

## **Written Testimony**

**Of**

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**Testimony Before the  
U.S. House Natural Resources Committee  
Subcommittee on Energy & Mineral Resources**

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Regulatory uncertainties, inefficiencies, and inconsistent application of rules related to federal oil and gas leases are leading to unnecessary delays in the development of the energy resources of the United States. These delays negatively and disproportionately impact small businesses, the backbone of the economy, and the citizens of the states where these resources are located. Ultimately, these uncertainties reduce domestic energy production, add unemployment, and increase reliance on foreign energy. Small businesses have an interest in protecting the public health, environment, resources of concern, and the taxpayer's money; to do so, there needs to be a common-sense approach with regulatory certainty.

### **About Wold Energy Partners, LLC**

- Wold Energy Partners, LLC (“WEP”) is a four-year-old entrepreneurial endeavor with 37 full-time employees and 7 contractors; a small business. WEP was founded to pursue the development of oil and gas resources in the Rocky Mountain Region and is committed to environmentally responsible and safe development.
- Efforts of WEP are focused entirely within the Powder River Basin in Wyoming. The Powder River Basin is a prolific oil and gas resource basin with a proven 5,000 foot column of stacked pay zones. Within the Powder River Basin, WEP operates 119 wells, is a partner in 82 additional wells, and has acreage totaling 143,000 net mineral acres (264,000 gross acres) with greater than one billion barrels of recoverable reserves. The acreage position of WEP is the product of 192 acquisitions and trades, and consists of 71% federal oil and gas leases (394 individual federal leases). Exposure to federal oil and gas leases of this level requires daily interaction with the requisite federal agencies and adherence to rules related to federal oil and gas leasing and development.

### **Delayed Federal Leasing**

- To encounter delays from the outset is a deterrent to the development of federal oil and gas leases and serves as a disincentive for investment, especially for small businesses. The delay between lease nomination and sale needs to be reduced significantly. Similarly, the process for reinstatement of leases requires revision to shorten the review time and to provide businesses with certainty in the process of acquiring and maintaining the rights of development granted in these leases.

- Nomination and Deferral – the 415-day average delay WEP faces between parcel nomination and lease offering for sale is too long. Delays in lease offerings and sale are rooted in the National Environmental Policy Act (“NEPA”) analysis at the field office level, where review for conformance with a federal Resource Management Plan (“RMP”) entails an uncertain timeline. Inquiries regarding the review status of nominated federal lands are then met with added uncertainty and ambiguity. This is distinguished from the added layer of review a Master Leasing Plan (“MLP”) may impose. Within WEP’s initial focus area there have been several parcels nominated since 2014 that are still within the NEPA review process and yet to be offered for sale. Should parcels be deferred, they are effectively lost unless a company or individual continues to nominate the same parcel. There is a need for transparency regarding why parcels are not being offered and when they may be available for offering in the future if deferred.
- Reinstatement of Leases – an inefficient process riddled with uncertainty. Leases can require reinstatement for issues as trivial as incorrect rental payments of minor amounts (\$1.50 versus \$2.00). For example, WEP has a federal oil and gas lease which is pending reinstatement for a payment discrepancy of \$160.00 (less than one percent of the lease purchase price) and has been pending reinstatement since May 2015. The reinstatement delay is due to subsequent NEPA review and documentation of RMP conformance. This is an unnecessary delay due to bureaucratic inefficiency as the lease was within its primary term and had completed this same review process prior to its issuance.

### **Uncertain Development Planning**

- Once issued, leases are subject to subsequent and unforeseen stipulations, changing conditions of drilling approval, and ad hoc requirements in development planning and approval. Navigating this unpredictable process creates delays sometimes adding up to years of review creating paralysis by analysis. This addition of unnecessary and protracted periods between initial investment (purchase of the lease) and subsequent approved drilling and development of the oil and gas lease (anticipated return on investment) harms small businesses and significantly impacts economic returns as compared to businesses focused exclusively on private mineral development.
  - Accessing the Lease for Development – is a tenuous exercise. Subsequent land use restrictions and designations can conflict with existing lease rights and significantly obstruct basic access to the oil and gas leases. WEP has seen examples of leases issued more than thirty years ago be subject to subsequent land use restrictions and designations that materially impact access and development of the federal oil and gas lease. Subsequent land use designations need to honor the valid existing rights contained within the original lease terms.
  - Gaining the Approved Right to Develop – encounters added delay. In practice, the delays faced initially in lease offerings and issuance are for the appropriate agency analysis. However, during the permitting stage for drilling, further NEPA,

Endangered Species Act, National Historic Preservation Act, and other analysis are required effectively adding stipulations and conditions to the original lease grant. Opportunities to analyze projects within the frameworks of the Energy Policy Act of 2005 Section 390 categorical exclusions (e.g., development on existing well pads previously analyzed) are ignored and substituted with new survey requests for cultural, wildlife, and tribal considerations. An operator is subject to agency staffing discretion, and although a proposed action on existing disturbance may entirely lack the potential to cause effects it is made subject to additional review processes, procedures, and conditioned upon subsequent and unforeseen stipulations and conditions of drilling approval.

### **Delays and Regulatory Uncertainty Harm Small Businesses and Citizens**

- Delays negatively impact business investment, especially small businesses restricted by geographic area and asset base. The delays and regulatory uncertainty met in the development of federal oil and gas leases impact investment, job growth, and the economies of the cities and states where federal lands are located. As the commodity price of our industry fluctuates, these delays further impact the realization of optimal commodity pricing and royalty revenue received by the federal government (i.e. industry investment incentive in federal lands may be strong when commodity pricing is higher, but agency delays prevent quick realization of this pricing advantage thereby deterring investment).

### **Recommendations for Change**

- Shorten the review periods and provide businesses with certainty in the process of acquiring and maintaining the rights of development granted in these leases: 1) Significantly reduce the delay between lease nomination and offering by efficiently reviewing nominated parcels according to existing RMP's within a specified timeframe, and 2) Amend the process for reinstatement of leases by giving specific guidance as to when a lease requires subsequent NEPA review and documentation of RMP conformance and when it does not.
- Eliminate unnecessary and protracted periods between initial investment (purchase of the lease) and subsequent approved drilling and development of the oil and gas lease (anticipated return on investment): 1) Clearly define what might have the potential to cause effects, 2) Eliminate retroactive stipulations, conditions of drilling approval, and ad hoc requirements in development planning and approval, and 3) Set time limits on review and permitting approvals that agencies must follow. This can be accomplished by honoring valid existing lease rights and existing development on leases by giving detailed guidance to field office staff that is more specific to drilling applications they are processing and approving along with what criteria constitutes extraordinary circumstances requiring additional review periods and processes.

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Small businesses, the citizens of the states where federal oil and gas leases are located, and the security of our energy future require eliminating regulatory uncertainties, inefficiencies, and inconsistent application of rules related to federal oil and gas leases that are leading to unnecessary delays in the development of the energy resources of the United States. There needs to be a common-sense approach with regulatory certainty.

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