



February 9, 2016

Via Federal eRulemaking Portal

Public Comments Processing
Division of Policy, Performance, and Management Programs
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041

Re: Proposed Rule and DEIS for Management of Non-Federal Oil and Gas Rights, FWS-HQ-NWRS-2012-0086

To Whom It May Concern:

Western Energy Alliance is concerned with the proposed revisions to regulations governing the exercise of non-federal oil and natural gas rights located within U.S. Fish and Wildlife Service (FWS) refuge units. The revisions proposed under the draft environmental impact statement's (DEIS) preferred alternative exceed FWS's authority and place overly burdensome requirements on the owners of valid mineral rights on non-federal lands. Western Energy Alliance requests FWS modify the EIS to adopt Alternative A, the no action alternative.

Western Energy Alliance represents over 450 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fifteen employees. The Alliance incorporates by reference the comments of the Independent Petroleum Association of American (IPAA) and the American Petroleum Institute (API), which provide excellent detailed legal and technical information on the deficiencies of the proposed rule. We share IPAA and API's concerns about FWS' authority to regulate mineral interests and the overbroad nature of the proposed rule, and support the changes proposed by the two organizations.

The imposition of additional regulations on non-federal oil and gas development within the National Wildlife Refuge System is unnecessary and will only result in duplicative layers of regulation. The DEIS states that current regulations are "ineffective at protecting refuge resources or providing operators explicit requirements for operating on refuge lands." However, FWS has recently issued new guidelines for management of these lands, and operations on these lands are also subject to other federal and state laws governing operational requirements that are intended to protect refuge resources.

In 2012, FWS released an update to its "Management of Oil and Gas Activities on

National Wildlife Refuge System Lands” guidance document. This document describes the various requirements for oil and natural gas development, including Best Management Practices, minimization of environmental impacts, documentation requirements, bonding and insurance, and other extensive monitoring requirements. FWS should continue to follow these guidelines and evaluate the results over an extended timeframe, rather than proposing new regulations that are duplicative of current efforts. In the absence of a proper evaluation of current practices, the need for new regulations is unclear.

Furthermore, numerous federal and state laws and regulations apply to these lands. States especially have extensive rules and regulations intended to protect natural resources and the environment. These rules address a variety of issues, such as drilling, development, and production activities; setbacks; ground water protection measures; financial assurance requirements; spill reporting; and reclamation requirements. Ultimately, Western Energy Alliance believes present rules and regulations are sufficient to protect refuge resources and the DEIS is unnecessary.

Should FWS decide to promulgate final regulations for refuge lands, the agency must recognize it does not have the authority to regulate activities on non-federal lands, and as such, Alternative C cannot be adopted. Alternative C would include all proposed changes under the preferred Alternative B, but would also apply these changes to “operations on non-Federal surface locations that drill beneath the surface of a refuge to access their non-Federal oil and gas right.”

Such a change would clearly exceed FWS’s authority, which is limited to operations on federal lands. Western Energy Alliance urges that a final EIS make clear that FWS does not seek and will not attempt to regulate oil and natural gas operations that fall outside the boundaries of the refuge units.

Western Energy Alliance urges the adoption of Alternative A, the no action alternative. Current rules and regulations, including those specific to FWS management of refuge lands and general federal and state laws, are sufficient to protect refuge resources. Thank you for considering our comments, and please do not hesitate to contact me with any questions.

Sincerely,



Kathleen Sgamma
Vice President of Government & Public Affairs