

**Testimony before the House Committee on Natural Resources  
The Weaponization of the National Environmental Policy Act and the Implications of  
Environmental Lawfare**

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Chairman Bishop, Ranking Member Grijalva, and members of the Committee, thank you for inviting me today to speak about my company's experience with permitting natural gas projects in Appalachia and dealing with the National Environmental Policy Act (NEPA).

My name is Melissa Hamsher and I serve as the Vice President of Environmental, Health, Safety, and Regulatory at Eclipse Resources Corporation. I have held this job since 2011 and held a similar title at Rex Energy Corporation for five (5) years prior to that. Before my work in the private sector, I worked at the Pennsylvania Department of Environmental Protection for six years as an engineer in the Bureau of Oil and Gas Management.

I may very well be the only environmental specialist with advanced technical knowledge of oilfield processes to come before this Committee, and I really do appreciate the opportunity to share the Eclipse story with you. I hope that my technical experience, coupled with my history working for a state regulator and my current work in private industry, will be beneficial to the Committee.

My company, Eclipse Resources Corporation, is an independent oil and gas exploration and production company focused on cutting edge technology and innovation as we develop oil and natural gas resources in the Appalachian region. This testimony includes significant detail on Eclipse later.

As this Committee has heard before, the growth in oil and gas production in the Appalachian region has largely occurred on private and state lands, with development on federal government lands lagging far behind. These delays, largely the result of long federal environmental reviews and litigation at most steps of the process, are costing the United States Treasury significant dollars in royalty payments. They also cost local governments funds they rely on for schools and other crucial programs. I understand that the Committee is currently working on both the ONSHORE Act and the POWER Counties Act. Both bills make valuable progress in fixing the issues related to oil and natural gas development involving federal minerals. However, these two bills alone are insufficient to remedy extensive permit delays on projects that are carefully designed and environmentally responsible.

Let's start by focusing on the process of accessing federal-owned, sub-surface resources in Ohio. Eclipse has leased substantial sub-surface acreage within the boundaries of the Wayne National Forest for oil and natural gas development. This hearing to better understand how bureaucratic delays caused by duplicative environmental reviews and extensive analysis by the Bureau of Land Management (BLM) for sub-surface mineral penetration effectively halts development of our nation's natural resources is important and timely. Using our project within

the bounds of the Wayne National Forest as an example, after permitting and approval by the State of Ohio, the federal government inserted itself on environmental grounds, citing NEPA, even though BLM's only interest is in the proportionately small sub-surface minerals.

Piecemeal parcels of public and private land, combined with a mixture of federal and private mineral rights, make up the Wayne National Forest. This combination results in much of the land within the federal boundaries being owned wholly by private parties. More background on the unique makeup of the forest follows, but these realities make federal environmental review even less logical.

Since submitting our Application for Permits to Drill (APD) in July, Eclipse has faced numerous procedural roadblocks from BLM and unreasonable agency requests that have significantly delayed development and negatively affected our planned drilling programs. Multiple layers of federal regulation, the direct result of BLM inserting itself into this process, have delayed this project for many months and we do not have a timeline for the process's conclusion.

Eclipse Resources initially submitted Expressions of Interest (EOIs) on parcels in the Wayne National Forest in 2012. In October 2016, BLM issued a Finding of No Significant Impact (FONSI) and shortly thereafter announced their first competitive online auction sale for leases on December 13, 2016. Eclipse Resources successfully won parcels in the December auction sale but did not receive title until May 23, 2017, after more than five months of delay.

Proceeding with our development plans, in July, we filed an APD for the well named *Rolland A, Well Number 1H*, with the intent to start work in August. This well would be drilled horizontally, more than a mile beneath the surface from the 2016 well pad previously constructed on private land – in accordance with all state regulations.

Since we are utilizing horizontal drilling methods, the wells would have no surface impact to the Wayne National Forest. Therefore, we believe our submitted permits should be subject to BLM Categorical Exclusion (CX) Document 43 CFR part 1600 2016 Amendment, as there would be no surface occupancy or disturbance of the unit.

However, BLM determined that the agency must use the guidance in an outdated Instruction Memorandum 2009-078, which subjects APDs on private lands to environmental analyses that have nexus to federal minerals. This decision, coincidentally, came shortly after a lawsuit by environmental non-governmental organizations.

Following the decision, one month later in August, BLM conducted site visits on our landowners' private properties in an effort to undertake their NEPA analysis. States have primacy over development of minerals on private property. In accordance with Ohio regulations, Eclipse Resources had already conducted the necessary administrative and environmental reviews, meeting Ohio's requirements, and received all relevant permits. Still, BLM deemed it necessary to conduct a full environmental assessment on private land – a requirement that Eclipse, and its landowners, have fully met.

Eclipse Resources will have no surface impacts to federal surface parcels from oil and natural gas development occurring within the boundaries of the Wayne National Forest on federal surface parcels. The horizontal portion of the well bore penetrates only sub-surface minerals. Private landowners hold titles to all of the surface parcels where the work will occur.

To summarize, Eclipse has followed all applicable state guidance, laws, and regulations, cooperated with the federal government, and implemented aggressive environmental mitigation techniques for exploration on private land within the boundaries of a national forest. Despite the foregoing, BLM has repeatedly slowed the review of this project and has undertaken an unwarranted full environmental review. Despite our full cooperation with the process, I sit here today with no sense of when the federal reviews will be completed or when we can begin producing on private land where Eclipse already has its state-issued permits in hand.

At the same time, no other producer has received an APD from that December 2016 sale. Almost 18 months after leases were purchased, the federal government has obstructed development.

While I have spent a lot of time discussing our natural gas exploration experience, I want to note that NEPA applies to a broad range of projects – airports, highways, resource exploration, renewable projects, and so many other types of development. I bring this up, because while discussing NEPA is important to Eclipse and its projects, it is crucial to so much economic growth all over our country.

I hope the Committee will look at issues like these to find ways to allow robust environmental reviews in the states, coupled with responsible mineral development, to control projects like Eclipse's and others going forward. In short, we would like the states to have primacy over environmental reviews for sub-surface federal parcels with no federal surface impact. Extensive and intrusive environmental and archeological studies are being conducted on private surface lands where no federal surface or federal sub-surface are located for thousands of feet. This simply does not need to happen to ensure good stewardship.

In addition, I would like to provide some significant background for the Committee's consideration on Eclipse Resources, the company's advanced environmental controls and protections, oil and gas exploration in Appalachia, and the particulars of the Wayne National Forest.

### **Eclipse Resources**

Eclipse pioneered the "Super-Lateral" drilling concept, leading the industry with the development of horizontal wells in excess of three miles in length. Our innovations have led to less expensive well development, more efficient resource development, and, most importantly, safety and environmental excellence.

As you know, Appalachia is at the center of the Utica and Marcellus Shale plays, and Eclipse has focused on the responsible development of resources in the "core" of the natural gas fields in Southeastern Ohio. While our corporate headquarters are located in Pennsylvania, we have our primary production volumes in the state of Ohio.

## **Environmental Controls**

I want to underscore Eclipse's commitment to environmental stewardship. While Eclipse outlines many of the environmental safeguards we undertake in the work we do in Appalachia on its corporate website, I would like to draw your attention to some efforts that I think are particularly important. During development, we conduct reviews and studies that far exceed state or federal requirements.

Eclipse uses a closed-loop drilling system, which recycles drilling fluids and eliminates the need for earthen pits. This practice, although not required by law, ensures that there are no environmental impacts to local groundwater sources, or to flora and fauna from cuttings and fluids storage. Eclipse ensures minimization of its environmental footprint through the installation of multi-well pads, which diminish the effects on local infrastructure and limit forest fragmentation. "Green Fracs," while not required, are employed by Eclipse to reduce diesel emissions through the utilization of natural gas as a power source during hydraulic fracturing operations. Where state regulations may be lagging, we take it upon ourselves to ensure the sustainability of surface water aquatic biology through extensive stream studies and self-imposed water withdrawal restrictions.

Prior to it being required by regulation, Eclipse was a pioneer in voluntarily submitting chemical usage to the public. Eclipse employs a robust air protection program, studying, monitoring, and testing to ensure fugitive emissions do not exist at our well sites. While the company's environmental stewardship is not necessarily the topic of this hearing, it is crucial to Eclipse's business and something I want to ensure is on the record, as I discuss the effect of NEPA on our operations.

## **Oil and Gas in Appalachia**

Given Eclipse Resource's position in Southeastern Ohio, at the center of Appalachian shale development, I also wanted to share some key facts and figures from the region with you. The oil and natural gas industry supports more than 650,000 jobs, paying more than \$41 billion in wages, and had a \$90 billion economic impact in Pennsylvania, Ohio and West Virginia in 2015, according to a PricewaterhouseCoopers LLP study released last year by the American Petroleum Institute. In addition, hundreds of millions of dollars have been spent on taxes that support local schools, municipal governments, and vital infrastructure.

What's more is that these investments have occurred in some of the most economically depressed areas of these three states, along the Ohio River. In Ohio, for example, the oil and natural gas industry paid more than \$45 million in taxes and \$300 million in improvements to roads and bridges.

Counties along the Ohio River have reported that they would have gone bankrupt, had it not been for the oil and natural gas industry activities over these past few years. There is simply no greater example of the economic turnaround in Appalachia than Monroe County, Ohio. In 2013, Monroe County lost its largest employer, the Ormet aluminum smelting plant, leaving 1,000 people out of work in Ohio and West Virginia. The county of 14,500 people faced a bleak future with skyrocketing unemployment and a loss of \$4.5 million in tax revenues from the plant closure.

However, thanks to some of the best natural gas producing wells in the Appalachian Basin, sales tax revenues have skyrocketed, jumping over 340 percent. Unemployment in the region has declined to 10.4 percent after spiking above 14 percent in 2014 according to data from the Ohio Department of Job and Family Services. This prolific natural gas production has led to other major investments in the region, such as a natural gas power plant and a natural gas liquids storage hub.

What concerns us, however, is that the county is only just beginning the road to recovery and these economic gains are at risk as federal red tape is causing unnecessary roadblocks to continued investments in these communities.

### **The Wayne National Forest**

To highlight this point, Monroe County is home to the Wayne National Forest and some of the most prolific natural gas wells in the Utica Shale. There are several dozen oil and natural gas producers that operate in Monroe County, both large operators and small operators. In fact, there are over 1,200 decades-old wells producing oil and natural gas on the surface of the Wayne National Forest today, independent of the newer shale wells. Unlike many other federal forests, the Wayne National Forest is a patchwork of private and federal lands and minerals. In fact, the federal government only holds ownership of 25 percent of the land within the Forest Proclamation Boundary. In addition, 59 percent of the minerals in the boundaries of the Wayne National Forest are privately owned.

Federal lands are exempt from property taxes, which can create financial hardships for entities that receive public funds and in Ohio. With property taxes as the primary base of school district and township funds, local governments in Ohio are awaiting new development in the region. Leasing of federal minerals and, more importantly, royalty monies received from oil and natural gas production is sorely needed to help fund local schools and municipalities in these Appalachian communities. Just last week, the superintendent of the Switzerland Local School testified before the Energy and Mineral Resources Subcommittee in support of the POWER Counties Act about this growing issue, and I would encourage you to review his testimony, if you have not already done so.

To date, the oil and natural gas industry has spent over \$8 million to secure federal leases in the Wayne National Forest. A portion of those bonus payments has already gone back to local communities. It is my understanding that the intent of allowing leases on federal land is to realize development of minerals and collect royalty payments, lease payments, and tax revenue. With the federal government's fiduciary responsibility to the taxpayers to see our minerals developed, I very much hope we can work together to eliminate the unnecessary delays and snags in the permitting process.

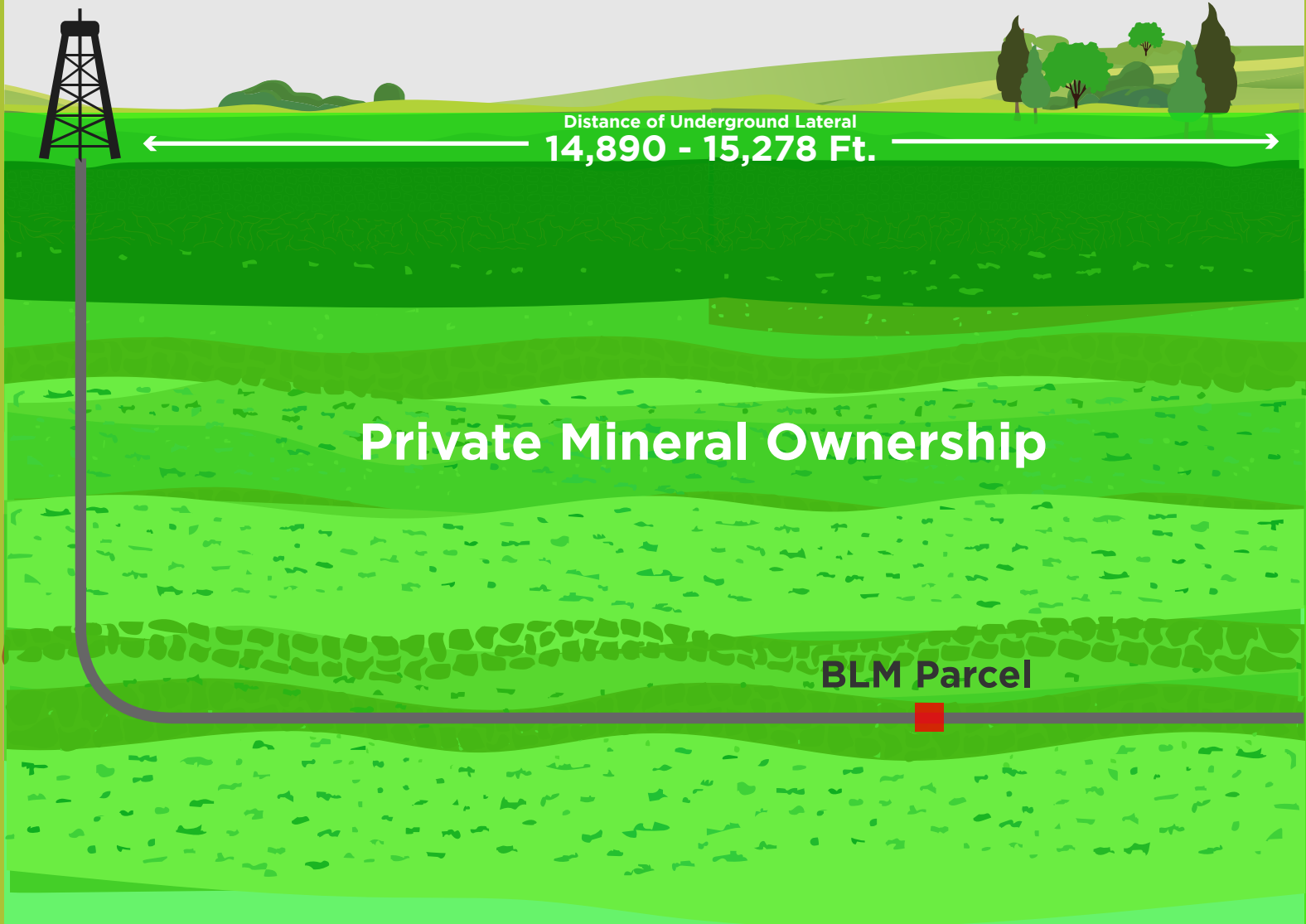
I want to re-emphasize that since the Bureau of Land Management's first lease sale, which was held December 13, 2016, not one Application for Permit to Drill (APD) has been issued.

### **Conclusion**

Again, I want to say thank you to the Committee for holding this important meeting today. I look forward to working with all of you to find a way to ensure responsible mineral development on both public and private land, under the direction of states and as intended by Congress. I look forward to answering your questions and continuing the conversation.


# Bureaucracy Continues to Stall Energy Development


Eclipse Resources faces chronic BLM delays as it works toward final approval on developing energy under the Wayne National Forest. Even though BLM holds a fraction of sub-surface minerals and the company's pending Applications for Permit to Drill will not disturb the surface, bureaucratic red tape and needless BLM overreach are blocking necessary permits.



# Wayne National Forest Marietta Unit

## Key

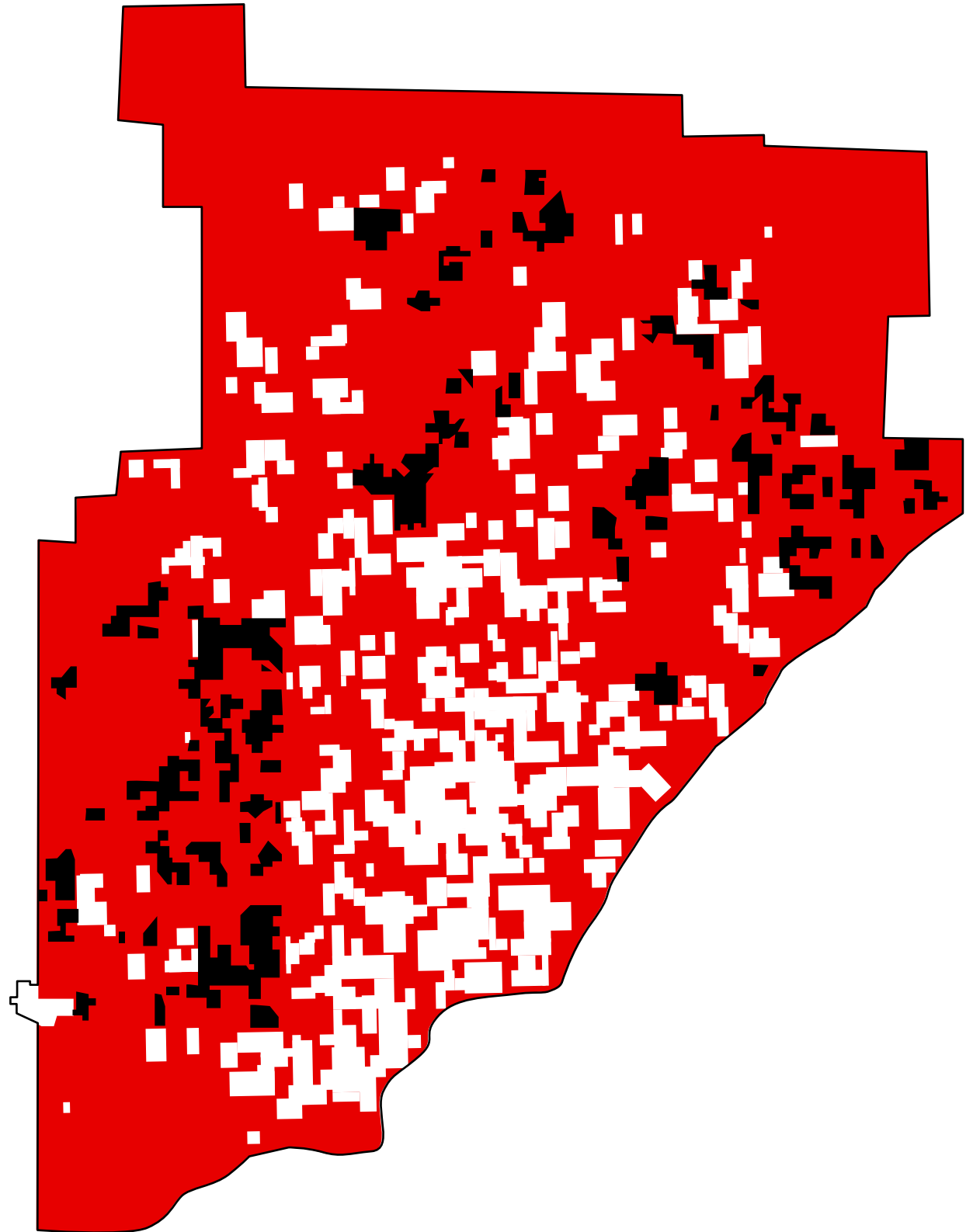
 Federal Surface  
Ownership

 Private Surface  
Ownership

 Federal Mineral



Area shown to the right



Source: Wayne National Forest Leasing EA Map 3: Marietta Unit EOIs To Date

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