OIPA OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION

SENT VIA EMAIL

August 31, 2005

Jerry Brabander, Field Supervisor
U.S. Fish and Wildlife Service
222 S. Houston, Suite A
Tulsa, OK 74127-8907

Re: Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Arkansas River Basin Population of the Arkansas River Shiner - Proposed Rule: Notice of Availability of Draft Economic Analysis and Draft Environmental Assessment, and Notice of Public Hearings, August 1, 2005

Dear Mr. Brabander:

The Oklahoma Independent Petroleum Association (OIPA) is providing this letter to you to express our concerns with the U.S. Fish and Wildlife Service's (USFWS) Arkansas River Shiner (ARS) economic impact analysis and environmental assessment. The OIPA represents approximately 1600 large and small independent crude oil and natural gas producers in Oklahoma that will be directly impacted if this proposed action is finalized.

We do not think that the USFWS has adequately evaluated the impacts to the oil and gas exploration and production industry in accordance with Executive Orders 12866 and 13211, we strongly oppose the proposed critical habitat designation, and we request the USFWS re-consider its position on this issue.

Not withstanding our foregoing statements, the OIPA provides the following comments and concerns on the USFWS economic impact analysis and environmental assessment regarding the impacts to crude oil and natural gas drilling and production activities in or near the proposed critical habitat area.

Economic Impact Analysis
Impacts to Oil and Gas Activities
1. General Comments
a. The economic impact analysis does not clearly identify and outline assumptions, uncertainties, scenarios considered, and best management practices required along with the cost for each requirement used in the cost impact scenarios. For example, the project modifications provided in Exhibit 5-4 do not have associated costs listed. Also,

ARS Coalition
Exhibit F

3555 N.W. 58th Street, Suite 400, Oklahoma City, OK 73112
Telephone 405-942-2334 Fax 405-942-4636 Toll Free 1-800-838-6472

it is not clear which requirements the consultant used and did not use in the development of the cost impact for oil and gas activities.

b. The OIPA is a participant with the Oklahoma Farm Bureau Legal Foundation along with other ARS coalition members. We support the comments submitted by them on this issue.

2. Paragraph 137: We question the use of 1998 cost information for the cost impact analysis since oil and gas drilling and productions activities and costs have dramatically increased with rising crude oil and natural gas prices. We do not think 1998 data is reflective of current oil and gas activity or costs as crude oil prices and demand were significantly lower as compared to today's market. For example, a quick review of the Oklahoma Corporation Commission's average oil price in 1998 was $13.12 per barrel (the lowest average annual oil price since 1978). Crude oil prices have increased 3-fold to $39.70 per barrel in 2004 (OCC, 2005), and have reached new highs of over $70 per barrel further increasing drilling activity.

3. Paragraph 138-140: Most operators are not familiar with references to watersheds provided in Exhibits 5-1 and 5-2. Maps or a list of counties associated with each watershed need be included in the document to clarify what areas are included and the number of wells the watersheds encompass. In addition, information is needed as to what the annualized costs on Exhibits 5-1 and 5-2 include.

4. Paragraph 142:
a. The document needs to reflect that Oklahoma ranks 2nd in the country for natural gas production and 6th in the country for crude oil production (OCC, 2005).

b. The Oklahoma Corporation Commission's 2004 annual report is publicly available. Data in this document should be evaluated and included in the report. Exhibit 5-3 should reflect this new information.

5. Paragraph 144-146: The economic impact analysis references the potential for stormwater discharge permits which would trigger consultation with the USFWS on every proposed oil and gas location; however, we cannot determine if or how this information was used in the cost impact analysis.

6. Paragraph 147-148:
a. It does not appear that the USFWS considered consultation delays which could cause the loss of the use of an available drilling rig and the loss of a lease. For example, a pipeline company consulting with the USFWS on the American Burying Beetle encountered a delay in connecting two completed natural gas wells. One well was finally connected to the pipeline company while the other connection was lost to a competitor because of consultation delays with the USFWS. This lost well connection

resulted in significant revenue losses to the company exceeding $1,000,000 over the life of the well, and an immediate revenue loss for the connection of the well that exceeded $150,000. Additionally, because the delay prevented the natural gas in the well from reaching the market, the well producer lost approximately $2,500,000.

In addition, the USFWS have limited staff to process the applications they receive. Unlike federal leases, most oil and gas leases in Oklahoma are on private lands. These leases have a set expiration date. These leases can be very costly to renew if not drilled prior to expiration, and the operator may lose the lease altogether. We request the USFWS consider these issues in its cost impact analysis.

b. Most small independent operators do not have the personnel or the expertise to consult with the USFWS or implement best management practices (depending on what is required) if the proposed critical habitat designation for the ARS is finalized. This would be especially burdensome on small operators. After reviewing the economic impact analysis, we do not think the USFWS took small business issues into consideration, and we request the USFWS consider the impacts to small oil and gas companies.

c. It is not apparent from Exhibit 5-4 what the associated costs are for the various project modifications, and which modifications were utilized in the cost impact analysis. We request this be clarified.

d. The USFWS made a reference to statements I made regarding directional drilling costs. At that time, estimates were provided. Updated cost information has been obtained since that time. Basic direction drilling costs range from $7,500 to $12,000 per day in addition to the daily conventional drilling costs, and directional drilling typically takes 20-30% longer to drill. Basic conventional drilling day-work costs are approximately $10,000 to $17,500, depending on the depth capability of the rig; however, drilling fluids, rental equipment, supervision, and other various daily cost must be added to this estimate which can increase the day work cost to approximately $35,000 per day.

7. Paragraph 149-150:
a. The USFWS references the Department of Energy (DOE) information. What does the best management practices (BMPs) include and what are the associated costs for each BMP? Consultant rates in Oklahoma range from approximately $75 to 95/hr which is close to the $83.33/hr provided in the document; however, we believe the basic BMP costs for soil erosion is low. Basic BMPs for one day would require 2-3 people, a truck and trailer, silt fencing, skid steer and trencher attachment, etc. which would cost approximately $3500/day. Many sites are remote requiring at least one to two days for installation; however, this would greatly depend on the location characteristics. More

complex sites would of course take more time and effort which would drive the cost higher. We request the cost impact analysis address these issues.

b. Drilling rates and idle rig times have drastically changed since 1998. Basic conventional drilling day-work costs are approximately $10,000 to $17,500, depending on the depth capability of the rig; however, drilling fluids, rental equipment, supervision, and other various daily cost must be added to this estimate which can increase the day work cost to approximately $25,000 per day for vertical hole drilling. If a regulatory issue prevents drilling activities to commence on schedule, either the rig would be moved or the daily drilling rate ($25,000) would be enforced. The only cost savings would be for rental equipment that has not been committed or rigged up for the project.

It is important to note that drilling rigs are in extreme demand, and a regulatory delay (similar to the one discussed in comment 6.a. above) would most likely cause the drilling rig to move on to a project where the rig can begin drilling operations. Once the rig is lost, it may take 6 months or more to get a rig back to the site. If the mineral lease expires before the rig returns, the lease would be lost. The USFWS economic impact analysis doesn't address the likelihood or a scenario where a rig and a lease are lost. We request these issues be addressed in the impact analysis. In addition, the USFWS assumption that that overall regional production or significant delays in production are not anticipated is not correct. This should be addressed in a cost impact analysis as well.

c. It does not appear that the USFWS considered a scenario where critical habitat consultation delays production or stops it altogether and impacts gross production tax payments to the state and royalty payments to mineral owners. In 2004, the State of Oklahoma realized over $700 million dollars from gross production tax from oil and gas exploration and production activities. In addition, millions of dollars were received by royalty and working interest owners from oil and gas exploration and production activity. We request the USFWS address theses issue in the economic impact analysis.

Forecasting Future Oil and Gas Development

8. Paragraph 151-153: The Oklahoma Corporation Commission's (OCC's) 2004 annual report is available that should be utilized to project future oil and gas drilling activity. From 1994 to 2004, oil and gas approved intents to drill in the State of Oklahoma have increased 30% (3% average annual increase). So far the total approved intents to drill issued in CY 2005 are 3,173 (thru July). If the current trend continues through the end of the year, approved intents to drill could reach approximately 6,346, a 17% increase over 2004. In addition, previous oil and gas activities have been much greater where approved intents to drill have exceeded 20,000. We recommend the USFWS consider a scenario where oil and gas activity is much higher than today – especially when prices and demand are high and are expected to remain high.

In addition, the 2003 data provided in the report shows 1,312 wells were drilled in the counties that fall within the proposed critical habitat designation area. The 2004 data shows that 1332 wells were drilled in those same counties. These wells comprise 62% of the total wells drilled in Oklahoma, 44% of the total liquids (crude oil and condensate) produced, and 61% of the total gas produced. The proposed area for critical habitat designation is significant to Oklahoma's crude oil and natural gas production and economy, and we request the USFWS reconsider the potential impacts of the critical habitat designation on our industry.

9. Paragraph 154-157:
a. The USFWS has based its projected drilling activity on the DOE's Annual Energy Outlook (AEO) 2005; however, this document does not include any data that shows future projections for the number of wells that will be drilled or pipelines that will be constructed based on price and demand. The projected production rate information should not be used to infer a similar rate on the number of wells that may be drilled in the future. The AEO cites the driving force behind the sharp price increase seen over the past 3 years to be a strong growth in demand for oil worldwide. Current domestic production declines rates are around 25-30% per year; however, to meet demand, drilling activities must increase. The National Petroleum Council Natural Gas study, Volume I , Dec. 1999 states that the "The U.S. drilling fleet must expand to undertake the dramatic increase in activity that will be required over the next decade to produce additional supply. The total number of oil and gas wells drilled per year (including dry holes) will have to double, from approximately 24,000 in 1998 to over 48,000 by 2015." We recommend the USFWS reconsider its projected well drilling activity.

b. The comment and reference number "84" on page 58 should be removed as discussions did not relate to national trends which were not known at the time. See comments 8 and 9.a. above.

c. The reference number "87" on page 59 should be removed as discussions did not relate to national trends which were not known at the time. See comment 8 and 9.a. above.

10. Paragraph 160-166: It is not clear what the "typical" project modifications on Exhibits 5-6 and 5-8 includes or doesn't include. We request the USFWS clearly identify what modifications were considered in each cost impact scenario.

Impacts to Oil and gas Pipeline Activities
11. Paragraph 168: Exhibit 5-9 does not include the associated costs for the various project modifications that may be required for pipeline projects. In addition, it is not clear which modifications were utilized in the cost impact analysis. We request this information be clearly identified in the document.

12. Paragraph 170:
a. The USFWS notes that consultations on listed species have impacted pipeline projects and have caused cost impacts, but it does not appear this information was consider in the actual cost impact scenario. We request this be clarified in the document.

b. On Exhibit 5-10, it does not appear that consideration was given to consultation costs, Endangered Species Act clearance, installation of best management practices, loss of a project, project delays (including the estimates of days delayed), and the delay of production to market for pipeline projects. We request these issues be addressed in the impact analysis.

13. Paragraph 171-176:
a. There are additional "pipelines" that the consultant has not considered. These include flow lines and gathering lines which are necessary for the production of crude oil and natural gas. The OCC's 2004 data shows that 76% of the wells drilled in the counties that fall within the proposed critical habitat area are gas wells (1,011 gas wells). All of these completed wells will need gathering lines (pipelines) connected to them in order to collect the gas and get it to market. The USFWS's estimate for future pipelines appears to be low. We request a cost impact scenario include more pipelines being installed based on the number of natural gas wells drilled and completed (and to meet demand) in counties where proposed critical habitat is being designated. In addition, the USFWS references past pipeline activity based on the Annual Energy Outlook (AEO) 2005 - see comment 9.a. above.

b. On Exhibit 5-11, what project modifications are included in the analysis and what are the associated costs for each one?

c. On Exhibit 5-12, most operators are not familiar with references to watersheds provided in Exhibit 5-12 and 5-13. Maps or a list of counties associated with each watershed need be included in the document to clarify what the watersheds encompass and the number of pipeline projects included.

Environmental Assessment
14. We do not think that the USFWS has adequately evaluated the impacts to the oil and gas industry in accordance with Executive Orders 12866 and 13211. We request the USFWS reconsider its impact analysis based on the comments provided above.

15. The USFWS has explicitly stated that, "In the 30 years of implementing the Act, the Service has found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources."

We believe partnerships with industry, individual landowners and a variety of stakeholders can provide a much greater benefit for the species, and offer positive management actions that cannot be achieved through a critical habitat designation. As you know, a coalition has invested a significant amount of time and effort to develop management plans for Units 1A, 1B and 3. We request the USFWS consider and accept these management plans in lieu of designating proposed critical habitat for the ARS. In addition, we support the exclusion of Units 2 and 4 from critical habitat designation.

We appreciate the opportunity to provide comments on the economic impact analysis and the environmental assessment for the proposed critical habitat designation for the ARS. However, we do not think that the USFWS has adequately evaluated the impacts to our industry. If you have any questions, please contact me at 405-942-2334, x 221. Thank you in advance for your consideration.

Sincerely,

Angie Burckhalter
V.P. of Regulatory Affairs