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Testimony on *"Effects of the President's FY-2013 Budget and Legislative Proposals for the Bureau of Land Management and the U.S. Forest Service Energy and Minerals on Private Sector Job Creation, Domestic Energy and Minerals Production and Deficit Reduction."*

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Mr. Chairman:

Thank you for the opportunity to testify before the House Natural Resources Committee, Subcommittee on Energy and Mineral Resources. My name is Whit Fosburgh, and I am the president and CEO of the Theodore Roosevelt Conservation Partnership, a national non-profit conservation organization (501-3c) that is dedicated to guaranteeing every American places to hunt or fish. I am also here on behalf of Sportsmen for Responsible Energy Development, a coalition of more than 500 businesses, organizations and individuals dedicated to conserving irreplaceable habitats so future generations can hunt and fish on public lands. The coalition is led by the Theodore Roosevelt Conservation Partnership, Trout Unlimited and the National Wildlife Federation.

As a lifetime hunter and angler and a long-time professional in the conservation field with experience at numerous levels of government and non-governmental organizations, I am honored to provide comments on the important issue of energy development and its potential impacts on fish, wildlife and sportsmen. The quality of life in this nation, one enjoyed by sportsmen and non-sportsmen alike, depends on a sound economy fueled in part by responsible energy production that is balanced with the needs of fish, wildlife, habitat and water.

The TRCP and the sportsmen's community support responsible energy development. We understand and appreciate the need for exploration and production of our domestic energy resources but maintain it must be done responsibly and in a way that conserves and sustains other values (such as fish and wildlife, clean water, and recreation) with those of energy production. America needs the raw materials provided on western public lands and the jobs supported by these activities are important contributors to the western economy. Likewise, jobs and economic benefits dependent on fish, wildlife and the West's outstanding scenery and recreation values have provided steady growth and are also important – but often overlooked – contributors to the wealth of the region and the country. Recognizing that both energy production and fish and wildlife resources are valuable, and that they often can occur in the same locations, it is important to strike a proper and sustainable balance. We advocate true multiple use and sustained yield of public-lands resources as mandated in federal laws, including energy production, while maintaining a fish and wildlife conservation legacy for this and future generations.

The reforms to the onshore oil and gas program announced by Secretary Salazar in 2010 and beginning to be implemented now represent positive steps in restoring recognition of the fish and wildlife values on public lands. We agree with the Secretary that more can be done at the land use planning and leasing stages to address protection of fish, wildlife, water and recreation and that this will result in less conflict and better conservation of multiple-use values on public lands. It will also provide more certainty for industry during the development of our public land energy resources and for sportsmen who depend on

the availability of public lands and the vital habitat these lands provide. Finally, we believe that federal land management and fish and wildlife agencies need adequate budgets to manage fish and wildlife resources and that drastic cuts are not acceptable. Federal budgets for fish and wildlife programs have been neglected for decades and remain inadequate. Further budget cuts would cause irreparable harm. We support increased funding for implementation of leasing reform and higher royalty rates. We also support commensurate increases in fish and wildlife budgets to handle the additional workload and resource needs in order to properly evaluate and process the increase in energy interest in public lands. Having given an overview of our position I will discuss some of these issues in detail.

Public lands are held in trust for the American people and must be managed to meet the multiple needs of the citizenry – today and in the future. Access to public lands for private energy development is a privilege not a right. The American public expects federal land managers to require that energy development is conducted in a responsible manner that ensures the long-term conservation of fish and wildlife. Polls consistently show that public-lands users want the federal government to do more to protect fish and wildlife during energy development, not less. These polling results have been constant regardless of energy prices and the fiscal recession our country has experienced. In 2007, the TRCP commissioned a poll of public-lands users: 85 percent wanted more protection for fish and wildlife during energy development. Polls executed after the recession and high gasoline prices in 2008 showed similar results. A poll commissioned by Trout Unlimited and Sportsmen for Responsible Energy Development showed that 75 percent of respondents wanted more protections for fish and wildlife on public lands during energy development and 85 percent opposed limiting or eliminating the ability for the public to be involved during energy development planning and permitting. A poll done last year by Public Opinion Strategies and FM3 (a Republican and a Democratic polling company) showed that 77 percent of respondents wanted stronger laws and enforcement for fish and wildlife protection rather than lessening restrictions (this is up from 74 percent in 2009). Clearly the American public and public-lands users and sportsmen want more to be done for fish and wildlife, even after experiencing serious pain at the gas pump and through the hardest financial times since the Great Depression.

During the energy boom that began in the late 1990s, energy development practices and policies on public lands diverged with the principles of multiple use and sustained yield and the expressed values of sportsmen and other public-lands users. In order to meet industry demands for leases and permits, fish and wildlife often were treated by federal land managers as an impediment to development rather than a valuable resource to be managed in tandem with development. The 2005 Energy Policy Act (EPAct) further prioritized energy development over other resources and concerns through the establishment of pilot offices in seven BLM offices for the purpose of expediting permits for drilling, and the establishment of "statement of adverse impacts to energy development" for actions that were perceived to delay or deny immediate approval. These legislative directives helped foster an "oil and gas trump everything else" attitude within the agency. This resulted in practices that crippled the agency's ability to manage other resources like fish and wildlife, including redirecting appropriated funding intended for fish and wildlife management to energy planning and permitting and instructing biologists and other specialists to prioritize energy above their fundamental tasks of managing fish and wildlife habitats. Consequently, given full implementation of the provisions of the 2005 EPAct, industry is still complaining that they cannot get permits fast enough – a proof that more access and permitting will not solve our energy problems.

The consequences of this "energy takes all" approach to public lands management were predictable. Sportsmen and other public lands users would not stand idly by and watch as fish and wildlife values were sacrificed across the West. For sportsmen and others concerned about the impact of this

imbalance on fish and wildlife, the only clear avenue of relief was to formally protest lease sales. Between fiscal year 1998 and fiscal year 2009, the percentage of oil and gas leases protested jumped from one percent to nearly 50 percent. In some states, nearly all lease sales were protested. This is more proof that the model for unfettered access to public lands was not acceptable to the public who owns these lands.

Unlike other activities on public lands, oil and gas leasing historically included little opportunity for public involvement. Lease parcels were secretly nominated by industry six to nine months ahead of a sale. Then just 45 days before sale, the locations of the parcels were made available for public review. The only opportunity for the public to express concerns was to file a formal protest to the BLM 15 days before the sale date. The stakes riding on a decision to protest a lease sale were high. Once public lands were leased, BLM often acquiesced to industry claims that the agency had little or no authority to address impacts on fish and wildlife. Yet, the agency continued to issue leases based upon environmental analyses that were decades old, grossly underestimated the number of wells that could be drilled and relied on fish and wildlife mitigation measures that no longer reflected the existing wildlife science and were ineffective. Leased lands became lost lands in the sense that the BLM can no longer properly manage them for current and future multiple uses.

The current administration inherited an onshore oil and gas program that was broken. Because protests and lawsuits were clogging the system and preventing the issuance of leases, it did not function for the agency or for industry. It certainly was not working for sportsmen and other public-lands users.

Leasing and permitting have slowed in recent years due primarily to market forces, not regulation, reflected by fewer nominations from industry. For example, the largest reduction in the number of wells drilled on public lands occurred between 2008 (5044) and 2009 (3267) before any restrictions could have been implemented by a new administration. Since 2009, the number of wells drilled remained at about 3200. The largest reduction in permits issued occurred between 2007 (7000) and 2008 (5500). Annual leased acreage dropped from over 4.6 million in 2007 to 2.6 million in 2008 to a low of 1.4 million in 2010. Industry itself nominates lands to be leased. Industry nominations declined from 3000 in 2007 to 1300 in 2010. Figures for 2011, however, show an increase in nominations as well as acreage leased (2 million) and revenues. Any reductions in leases sold or permits issued have had little or no impact on industry access to public lands. More than 38 million acres of leases are held by industry. Less than half of that land is in production. Industry currently holds more than 7,000 unused permits to drill for oil and gas public lands.

After taking office, the administration did take some common sense steps to repair a dysfunctional approach to developing oil and gas on our public lands. The administration rightly recognized that these policies posed a significant threat to fish and wildlife and were leading to more and more conflict over every lease. In an effort to reduce the conflict in the leasing process and balance out resource considerations, the Department of the Interior provided a number of reforms through Instruction Memoranda (IMs). Reforms from these IMs require the Bureau of Land Management to develop local "Master Leasing Plans" to facilitate thorough environmental review of potential drilling impacts BEFORE offering leases in areas with high energy potential and high risk of environmental conflicts. BLM also revised its lease sale procedures to create room for concerns about particular parcels to be raised and resolved before the sale date.

A halt to these reforms now would be a mistake. Master Leasing Plans (MLPs), for example, could provide a new and powerful opportunity to avoid and minimize wildlife and other environmental

conflicts that could result from poorly planned oil and gas leasing before a project is sited and investments are made. This type of "smart from the start" planning results in a win-win because it has the potential both to conserve fish and wildlife habitat and to resolve conflicts prior to the siting and development of oil and natural gas wells, thus avoiding costly delays and litigation. This approach also would follow the time tested progression of mitigation actions in which avoidance is the best and least costly way to deal with impacts.

The immediate benefit of these reforms for BLM and industry is demonstrated by the fact that the percentage of leases for which protests were filed in 2011 is down to 35 percent while lease sale revenues increased 20 percent over 2010. Unfortunately, industry is costing the BLM precious time with irrelevant lawsuits aimed at stopping the reforms and costing the taxpayers precious funding, which could be used to properly manage leases and development. The full value of these reforms for sportsmen and other public-land users will not be proven, however, until sportsmen see on-the-ground benefits for fish and wildlife. Maintaining huntable, fishable populations of game species on public lands are critical to sportsmen.

It is well-documented that oil and gas development can have devastating and long-lasting impacts on fish and wildlife habitat. A typical production field includes a complex network of roads, well pads, pipelines, compressor stations, waste pits, staging areas, and other structures that will remain in place for 30 to 50 years. This cumulative industrial framework fragments fish and wildlife habitats. Habitat fragmentation affects the feeding, courtship, migration, and other wildlife behaviors, as their patterns of habitat use across the landscape are disrupted. It also negatively impacts the overall health of habitats, assisting the spread of invasive species and diseases, causing sediment to wash into streams, and changing the makeup of local vegetation. Sportsmen across the West have been eyewitnesses to the impacts of this development on the game they have hunted and fished for generations.

The Greater Sage-grouse is an important game bird that inhabits the sagebrush steppe habitat of the Rocky Mountain West. The species has disappeared from nearly half of its historic range due to habitat fragmentation and other disturbances. The Department of the Interior has determined the species is warranted, but precluded for for protection under the Endangered Species Act (this means there is enough evidence to protect the bird right now, but because of other reasons it is deferring any action). Oil and gas development is cited by the U.S. Fish and Wildlife Service as a primary threat to sage-grouse populations in the Rocky Mountain West. However, sage-grouse is just one example of the many species dependent on sagebrush steppe habitat that are threatened by oil and gas development.

Another example of the need for better planning and management of oil and gas development is the impact on vital mule deer habitats. Mule deer are a western deer species related to white-tailed deer but with very different requirements. They respond to human-caused disturbance much differently. Where white-tailed deer are generalists and highly adaptable, mule deer mostly inhabit larger western landscapes and require different seasonal habitats and annual migrations from summer to winter range. Mule deer populations have been declining across much of the West. Mule deer experts agree that one of the limiting factors for mule deer is available winter habitat. These winter habitats often are deemed "crucial" for survival by state game and fish agencies and have been afforded protection from disturbance for more than 40 years in many states.

A recent evaluation and report of how mule deer have been addressed in federal land use planning and major energy projects of the greater Green River Basin of southwestern Wyoming, northwestern

Colorado and northeastern Utah showed that of the 10.2 million acres of mule deer crucial winter range on BLM and National Forest lands, 2.4 million acres already have been leased for development. More than 15,000 wells have been drilled in this winter habitat. However, current mitigation plans for energy development in crucial winter range have not been successful. At the Pinedale Anticline in western Wyoming, the wintering population of the segment of the deer herd that winters within the project area has dropped by over 60 percent from levels that were documented before development began (approximately 6,000 deer used to winter on the mesa area of the project before development, now approximately 2,000 deer do so). Many state wildlife officials fear that a full recovery may not be possible without substantial changes in how energy development and other human disturbance is permitted and conducted in mule deer habitats.

The problems with mule deer and sage grouse are important to this testimony because they offer examples of how BLM policy for energy development has affected fish and wildlife resources and therefore sportsmen. Significant new information and science are available regarding these two species to better balance wildlife with energy development during project planning, but unfortunately this science has not been embraced by the BLM and often is ignored or discounted because energy development is prioritized.

Until now I have discussed problems with previous policies and budgets, but now I want to focus on some of the benefits of responsible fish and wildlife management of our public lands. The American system of public lands is unique, found nowhere else in the world. A fundamental American value, it was left to us by our predecessors and held in trust for future generations. FY 2010 saw more than 58 million visitors to BLM lands with a resulting benefit of $7.4 billion dollars to the economy. 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 dollars back to those states. This figure does not include the federal match generated through the Pittman-Robertson and Dingell-Johnson acts or revenue from expenditures on food, hotels, equipment, or other purchases made by these hunters and anglers. Nationwide it is estimated that 1.2 million jobs are provided annually by the outdoor industry, many hunting and fishing related.

A new report prepared for Sportsmen for Responsible Energy Development by Southwick Associates investigated the economic benefits of public lands adjacent to communities in the Rocky Mountain West. The report looked at the relationship between land use and economic growth in seven states in the Rocky Mountain West —Idaho, Montana, Wyoming, Utah, Colorado, New Mexico and Arizona. The study found that public lands in the Rocky Mountain West provide energy that has helped drive the economy and cast the region as one dominated by extractive industries. However, commodity-based employment has been cyclical and suffered more severe downturns than other industries. Commodity-based jobs have become a smaller part of the overall economy while the service industry, which includes high-paying, skilled positions, has increased and become the biggest segment of the market. The region's public lands managed for conservation and recreation are a magnet for tourists, people looking for a certain lifestyle, retirees and businesses hoping to draw workers. These jobs and economic benefits are sustainable, provide growth in hard times, and allow people to reconnect with nature. Federal policies and budgets significantly affect our ability to continue these benefits.

Some places in this country are valuable or special and should not be developed. These "special places" have values that could not be replaced or mitigated if development took place. Places like the Rocky Mountain Front in Montana, Valle Vidal in New Mexico and Wyoming Range in Wyoming provide unique experiences for hunters and anglers and vital habitats for fish and wildlife. In the past decade, these areas have been threatened through lease nominations and sales and other development proposals. Previous policy prevented the BLM from identifying all but congressionally designated lands or previous administrative withdrawn areas during land use planning development. Local campaigns or legislation have been required to deal with threats to these areas, many of which have very little energy development potential or would be very difficult to develop because of their landscapes. We promote the identification and protection of these places to balance fish and wildlife values with areas that have been and will be developed for energy development. Not all lands are suitable for development; nor is development compatible with other uses in all areas.

We also promote responsible development when energy development takes place. Acknowledging that some places will be developed more than others and some may become industrial zones, most lands can be developed while concerns about fish, wildlife and recreation are addressed. As stated previously, sportsmen want to see energy development balanced with fish and wildlife resources. The TRCP and our conservation-sportsmen partner organizations have developed a set of recommendations, revised in 2011, that can help achieve balance during energy development. The "FACTS for Fish and Wildlife" comprise 25 specific recommendations in five targeted areas – Funding, Accountability, Coordination, Transparency and Science. The FACTS recommendations may be found at http://www.trcp.org/assets/pdf/FACTSfor_web. If the FACTS are employed, conflicts with sportsmen-conservation groups can be reduced, and we can expand development of our domestic energy resources. In addition, the TRCP joined SFRED is drafting a "Sportsmen's Bill of Rights" regarding energy development and a set of joint recommendations that compliment the TRCP's FACTS.

Finally, I deliver this testimony to ensure a bright future for fish and wildlife, voice concerns about past policies and budget allocations, and express interest in working with Congress to address these important issues as we determine future energy policy. Sportsmen want some certainty that Western fish and wildlife resources can be sustained at levels that provide quality hunting and fishing opportunities – ones of which we can be proud. We want a system of public lands that provides energy AND fish and wildlife, not one that provides energy OR fish and wildlife. We believe recent policy changes by the Obama administration take a positive step toward that goal, but we still have concerns about successful implementation and benefits on the ground. We also are concerned that future cuts to fish and wildlife budgets in our federal natural resources agencies could have drastic consequences for hunting and fishing, along with other important uses of our public lands.

In closing, the American public supports and promotes the use of our public lands for many purposes, including energy development but not at the expense of the fish, wildlife, and recreation these lands provide. The economic and employment gains from outdoor recreation and fish and wildlife management cannot be discounted because they are significant to local communities, state job outlook, and national interest. The proposed BLM budget does not limit nor hinder energy development but provides a means for BLM to balance multiple-uses on the public lands and provide opportunities for responsible energy development. Our country's energy production is thriving and public lands are part of that prosperity. Cutting or eliminating funding for fish and wildlife management, not charging industry proper fees nor collecting market based royalty rates, and removing protections for clean air, clean water, and healthy environment will not fix our energy problems. It will only make them worse.