

May 12, 2011

*Submitted via email:* NPL\_EIS\_WY@blm.gov

Ms. Kellie Roadifer  
Bureau of Land Management  
Pinedale Field Office  
P.O. Box 768  
Pinedale, WY 82941

Re: Notice of Intent to Prepare an Environmental Impact Statement for the NPL  
Natural Gas Development Project

Dear Ms. Roadifer:

Encana Oil & Gas (USA) Inc. (Encana) submits these scoping comments regarding the Normally Pressured Lance Natural Gas Development Project (“NPL Project” or “project”) Environmental Impact Statement (EIS). Encana is a proponent of the NPL Project and thanks the Bureau of Land Management (BLM) for the opportunity to submit scoping comments regarding this project.

The proposed natural gas development project is located within what is referred to as the Normally Pressured Lance (NPL) project area, adjacent to the Jonah Field, approximately 35 miles south of Pinedale, Wyoming. The project area comprises approximately 141,000 acres of lands administered by the BLM in Pinedale and Rock Springs as well as state and private lands. It is generally located within Townships 27 through 29 North, Ranges 107 through 110 West, 6th Principal Meridian in Sublette County, Wyoming. Encana proposes to drill natural gas wells within the project area on an average of four multi-well pads per 640-acre section of land (approximately a maximum of 3,500 wells). The wells, along with associated infrastructure, would be constructed over a 10-year period at a rate of up to a maximum of 350 wells per year based on a maximum of 10 drill rigs working at any one time, or until the resource base is fully developed. Encana predicts an average life of 40 years per well. The extent of development will in part depend on the content of the EIS and Record of Decision (ROD) and future permit decisions, including any environmental restrictions or limitations imposed by the BLM for operations proposed on BLM-administered lands.

### **BLM Must Encourage the Development of Natural Gas, a Vital Resource**

Natural gas production from the NPL Project Area is consistent with this nation's energy policy as articulated in the Comprehensive National Energy Strategy announced by the United States Department of Energy in April of 1998, the Energy Policy and Conservation Act, 42 U.S.C. § 6201, the National Energy Policy, Executive Order No. 13212, 66 Fed. Reg. 28357 (May 18, 2001), and the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594. Natural gas production in the NPL Project Area increases domestic energy resources, provides an alternative to energy sources with high carbon emissions, and provides sources of revenue to stimulate the local and national economies.

With continued geopolitical instability, the need for reliable, domestic sources of clean burning fuel continues to grow. Public lands managed by the BLM must be utilized for multiple uses, including energy development. As gas produced from traditional supply sources decline, the untapped natural gas potential on BLM lands, as well as other federal lands, must take a larger role in meeting the nation's continually increasing energy needs. Furthermore, clean-burning natural gas is becoming increasingly important in efforts to reduce carbon emissions and impacts to climate change. Electricity generated from natural gas results in roughly half the carbon emissions than electricity generated from coal. For this reason, increased reliance on natural gas is viewed as a means to reduce carbon emissions while maintaining energy supplies. See S. Pacala & R. Socolow, *Stabilization Wedges: Solving the Climate Problem for the Next 50 Years with Current Technologies*, 305 Science 968, 969 (Aug. 13, 2004); Keith O. Rattie, *The Role of Natural Gas in a Carbon-Constrained World*, Landman, at 11 (Nov./Dec. 2007). The NPL Project can and will achieve a balance between environmental protection, economic growth, and other multiple uses to help meet our nation's energy needs.

Finally, natural gas production from the NPL Project will benefit the national, state, and local economies. Development of one natural gas well can yield hundreds of thousands of dollars that are paid to governments and reinvested in the local community. Production of natural gas provides revenue to county, state, and federal governments through royalties and taxes. Furthermore, development of the natural gas resource will require increased employment, and the Operators will make substantial economic investments in the local economies. Although the national economy has recently slowed, Wyoming's economy has remained strong primarily due to natural gas development. See, e.g., Michael A. Fletcher, *Houston's Pipelines of Prosperity: In Oil Industry Hubs, High Energy Costs Bring More Growth than Pain*, Wash. Post, June 23, 2008, at A01. Encana's proposal to develop as many as 3,500 wells in the Project Area will substantially contribute to the national, state, and local economies.

### **The NPL Project EIS Must Recognize that the State of Wyoming Has Authority to Regulate Impacts to Air Quality**

In the NPL Project EIS, BLM must expressly recognize that the State of Wyoming, and not the BLM, has authority for regulating air quality within the NPL Project Area. The complex regulatory scheme established by the Clean Air Act (CAA) provides the State of Wyoming with the authority to regulate Wyoming's air resources. BLM may not infringe upon the State's authority by attempting to regulate air quality or air emissions in the NPL Project EIS.

The CAA clearly places authority over Wyoming's air resources in the hands of the State. Congress enacted the CAA in 1970, establishing a joint state and federal program to address the nation's air pollution. *See* 42 U.S.C. §§ 7401 - 7671q. Congress vests each State with the primary responsibility for assuring air quality within the entire geographic area comprising the State, including federal lands. 42 U.S.C. § 7407(a). This includes the regulation of air quality for all of the various programs of the CAA, including the National Ambient Air Quality Standards (NAAQS), the Prevention of Significant Deterioration (PSD) program, and the visibility or Regional Haze (RH) program.

EPA has promulgated the NAAQS for the six identified criteria pollutants—carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), ozone (O<sub>3</sub>), lead, and particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>)—to protect public health, allowing for an adequate margin of safety that takes into account sensitive populations. *See* 42 U.S.C. § 7409(b). EPA reevaluates the NAAQS every five years to update the science and ensure that the standard continues to adequately protect public health. *See id.* § 7409(d). The State of Wyoming, through the Wyoming Department of Environmental Quality (WDEQ) Air Quality Division, has authority to achieve and maintain state and federal air quality standards in Wyoming. *See* 42 U.S.C. §§ 7401 - 7671q; 40 C.F.R. pts. 50 - 99 (2007); 40 C.F.R. § 52.2620 (Wyoming's State Implementation Plan); WYO. STAT. ANN. §§ 35-11-201 to 214 (LexisNexis 2008); Wyo. Air Quality Stds. & Regs. (WAQSR) Chs. 1 - 14. Wyoming implements its responsibility by submitting a state implementation plan (SIP) to the EPA specifying what emission reductions and other control measures it will use to attain the NAAQS. Once EPA approves the SIP, it is codified and enforceable as federal law. The IBLA has recognized Wyoming's authority to enforce the NAAQS within the state, including federal lands:

In Wyoming, ensuring compliance with Federal and State air quality standards, setting maximum allowable limits (NAAQS and WAAQS) for six criteria pollutants CO (carbon monoxide), SO<sub>2</sub> (sulfur dioxide), NO<sub>2</sub>, ozone and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and setting maximum allowable increases (PSD Increments) above legal baseline concentrations for three of these pollutants (SO<sub>2</sub>, NO<sub>2</sub>, and PM<sub>10</sub>) in Class I and Class II areas is the responsibility of WDEQ, subject to EPA oversight.

*Wyoming Outdoor Council, et al.*, IBLA No. 2006-155, Order at \*12 (June 28, 2006).

Congress added the PSD program to the CAA in 1977 to ensure that economic growth would not adversely impact areas with pristine air. The PSD program applies throughout Wyoming because the state has attained the NAAQS. As part of the PSD program, Congress has required EPA to set increments for Class I, II, and III areas, new major facilities to implement Best Available Control Technology (BACT), and new major facilities to demonstrate that they will not cause or contribute to a violation of the increments. *See* 42 U.S.C. §§ 7473, 7475, 7479. The PSD program as a whole protects the increment goals. *Id.*

Congress promulgated the national visibility goal to prevent future, and remedy existing, impairment of visibility in mandatory Class I federal areas. *See* 42 U.S.C. § 7491. To accomplish this goal, Congress set forth a program that addresses impairment from existing and proposed major stationary sources, and a program to address RH—haze that often results from the transportation of pollutants hundreds of miles from the source. *Id.* The State of Wyoming has implemented the visibility program addressing existing and proposed major stationary sources, and is currently developing its RH SIP to further improve visibility in Wyoming. These programs function together to protect Wyoming’s air quality.

Wyoming’s federally approved SIPs include a permitting program that addresses both major and minor sources. Wyoming’s permitting program exceeds the federal program by requiring construction permits for any source that may emit any air contaminant in any form, including minor sources from oil and gas operations. *See* WYO. STAT. ANN. §§ 35-11-201 -203 (LexisNexis 2008); *see also* WAQSR Ch. 6 § 2(a)(i) (pg. 6-1). Wyoming requires that all sources, including minor sources from oil and gas operations, implement BACT to reduce or eliminate emissions. *See* WAQSR Ch. 6 § 2(c)(v) (pg. 6-3); *see also* WDEQ Regulations for Oil and Gas Operations. As part of the permitting process, WDEQ requires applicants for both major and minor sources to demonstrate that the proposed facility “will not prevent the attainment or maintenance of any ambient air quality standard” or “cause significant deterioration of existing ambient air quality” before an air quality permit will issue. WAQSR Ch. 6 § 2(c)(ii), (iii) (pg. 6-3).

BLM has a minor role in the CAA’s complex scheme. Under the CAA, a federal land manager’s authority is strictly limited to considering whether a “proposed major emitting facility will have an adverse impact” on visibility within designated Class I areas. 42 U.S.C. § 7475(d)(2)(B). Although federal land managers with jurisdiction over Class I areas may participate in the development of regional haze SIPs, the BLM has no such jurisdiction in Wyoming. 42 U.S.C. § 7491. Accordingly, the BLM has no authority over air quality, and cannot impose emissions restrictions, either directly or indirectly, on natural gas operations in Wyoming.

Because BLM lacks authority under the CAA over air quality, BLM may not attempt to regulate air emissions in the NPL Project Area. Moreover, in the NPL Project EIS, BLM should

expressly acknowledge that, as a matter of federal law, the State of Wyoming has the authority to directly regulate air quality in the NPL Project Area. Furthermore, BLM must acknowledge that it defers the regulation of emissions to the State's authority.

### **The NPL Project EIS Must Analyze the Economic Impacts of the Project**

The NPL Project EIS must include an analysis of the economic effects of the project. This analysis should begin with a historical perspective of land use in the NPL Project Area and a discussion of how oil and gas development has facilitated economic growth. This description would provide a baseline to assess current economic conditions and how future development scenarios would affect the local and regional economy. From this information, BLM can best analyze the beneficial economic impacts that will result from the NPL Project. In this analysis, BLM must evaluate the beneficial impacts of the revenues the federal government, State of Wyoming, and Sublette and Sweetwater Counties will receive from royalties and taxes on production. Furthermore, BLM must analyze the beneficial impacts to public services that depend on tax revenues generated by oil and gas operations, such as public school districts. BLM must also analyze the impacts from the NPL Project on the local and regional economy from the project's demand for additional goods and services, which results in the creation of additional jobs, additional sales of materials, and increased tax revenue from sales taxes.

Just as the NPL Project EIS must analyze the project's economic benefits, it must also analyze adverse economic effect of overly restrictive management alternatives. BLM must explain how overly restrictive management of the project may lead to decreased development, which negatively impacts the local and regional economy through decreased royalty revenue, decreased tax revenue, and the creation of fewer jobs. **The NPL Project EIS can ensure a smooth transition of jobs from the Jonah Field**

The NPL Project EIS currently has a timeline for completion that estimates a ROD will be issued in the Spring of 2013. Encana strongly encourages the BLM to ensure that this timeline is met. Timely approval means a smooth transition of our existing workforce from our current operations in the Jonah Field to NPL Project operations. The transition and a timely approval helps to continue to support communities, Wyoming's tax revenue and stable, local jobs.

Thank you again for the opportunity to comment on this important process.

Very truly yours,

ENCANA OIL & GAS (USA) INC.



Randal Phillips, NPL EIS Project Manager