congress will have to do it. Here is what WORC recommends:

- Require site-specific reclamation plans;

- Improve the reclamation performance standards for the oil and gas industry to be consistent with other extractive industries, such as coal;
- Abolish or substantively update the blanket bond system;
- Base financial assurance on estimates from professional engineers and cover the full cost of reclamation; and
- Require that reclamation plans and bond amounts be reviewed and updated annually.

Passing Representative Udall's bill, HR 1180, would be a great first step toward meeting these goals.

Also in need of updating is the inspection and enforcement system, which is under-staffed and outdated, as documented by WORC's 2005 report called "Law and Order in the Oil and Gas Fields." The report finds that:

1. The BLM has made improvements to its Inspection and Enforcement program since 1998, but those improvements have targeted production rather than environmental compliance inspections;
2. The number of BLM inspections had not significantly increased while drilling activities have exploded -- more than doubling in some states each year from FY2000 to FY2003;
3. In 2003, environmental compliance inspectors spend an average of only 15% of their time completing inspection and enforcement activities, in large part because they were being diverted to permitting activities;
4. The 6 BLM Offices studied were responsible for 79% of active oil and gas wells on BLM lands nationwide in 2003, yet they only employed 26% of all inspection staff; and
5. Based on 2003 staffing and inspection levels, BLM inspectors inspect active wells only once every 2-10 years on average. Environmental compliance inspections are only completed every 4-49 years on average.

While the number of inspectors and inspection activities has increased significantly since 2003, the BLM has not provided the hard data requested by WORC under the Freedom of Information Act on this issue. We do not yet know, for example, whether the inspections being conducted are environmental compliance inspections or production inspections, and we have not verified whether they are keeping up with the continuing explosive increases in the number of wells. In Colorado where I live, several of the BLM's newly created environmental inspection positions remain unfilled, while additional staff positions to facilitate permitting were hired immediately.

What can we do to make it better? For starters, I urge members of these Subcommittees, in particular, to closely watch what BLM is doing on inspections and enforcement and ensure that environmental compliance is getting the long-overdue resources and attention that are so greatly needed. We also recommend:

1. Increasing inspection staff to keep pace with the rapid growth of the industry;
2. Filling newly created positions;
3. Don't rely on industry self-reporting as a compliance strategy;
4. Requiring regular reviews of environmental inspection programs for accuracy and adequacy;
5. Developing standardized compliance checklists; and

6. Repealing the 30-day permitting timeframe in Section 366 of the Energy Policy Act.

In closing, consumers are getting hit hard by rising energy prices. Don't make them pay again as taxpayers for the failures of an outdated regulatory system.

Throughout its history, Colorado has been through resource booms that have left us with a legacy of scarred landscapes, polluted streams and a tax burden for future generations to clean up the mess. If we are to avoid repeating this history, the federal government must play an active role in protecting our environment while permitting the extraction of resources that are so vital to our nation. The choice you are making is not for a safe and clean environment or energy extraction. We can and should have both.

Thank you for your time and the opportunity to testify.