



**TESTIMONY OF  
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**BEFORE THE SELECT COMMITTEE ON ENERGY  
INDEPENDENCE AND GLOBAL WARMING  
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON  
“ON THIN ICE: THE FUTURE OF THE POLAR BEAR”**

**JANUARY 17, 2008**

Mister Chairman and Members of the Select Committee, I am Jamie Rappaport Clark, Executive Vice President of Defenders of Wildlife. Founded in 1947, Defenders of Wildlife has over 1 million members and supporters across the nation and is dedicated to the protection and restoration of native animals and plants in their natural communities.

Thank you for the opportunity to testify today. This hearing highlights the misguided and conflicting priorities of the current administration. There is a tragic irony to this discussion today to assess both the urgent importance of the proposal pending in the Department of the Interior to take action to prevent the extinction of the polar bear and the simultaneous proposal by the Minerals Management Service (MMS) in the same Interior Department to open to large-scale offshore oil and gas operations nearly 30 million acres of core habitat critical to the survival of polar bears. There is something dreadfully wrong with this picture.

On the one hand, it has to be abundantly clear to the Interior Department that global warming due to human activities threatens the survival of well documented, dwindling numbers of polar bears, and yet they are irresponsibly dragging their feet on listing polar bears as a threatened species under the Endangered Species Act.. On the other hand, the same Department is now irresponsibly and unnecessarily rushing forward to sell oil and gas leases in the Chukchi Sea, in the heart of critically important and essential polar bear habitat. Not only would leasing increase the risk to polar bears from oil spills, pollution, and habitat destruction and further disturb already stressed populations, but also it would lead to even more burning of fossil fuels and even greater emissions of greenhouse gas pollution, exacerbating global warming and the melting of polar bears' Arctic ice habitat.

Defenders of Wildlife strongly believes the administration is wrong on both counts. As we have stated in comments to the U.S. Fish and Wildlife Service (FWS) and as we reiterate here today, polar bears should be listed as a threatened species under the Endangered Species Act, without further delay. Furthermore, as a matter of law, once polar bears are listed, the administration must not proceed with any new oil and gas leasing in the Chukchi Sea or other areas of polar bear habitat until it has fully complied with the Endangered Species Act's consultation requirements to ensure that such leases will not jeopardize the continued existence of polar bears and other listed species. Consequently, it is the height of irresponsibility for the administration to try to evade consultation requirements by approving new oil and gas leasing in this region before polar bears are listed.

Mister Chairman, the administration's delay in listing polar bears on the one hand while, on the other hand, pushing forward with new oil and gas leasing in the heart of polar bear habitat, at the very least creates an appearance of, once again, allowing politics to trump science in endangered species decision-making. As a longtime career biologist with the

federal government before becoming director of FWS, I know the difficulties faced by the dedicated professionals in FWS, the National Marine Fisheries Service, and other federal agencies implementing the Endangered Species Act. Consequently, I am reluctant to criticize them. However, I cannot ignore what this administration's political appointees have done to the administration of the Endangered Species Act and our other conservation laws. This administration has repeatedly engaged in political manipulation of science and conservation. For example, former Deputy Assistant Secretary of the Interior Julie McDonald was found by the Interior Department's own Inspector General to have inappropriately interfered politically with the professional assessments, conclusions, and recommendations of the Department's biologists, scientists, and wildlife managers in endangered species listing and critical habitat decisions--decisions which the Department has now been forced to revisit. Moreover, this administration has consistently starved endangered species and other conservation programs, reducing staff and budget to untenable levels. Thus, when the administration delays listing polar bears under the Endangered Species Act while, at the same time, promoting new oil and gas leasing in polar bear habitat, it is reasonable to suspect that it is once again putting political interests before conservation. For this reason, Defenders of Wildlife welcomes today's hearing and urges you and Members of the Select Committee to make clear that such political interference with conservation will not be tolerated, in the Arctic or elsewhere.

Defenders of Wildlife has been particularly concerned with the Arctic and the fate of polar bears. The Arctic has become "ground zero" for the most visible adverse early effects of global warming, a place where dramatic coastal erosion threatens human communities and where the accelerating disappearance of sea ice has become emblematic of the underlying problems directly attributable to our society's destructive dependence on carbon-based fossil

fuels. Polar bears are the most visible, and most poignant, symbol of the devastating impact global warming is already having on wildlife. It is no accident that the world's leading soft drink seller, Coca-Cola, has adopted polar bears as a marketing image. People respond to these magnificent creatures. Thus, as reports of melting Arctic sea ice proliferate and images of polar bears starving or drowning find their way into the public consciousness, polar bears are awakening us all to the threat from global warming. Or almost all of us.

Unfortunately, there is still ongoing denial by the Bush administration. By continuing to delay listing polar bears as threatened, and at the same time pushing forward new oil and gas leases in essential polar bear habitat, the Bush administration is continuing its outrageous pattern of denial and foot-dragging in response to global warming, while actually promoting the burning of fossil fuels that will only make the problem worse -- for wildlife and humans.

Quite simply, Mister Chairman, it is past time for this administration to list polar bears as a threatened species, to follow the requirements of the Endangered Species Act and carefully review proposed oil and gas leases and other federal actions to ensure that they will not jeopardize the continued existence of polar bears, and to refrain from any new oil and gas leasing in the Chukchi Sea and other polar bear habitat until adequate measures are in place to prevent harm from such activity to polar bears and their habitat. If the administration will finally show responsible leadership, the polar bear can serve not just as a symbol of the harmful impacts of global warming, but as a beacon of hope for helping all wildlife survive global warming.

**I. Polar Bears Should Be Listed as Threatened Under the Endangered Species Act, Without Further Delay.**

Responding to a petition filed by the Center for Biological Diversity, Greenpeace, and the Natural Resources Defense Council, FWS has proposed listing polar bears as a threatened species. FWS has received more than 600,000 comments on the proposal, nearly

all of which favor listing. Defenders of Wildlife submitted comments in support of the proposed listing, in April 2006 and October 2007.

As we have stated in our comments on the proposed listing, there are numerous factors that support listing polar bears as threatened. These include the continued hunting of polar bears and international trade in polar bear parts, potential for increased vulnerability to disease and parasites resulting from habitat shifts due to global warming, increased exposure to human-caused disturbance and pollution, and the inadequacy of existing regulatory mechanisms to respond to the threat from global warming. Above all other factors contributing to the need to list polar bears as threatened, however, is the unequivocal and extensive loss of polar bear habitat due to global warming.

The Arctic sea ice which provides habitat for polar bears is literally melting away. Research conducted by experts at the U.S. National Snow and Ice Data Center in Colorado shows that for the second year in a row Arctic sea ice has failed to re-form after the summer melt. Last September, satellite images showed Arctic ice cover to be at its lowest extent since monitoring began in 1978, a reduction of 8.7 percent per decade. Scientists confirmed that summer sea ice retreated even more during summer 2007.

The extent of sea ice on the Arctic Ocean, of course, fluctuates with the season. The ice melts during the six months of daylight, reaching its minimum point in September. Normally, during the winter, sea ice forms to compensate for what was lost over the summer, but last winter the Arctic experienced warmer than usual temperatures preventing ice from forming and causing the ice that did form to be thinner. Reduction of the extent of sea ice in both the winter and summer is an indicator that the Arctic is experiencing a positive feedback effect, whereby warmer temperatures melt sea ice, causing more open water that absorbs sunlight, which, in turn, causes more ice to melt. In addition, emissions

of black carbon, or soot, also may be accelerating the melting of sea ice by reducing its reflectivity. If this cycle continues as predicted, models indicate that there will be no sea ice left by 2070, or earlier. Already parts of the Arctic Ocean remain ice-free year round, such as a large area in the Barents Sea, home to an estimated 2,000-5,000 polar bears.

Loss of sea ice results in dire consequences for polar bears. Sea ice provides a platform from which polar bears hunt for ringed seals and other prey. As seals follow the receding sea ice, they may be too far from land for polar bears to reach them. Polar bears, though good swimmers over short distances, are not able to traverse large open expanses of water. In 2004, MMS found four bears that had drowned off the northern coast of Alaska where the ice cap had retreated 160 miles north of land. Unable to reach the sea ice, polar bears that remain on land will likely come into conflict with humans, leading to killing of so-called nuisance bears.

In particular, lack of sea ice will have a negative impact on female bears. MMS has found that, in the last ten years, 60 percent of female polar bears were denning on land and 40 percent were denning on ice, where previously the percentages were reversed. Polar bears that den on land have more difficulty traveling between land and ice, forcing them to leave the ice and stop hunting earlier before the ice has retreated too far for them to find their preferred denning areas on land. Less and thinner ice may also disrupt the rearing of polar bear cubs for those populations that den on the ice.

Here is the most dire warning of all: Reductions in Arctic sea ice and increases in the rate at which Arctic sea ice is disappearing led the U.S. Geological Survey to conclude that U.S. populations of polar bears will be extirpated by 2050. The government's own scientists predict that, if we continue with business as usual in emitting greenhouse gas pollution, by mid-century, polar bears will no longer exist in Alaska. **Case closed.** Polar bears must be

listed as threatened under the Endangered Species Act. In addition, immediate steps must be taken to halt their downward spiral. These include refraining from oil and gas leasing in the Chukchi Sea and changing our energy policy to reduce greenhouse gas pollution. If we act now, there is hope for polar bears, the Arctic ecosystem, and ourselves and our children.

## **II. The Bush Administration Should Refrain From Oil and Gas Leasing in the Chukchi Sea and Any Other Polar Bear Habitat Until It Has Fully Complied With the Endangered Species Act to Protect Polar Bears and Their Habitat**

Once a species is listed under the Endangered Species Act, it is entitled to a number of important protections. First, it is illegal for anyone to take an individual of the species. Take means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19). Prohibited take includes habitat destruction which actually kills or injures individuals of a listed species. So, for example, oil and gas development in the Chukchi Sea which results in an oil spill that kills or injures polar bears would be an illegal take under the Endangered Species Act, unless incidental take has been authorized pursuant to Section 7 of the Act.

In addition to the prohibition against take, listed species receive the additional protection provided by the consultation requirements of Section 7 of the Endangered Species Act. Section 7 requires federal agencies to consult with either the Secretary of the Interior, acting through FWS, or, in the case of certain marine species, the Secretary of Commerce acting through the National Marine Fisheries Service, to ensure that any action “authorized, funded, or carried out” by a federal agency “is not likely to jeopardize the continued existence” of a listed species or adversely modify or destroy its designated critical habitat. 16 U.S.C. § 1536(a)(2). Consequently, once polar bears are listed, any proposed oil and gas leases in the Chukchi Sea or other polar bear habitat would have to undergo Section

7 consultation first, to ensure that the leases are not likely to jeopardize the continued existence of polar bears or any other listed species in the region.

Even before polar bears are listed, Section 7 requires federal agencies to confer with FWS on possible impacts of federal actions which are likely to jeopardize polar bears or any other species proposed for listing. 16 U.S.C. § 1536(a)(4). Thus, since listing of polar bears has been proposed, MMS and FWS must determine whether oil and gas leasing in the Chukchi Sea is likely to jeopardize polar bears and, if so, confer on the leasing and its impacts. Once polar bears are listed, MMS must consult with FWS to ensure that the leasing is not likely to jeopardize the continued existence of polar bears. In other words, the Endangered Species Act requires federal agencies to stop and think about the effect of their actions on listed species and species proposed to be listed. It would fly in the face of the precautionary purpose of the Endangered Species Act if the Interior Department is able to take advantage of its own delay in making a listing decision on polar bears to expedite oil and gas leasing in the Chukchi Sea, without first fully evaluating the potential harm to polar bears. At minimum, given the proximity of the listing decision and the leasing proposal, the Bush administration should delay any oil and gas leasing in the Chukchi Sea or any other polar bear habitat until the listing decision has been made and, assuming polar bears are listed, Section 7 consultation requirements are fully met.

The potential for harm to polar bears from oil and gas leasing in the Chukchi Sea is substantial. MMS is proposing to open nearly 30 million acres of core habitat critical to the survival of polar bears to oil and gas development. Such development is highly risky and detrimental to polar bears and other Arctic wildlife. Oil and gas development routinely produces massive air pollution emissions, including increased emissions of greenhouse gases that cause global warming. The sensitive Arctic marine environment is subject to serious



damage, from activities ranging from seismic survey blasts to routine toxic discharges of spent drill muds, borehole cuttings, and wastewater, dumped directly into one of the most pristine and biologically sensitive marine environments on the planet. The risk of damage from oil spills, leaks, fires, and other accidents, exacerbated by an industry history of lax oversight and enforcement, poses a serious threat to Arctic wildlife.

Most disturbing of all, no technology presently exists that can even begin to successfully clean up spilled oil at sea in the meteorological and sea-state conditions prevalent in the Arctic. Furthermore, no oil spill technology currently exists to adequately respond to a spill in broken-sea-ice conditions such as those prevailing in the Chukchi Sea. Once an oil spill moves under the ice sheet, which is essential to the breeding, feeding, and sheltering of polar bears and the entire Arctic marine life community, there is no way to even track its movements. Oil will not biodegrade but will remain highly toxic for up to a century or more, continually leaking out at unpredictable intervals to poison our wildlife and foul delicate lagoons and hundreds of miles of inaccessible shorelines. For polar bears, as well as the resident walrus and shorebird populations, and for the migrating bowhead and beluga whales in the Chukchi Sea, the consequences are unthinkable.

In addition to the potential for direct harm to polar bears and their habitat from oil and gas development in the Chukchi Sea and elsewhere, there is the indirect, but equally devastating, impact of promoting additional burning of fossil fuels, which increases greenhouse gas pollution that causes global warming. We have reached a point, Mister Chairman, where we cannot continue business as usual. We cannot continue to promote the burning of fossil fuels if we are going to stabilize atmospheric greenhouse gas concentrations and stop human-caused global warming. The plight of polar bears is a warning to us that we

must act now to reduce our use of fossil fuels and consequent production of greenhouse gas pollution.

This is so much bigger than a singular focus on the polar bear, regardless of the importance of this species itself. Given what we now clearly know about the drastic implications of global warming for human society worldwide, it is clear that the administration's stumbling approach to making these decisions concerning the polar bear and the Chukchi Sea are emblematic of something bigger and very troubling. Even with all the evidence out there on the seriousness of global warming, this administration still—incomprehensibly—refuses to believe it. Or, they do believe it and yet still will not take responsible action because of their commitment to serve private and political interests that are not in the best interests of the country or the future. Either way, it is a poor reflection on this administration and the American people are ill-served by it.

### **Conclusion**

In conclusion, Mister Chairman, we have come to a crossroads—for the polar bear, for all life in the Arctic seas, and for our own global climate future. It is long past time to begin seriously addressing global warming. The Bush administration should move forward immediately to list the polar bear as a threatened species and to fully comply with the requirements of the Endangered Species Act. The administration should also withdraw the proposed oil and gas leases in the Chukchi Sea, while it fully complies with the consultation requirements of the Endangered Species Act. The administration should also refrain from any further oil and gas leasing in the Chukchi Sea or other polar bear habitat until adequate measures are in place to protect polar bears and their habitat from the harmful effects of such development. Most importantly, this administration or, more likely, the next one, should work with the Congress to develop an energy policy that will reduce our use of fossil

fuels, our production of greenhouse gas pollution, and that will protect polar bears, other imperiled wildlife, and, ultimately, ourselves and future generations from the harmful impacts of global warming.

Thank you again for the opportunity to testify on this important issue. I will be happy to answer any questions you may have.