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CURRENT PUBLIC LANDS AND FORESTS LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

S. 532	**S. 832**
S. 2229	**S. 2379**
S. 2508	**S. 2601**
H.R. 523	**H.R. 838**
H.R. 903	**H.R. 1285**

FEBRUARY 27, 2008

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CURRENT PUBLIC LANDS AND FORESTS LEGISLATION

WEDNESDAY, FEBRUARY 27, 2008

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:27 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. The subcommittee will come to order.

The purpose of today's hearing is to look at a number of land-use bills. They include S. 832, a bill to provide for the sale of approximately 25 acres of public land to the Turnabout Ranch in Escalante, Utah, at fair market value; S. 2229, a bill to withdraw certain Federal land in the Wyoming Range from leasing, and provide an opportunity to retire certain leases in the Wyoming Range; S. 2508, H.R. 903, a bill to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests, in Colorado; S. 2601 and H.R. 1285, a bill to provide for the conveyance of a parcel of National Forest System land in Kittitas County, Washington, to facilitate the construction of a new fire and rescue station; H.R. 523, a bill to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington; H.R. 838, a bill to provide for the conveyance of the Bureau of Land Management parcels know as the White Acre and Gambel Oak Properties, and related real property, to Park City, Utah; and S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act.

This is a piece of legislation that Senators Smith and I have intended—have introduced to create the Soda Mountain Wilderness. It would provide for the exchange of certain Monument land, in exchange for private land, and address various grazing allotment questions in and near the Monument.

So, I believe most of these bills are non-controversial, so we ought to be able to move through this hearing quickly.

I've got some remarks about the Cascade-Siskiyou bill, but both of my colleagues, I think, are on a tight time schedule, so I'm going

to recognize Senator Barrasso to make his comments initially, and then Senator Salazar will make some comments.

Governor, we're very pleased you're here. Thank you for your patience, and we'll go right to Senator Barrasso.

STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Thank you very much, Chairman Wyden, for holding today's hearing. Specifically, I want to thank you for including S. 2229, the Wyoming Range Legacy Act, on today's agenda.

This is a particularly important piece of legislation for all of the people of Wyoming. It is the first bill that I introduced into the U.S. Senate, and I want to welcome Dave Freudenthal, the Governor of the great State of Wyoming, who is here.

I very much appreciate your attendance. You and I both know the Wyoming legislature is in session. You flew out here this morning, you're here to testify, and have to get back to Wyoming tonight. But I know you are so committed to the Wyoming Range, and what we're trying to do to preserve it, that I appreciate the effort that you're making to be here with us today, Governor.

I'm very pleased that we can work together to enhance and ensure that tourism and recreational values in this area will be sustained for the future generations of folks in Wyoming.

I also want to welcome Gary Amerine, who is here. He's an outfitter—he's co-founder of the Citizens Protecting the Wyoming Range, he's a resident of Daniel, Wyoming, he is a great, local advocate of this legislation.

I am very confident, Mr. Chairman, that he will articulate the views of many sportsmen, residents, small business owners, and conservationists in the area.

Gary, I know you'd rather be back in Wyoming, but all of us are very glad that you're here with us to share your thoughts and ideas today.

I'd also like to welcome Claire Moseley, who is here. She is the Executive Director of Public Lands Advocacy, and she has traveled nearly as far to express her concerns about this piece of legislation.

Claire and I first met in Jackson, Wyoming—just north of the forest area covered in this legislation. Since that time, she and I have discussed the legislation, as well as many representatives from the oil and gas industry. I know that her comments will offer a thoughtful assessment from those advocating for environmentally sensitive gas development in this area.

Finally, I appreciate the Deputy Under Secretary of Agriculture, Melissa Simpson, and Deputy Director of the Bureau of Land Management, Luke Johnson, for offering their testimony.

Mr. Chairman, Wyoming has a very proud heritage of providing abundant, affordable, and domestic energy across America. I support Wyoming's extractive industries, and am proud of the environmentally responsible manner in which they operate.

Like my predecessor, Senator Craig Thomas, I also believe that some places are just too special to develop. This legislation is a monumental step forward. It will ensure the continuation of a diversified economy for the area, it will enhance tourism, recreation

and hunting in the Wyoming Range, and it will protect the splendid natural landscapes for future generations.

Today, we're taking an important step forward in setting aside more than 1.2 million acres from future oil and gas leasing in the Bridger-Teton National Forest, and the areas surrounding the mountain range with Wyoming's namesake, the Wyoming Range.

This legislation is supported by a large and diverse group of allies. Central to this support is, what I believe to be, a strong majority of Wyoming residents. This proposal has been developed from the ground up, and is not a bureaucratic mandate from Washington. If this legislation is successful, it will be to the credit of courageous leaders, like Senator Thomas. Credit is also due to the local voices of thousands of Wyoming residents.

Too often, legislation crafted in Washington loses sight of the people directly affected. In this case, Mr. Chairman, the ideas are being generated on the ground, and we are providing just a vehicle for their vision.

Thank you, Mr. Chairman, and I look forward to today's hearing.

Senator WYDEN. Senator, thank you, and I look forward to working with you on it. I note, especially, that the first bill—it wasn't long ago when I was in that situation. So, I look forward to working with you.

Senator Salazar.

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Thank you very much, Chairman Wyden, and Ranking Member Barrasso, for holding this hearing.

I want to say, welcome to the U.S. Senate here, Governor Freudenthal, you are one of the champions of the West, and do a tremendous amount of good for the State of Wyoming, and being our neighbor to the north, where we share hundreds of miles of common border, I know that we face many of the same issues in Colorado as you do in Wyoming.

I have appreciated working for you—working with you and for you—for many years. I also look forward to working with you, in the future.

I want to speak, just briefly, about S. 2508—the Colorado Northern Front Range Mountain Backdrop. I introduced this legislation last December with Congressman Udall in the House of Representatives.

Senator Barrasso, as you introduced your legislation on the Wyoming Range, it is very similar to the legislation that we're introducing here, I think. All of us in both Colorado and Wyoming recognize the importance of the crown jewels that we have, in terms of the Rocky Mountains. Our efforts to move forward in their preservation, in the long term, I think will be appreciated by our generation, as well as those generations to come.

Colorado and Wyoming face many of the same challenges related to the rapid pace of oil and gas development on public lands, and we share many of the same goals when it comes to protecting our quality of life, and unique land, and the water resources in the Rocky Mountains.

I'd like to thank all of our witnesses for sharing their time with us today, in particular, I want to thank Melissa Simpson, the Deputy Under Secretary of USDA, who is here with us and who will provide testimony on the legislation.

For us, in Colorado, one of the realities that we face is a significant population growth at remarkable rates, over the last 20 years. The population of the Denver metro area increased 40 percent between 1980 and 2000. In that time period, we went from 1.4 million residents in the Denver metro area, to 2 million in the year 2000. Today, the population of the Denver metro area is almost 3 million people.

Colorado's natural beauty, resources and recreational activities have attracted many new residents and businesses interested in taking advantage of the many opportunities that we offer in Colorado. But urban and suburban growth, and new land development, water consumption, water disposal, and reduced air quality, puts enormous pressure on our existing natural resources.

My legislation, the Colorado Northern Front Range Mountain Backdrop Protection Study Act, will help local communities identify ways in which they can protect the natural resources most at risk from new development.

The Front Range of the Rocky Mountains, in particular, provides a picturesque mountain backdrop to many communities in the Denver metro area, and other parts of the State. The Front Range backdrop also provides an essential buffer to urban and suburban growth, by preserving an interconnected eco-system of open space and trails for the use and benefits of the entire State of Colorado.

The particular focus of this bill is the Arapaho/Roosevelt National Forests. The rapid population growth in the Northern Front Range area of Colorado is increasing. Recreational use of the forest is placing increased pressure for development of other lands within and around it.

The portion of the Range within, and next to, the Arapaho/Roosevelt National Forests includes a diverse array of wildlife habitat, and outdoor recreational opportunities that are irreplaceable. My legislation will help local communities identify ways in which we can protect these areas.

Specifically, the bill requires the Forest Service to study the ownership patterns of lands comprising the Front Range mountain backdrop in the region west of Rocky Flats, identify opportunities for protecting open space, and recommend to Congress how these lands might be protected.

I want to emphasize that this land will complement the current local efforts undertaken by the cities and counties surrounding Rocky Flats, and the mountain backdrop.

The Front Range mountain backdrop is part of our Nation's cultural and natural heritage. It has served as a welcoming sight for people coming to the Rocky Mountain West.

I am pleased that this bill is part of today's hearing, and I look forward to working with Chairman Wyden, Senator Barrasso, and others to get this bill enacted into law. Thank you very much, Mr. Chairman.

Senator WYDEN. Thank you, Senator. You and your constituents have done very good work, and we're looking forward to working with you, and working with you quickly, to pass your legislation.

Senator SALAZAR. Thank you, Senator.

Senator WYDEN. Governor, with your indulgence, I think what I'd like to do, is I think I will spare you my opening statement with respect to the Cascade-Siskiyou Area, but I wanted to let Senator Smith, you has worked hard on this legislation, give his opening statement—is that all right with you, from a time standpoint? Great.

Senator Smith.

STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. Thank you, Chairman Wyden.

Governor, it's nice to have you here.

I appreciate you holding this. You and I have worked hard on this, and I want to begin my remarks by welcoming two Oregonians who will be testifying today.

I've known Andy Kerr for many years, and am delighted that we've ended up in an alliance on this issue. Mike Dauenhauer is a cattle rancher based in Ashland, and is one of the folks whose livelihoods we're trying to save with this legislation.

Senator Wyden and I have worked for many years on pieces of legislation like this, common sense, that have protected Oregon's landscape without punishing those who make a living from the land.

In my years of public service, I have noted a unique way of problem-solving in Oregon, and among Oregonians—we tend to bring together stakeholders and find solutions that are in everyone's best interest.

That spirit often results in strange bedfellows, and atypical legislation. That is certainly the case with our legislation today, Mr. Chairman—the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act—it's a mouthful, but it's important.

I'd like to let Mike and Andy provide their perspectives on the background of the Monument, and how it affects the future of grazing. As for my part, it was several years ago that a small and uniquely, and unlikely, group of ranchers and environmentalists came to me and my staff—as I'm sure they did with you, as well, Senator Wyden—they said they'd found common ground in avoiding a legal collision course between grazing operations and the Clinton Administration's Proclamation of the Cascade-Siskiyou National Monument.

The 2000 declaration of the National Monument was controversial at the local level, as many similar proclamations were. Concerns about the future of grazing topped the list—and they still do. The Cascade-Siskiyou is the only Monument Proclamation that addresses livestock grazing in such deliberate specifics.

As a result, grazing allotment holders, like Mike, within this National Monument face one of the most complex webs of Federal environmental regulation of anywhere in the country. That entanglement is not of their choosing—it was the choosing of the past Ad-

ministration, motivated either by political or ecological intentions—it depends on who you ask.

But we're not trying to pick a side, here, and we're not interested in showdowns. If the battle between cattle and conservation is left to the courts, there will be but one winner. If the issue is resolved by Congress, both sides can win, and both sides can happily ride into the Southern Oregon sunset.

What this legislation would do, is compensate the ranchers for moving their cattle off the Monument, and for permanent cancellation of their permits. I understand there will be concerns and questions about that from both sides of the aisle, the concept seems novel and controversial. Yet, there are a handful of instances where ranchers were paid to move their operations off Federal land. I do not believe that buyouts should be used across the landscape to settle every grazing dispute, but there are unique circumstances, such as this one, that deserve a unique response from the government.

That is my goal, and my mission on behalf of my constituents. I look forward to working with the committee and the Administration to advance legislation that meets everyone's needs, and does not abdicate Congress's role in public lands management policy just to the courts.

Our collaboration, to date, has shown what good can happen when people reach across the aisle, and across a barbed-wire fence to produce real solutions.

Thank you.

Senator WYDEN. Thank you, Senator Smith, for an excellent statement. I'll have some more to say about Andy Kerr and Mike Dauenhauer when they're coming on up.

Governor, it's obvious you've got a lot of friends on this panel, both Democrats and Republicans, we welcome you. We'll make your prepared remarks as part of the record, and you just proceed as you would like.

STATEMENT OF HON. DAVID D. FREUDENTHAL, GOVERNOR, STATE OF WYOMING

Governor FREUDENTHAL. Thank you, Mr. Chairman and members of the committee. I want to commend Senator Barrasso for getting things moving on this bill, and getting a hearing. I also appreciate his sensitivity that I want to get back to Cheyenne, where the legislature is in session. His having been a member of that body, he knows what damage they can do when I'm out of State, so——

You know, the written remarks talk about why this area is so special for us, and I hope that the chairman is right, that it's not a controversial bill.

But, in fact, it has significant opponents. It has widespread public support, because it really is an area that is of both State, regional and national value—it's a treasure. It's a treasure for sportsman, hunters and recreationists, and all of the things that you'd expect.

But it is also, this bill—the statement about the way we do business in Wyoming—we're a State that is proud to produce 10 percent of the BTUs consumed by this economy, on an annual basis. But what we have sought to create is some form of balance, in

which we recognize that we do have both the opportunity and the obligation to provide energy, but there's a point at which enough is enough, and we talk about balance.

Everybody agrees that there should be balance, and some of the opponent of this bill have sat in my office and said, "Well, we agree. Not every acre in Wyoming should be subject to exploitation and drilling."

Then when you begin to talk about specific acreage, as the Senator does in this bill, all of that evaporates. Balance is good if it's on somebody else's lease. Balance is good if it's in somebody else's projected development. But, what we're here to talk about is what balance is good for the State of Wyoming, and what balance is good for us is the passage of this bill.

The area that we're talking about is one that people value immensely. It's one that can't be successfully drilled, I think, with any hope for reclamation or viability of the streams and the population, simply because the wildlife, the streams and the topography are not ones that lend themselves to even some of the more modern techniques of drilling. In terms of our ability to access this resource, and some of it will simply have to be out of bounds.

The other argument that was presented to me in my office—and I suspect that you hear, is that we in Wyoming have an obligation to produce this, because if I don't, there will surely be a terrorist in the Wyoming capital in short order. That it is my obligation to see the State of Wyoming drilled or developed to the maximum, as a matter of national security.

I think that that argument misrepresents the failings in this country with regard to energy policy. The answer to a failed energy policy isn't to continue the patterns of the past, it's to have a different policy. I don't believe that the Wyoming Range should be a casualty of the failure of this country to have a rational energy policy that deals with energy efficiency and conservation, and a fully diversified energy portfolio.

What's happening now is, as you know, if that because of the way we're handling energy in this country, we essentially have fuel switching, and everything's going to natural gas. So, anytime you talk about withdrawing an area for potential leasing that might contain natural gas, the automatic argument is that you have violated your obligation to national security.

I would argue to the committee, and to those who make that argument, that there are much better ways for us to provide energy security in this country than to simply extend a policy of dependence on drilling every single acre in the western States, and we're asking you to preserve some acreage in Wyoming.

Why is the action needed now? Not only do we need the bill, but I will tell you that in the context of this particular area, in 2004, the Federal Government talked about leasing 175,000 acres. In the State of Wyoming, most of the elected officials—including Senator Thomas, objected.

The Administration proceeded on leases in 2006, offered 44,000 acres for lease. That process went forward, an appeal was launched, the Interior Board of Land Appeals rejected the sale—said it was done improperly, insufficient basis, they needed to do another supplemental EIS.

Now where you're at is that that process has been begun in order to get those leases ratified through a new supplemental EIS, and here's the schedule they've created that should give you some understanding of why we feel some urgency about this bill.

That EIS is in scoping today. They intend to have a draft out in May 2008, and a final out in September 2008. Now, this is an EIS—a supplemental EIS—on the leasing of lands in an incredibly sensitive area. It has been placed on an expedited schedule, unlike any expedited schedule that I've seen, with a clear intention that the final be done by September.

We need this legislation and we need progress on this legislation in order to preserve the proper treatment of those lands over time.

So, the last point that I would bring to your attention, is that everybody now comes into my office—and I expect to yours—and says, "Look, we can do new drilling techniques, and we can access these lands." There is some very real truth to that—there are drilling techniques now that allow for extensive directional drilling. To the extent that that works, I don't have a problem with it. But as soon as you say, "OK, will you agree that we'll set the area aside for no surface occupancy, no surface disturbance with regard to oil and gas and if you're going to access it, you'll access it only through directional drilling?", the response is, "Well, we don't want that in the law, we don't want that in the rules, but just trust us, that's what we'll do."

Unfortunately, on these kind of matters, I think—and I hope Senator Barrasso will like this—and I quote Ronald Reagan, his "trust but verify" is absolutely correct. If we decide—and as you'll see when you pursue this—there's some areas that probably along the adjacent, the outer, the eastern edge of this area, probably need to be talked about because of some pre-existing leases, they need to be talked about in terms of what we're going to allow for surface occupancy.

But don't leave us in the position where they have come in and said to you and to me, "Trust us, we'll do this." Put it in the bill. Protect, not only ourselves, but future generations, to make sure that the good faith expressions of commitment made today are reflected in the statute.

Mr. Chairman, you know, unlike the 10th Circuit, your little timer doesn't work, but I suspect my 5 minutes is up. I would be delighted to take questions on this—as the Senator knows, this is an issue that—along with himself and others in the State—have spent a fair amount of time on, and feel quite strongly that this needs to be done.

To give you some demonstration how strongly I feel about it, I really resent the idea that I have to ask the Federal Government for help for anything. But, in this case, I do. So, give me a break, and let's let this bill go.

[The prepared statement of Governor Freudenthal follows:]

PREPARED STATEMENT OF HON. DAVID D. FREUDENTHAL, GOVERNOR, STATE OF WYOMING, ON S. 2229

The Wyoming Range is appropriately named, as it truly is Wyoming's mountain range. While most of the nation thinks of Wyoming in the context of Yellowstone and Grand Teton National Parks, the citizens of the state more closely relate to the Wyoming Range and places like it. As such, I thank Senator Barrasso for his initia-

tive and for continuing the legacy of the late Senator Craig Thomas to protect the people's backcountry, while at the same time recognizing and safeguarding private property rights with his introduction of the Wyoming Range Legacy Act of 2007 (S. 2229).

WYOMING'S RANGE

The Wyoming Range is part of the Bridger-Teton National Forest. It sits south of Jackson Hole and Grand Teton National Park and contains mountain peaks that rise over 11,300 feet in elevation. It is home to an abundance of wildlife including mule deer, elk, pronghorn and moose, along with three species of native cutthroat trout, sage grouse, wolverines and other sensitive species. The Range also provides critical habitat for the Canada lynx, a threatened species under the Endangered Species Act.

I am fond of saying that people do not choose to live in or visit Wyoming to see an opera—they live and come here because they love the outdoors. Outdoor recreation, hunting, fishing, clean air and open spaces are our birthright. We guard those few weekends of hunting season every fall as we do any other holiday. With its big game herds and world class fisheries, starting in the summer and lasting through November, seemingly all roads—from Rock Springs to Cheyenne to Newcastle and everywhere in between—lead to the Wyoming Range.

The Wyoming Range is also a popular area for other recreational activities like camping, hiking, bicycling, skiing and snowmobiling. The National Outdoor Leadership School (NOLS), an international wilderness education organization, uses the Wyoming Range as one of its winter and summer "classrooms." The 70-mile Wyoming Range National Recreational Trail, at more than 9,000 feet in elevation, runs through the heart of the Range, as does the 353-mile Wyoming Range Snowmobile Trail. For both the blue collar drilling hand from Pinedale and the white collar attorney from Riverton, the Wyoming Range is truly a land of multiple uses. Proving this point further, in addition to providing a rich hunting, angling and recreational heritage, the Range also supports public land grazing, timbering and oil and gas production, which are appropriately not affected by this legislation.

NATURAL GAS DEVELOPMENT

In an age where carbon footprints are seemingly of more concern than drilling footprints, the energy portfolios of certain states, industrial users and utilities have become more "green" by shifting their energy supplies from coal to natural gas. While these attempts to manage carbon emissions are laudable, they have resulted in extreme pressure to develop natural gas reserves across the West and most markedly in Wyoming. As of 2007, almost 26 million acres of federal lands were open to oil and gas leasing in Wyoming—which represents roughly 86 percent of all federal lands in the state. Of that acreage, almost 14 million acres, or 52 percent of the lands open to leasing, were actually under lease. Of this nearly 14 million acres under lease, just less than 4 million acres were under production. On the almost 4 million acres of producing leases, the federal government has been quite efficient in achieving production from its leasehold. In 2006, more Applications for Permit to Drill (APDs) were issued in Wyoming than all other states combined. In 1999, only about 500 APDs were processed, compared to more than 3,500 APDs in 2006. As a result, from 1997 through 2006, marketed production of natural gas nearly doubled in my state.

To be clear, the state, its counties and towns and its citizens have unquestionably benefited from this development. We have been more than happy to do our fair share to meet the nation's energy needs and, in the process, fill our state and local coffers. But as a result, our wildlife, small town way of life, clean air, water and soil and access to public lands and open space have been altered and stressed to a breaking point. At the end of the day, we must make sure that Wyoming is a place where people want to live long after the oil and gas companies have moved on. This means finding a balance. Protecting places like the Wyoming Range will help to strike that balance.

WHY THIS BILL? WHY NOW?

The history of oil and gas leasing in the Wyoming Range and very recent actions by the U.S. Forest Service and the U.S. Department of the Interior illustrate why Congressional legislation is needed to protect the Wyoming Range as soon as possible. In 2004, the Forest Service contemplated leasing 175,000 acres for oil and gas development in the Wyoming Range. This met with enormous public outcry and opposition from Senator Thomas, other local and state elected officials, Wyoming businesses, outfitters, sportsmen, conservationists and myself. Citing the important and,

in some cases irreplaceable, wildlife and recreational values sustained by the Wyoming Range, and given the significant energy development on surrounding BLM lands in northwestern Wyoming, we collectively asked the Forest Service to refrain from leasing.

In response, instead of listening to the public, the Forest Service only scaled back its lease offering. In 2005-2006 in a series of four lease sales, the Forest Service consented and the BLM offered 44,720 acres for lease. Conservation groups, sportsmen's groups, outfitters and homeowners protested the sales, citing numerous changed circumstances in the region since the early 1990s when the original leasing environmental assessments had been prepared. Although the Forest Service noted that circumstances had changed since the early 1990s (air quality impacts were now a problem, the reasonably foreseeable oil and gas development in the region was far greater than initially anticipated and the Canada lynx was now a federally listed species) it refused to prepare a new environmental analysis. The BLM, relying on the Forest Service's determination, ignored the lease sale protests. Many of the groups appealed and requested a stay from the Interior Board of Land Appeals ("IBLA"). The IBLA found that the appellants were likely to succeed on the merits of their appeals and granted a stay on development that remains in place to this day. In a rare move, the BLM requested a remand of the cases, even though the IBLA was clear that the BLM and the Forest Service had the authority to cancel the leases if, upon review, the agencies decided the changed circumstances were significant enough that the leases should never have been issued in the first place.

It was these lease sales that served to rally the citizens of Wyoming to fight to protect the Wyoming Range. Local landowners, outfitters, sportsmen and anglers, nearly 30 different hunting and angling groups, business owners, labor union members, more than 60 trade unions, conservation groups, ranchers and others from around the state and nation who hunt, fish, snowmobile, horseback ride, camp, hike and sightsee in the Wyoming Range have banded together to seek passage of the legislation before you (S. 2229).

Given the contested outcome of the lease sales, the strong IBLA decision authorizing the agencies to cancel these leases outright and the legislation before Congress, it would make sense that the Forest Service slow down and use caution before making a decision about new leasing. The Bridger-Teton National Forest is currently in the process of forest plan revision and will be analyzing whether new leasing is appropriate on the forest in light of the extensive development occurring on nearby BLM lands. Surely one would think that the Forest Service would wait until that process resumes and could wait to see the outcome of this legislation before it moves forward with a decision.

Instead, the Forest Service, at a national level, has made this leasing decision a priority—putting the fate of the 44,720 acres on a fast-tracked process with an anticipated decision expected this September, ironically in the midst of the hunting season. To this end, just this month, the Forest Service published its Notice of Intent to prepare an Environmental Impact Statement to review the leasing decision with the proposed action to issue all of the contested leases. Stanley Energy, one of the companies that holds leases in this contested block, has already suggested that it might drill 200 wells from eight, 50-acre well pads in the area.

CONCLUSION

Estimates suggest that almost 12 trillion cubic feet of gas underlie the Wyoming Range. Those that favor drilling will proclaim that, in the interest of national energy security, they must have access to the area. In certain places, like those already leased and producing areas on the outer edge of the southern and central reaches of the Wyoming Range, drilling might be conscionable—and is fully within the realm of possibility even with the passage of S. 2229. In those areas, I would submit that the tightest constraints guide any development—with platinum-plated mitigation requirements and as small a drilling and production footprint as possible being absolutely and unequivocally required. But in the rest of the Wyoming Range, including all of the currently unleased and contested acreage, leasing and development—no matter the volume of "technically recoverable reserves"—is wholly inappropriate. No measures of mitigation and no current or foreseeable drilling technologies are sufficient to protect these areas, especially given the fact that most of the Wyoming Range consists of steep slopes, narrow valleys and few flat spots other than those in the riparian bottomlands, which are and should be off limits to well pad construction. With the nature of the topography in the area, if development is allowed to proceed on well pads of normal size—no less 50 acre pads—the Wyoming Range will be made to look like it is home to a hilltopping coal mining operation. Hence the legislation before you.

Importantly, and in line with other strongly held Wyoming values related to private property rights, the legislation, as crafted, does not extinguish valid existing rights of leaseholders in the Wyoming Range. That said, it does reflect the public's beliefs about the area's highest and best uses. The legislation includes a process by which leaseholders could voluntarily sell or donate their leases for permanent retirement by the Forest Service, but this is an entirely voluntary process.

The people of Wyoming are proud of our natural resource producing heritage. From coal and trona miners to uranium producers and oil and gas operators, the backs of Wyomingites are strong, having long carried the nation's natural resources burdens. Now it is time for the nation to give us something back, to protect something that is near to our hearts: the Wyoming Range. We hunt there. We fish there. We hike and camp there. We want to ensure that we will be able to take our children and grandchildren to the same places to see the same big game herds, the same streams and the same mountains that we can see today.

I encourage you to advance this legislation. Like most of our endeavors in government, it is not perfect. But the existence of this legislation and more importantly this hearing, have forced the parties to seriously discuss this proposal. Discussions about the Wyoming Range have been ongoing for several years. It is only within the last ten days that any of the industry participants have seriously discussed protections for this area. Previously they have appeared to have relied on overly-friendly agency support in Washington D.C., and simply discounted Congressional and Wyoming state interests. There is no doubt room for future discussion, but in the absence of serious Congressional interest in the legislation, the proponents of drilling feel no need to be responsive.

Thank you Mr. Chairman, members of the Committee and especially Senator Barrasso.

Senator WYDEN. Governor, it's quite obvious why you are racking up these huge vote pluralities in the State of Wyoming.

We thank you for an excellent presentation, we're going to start our questioning with Senator Barrasso.

Senator BARRASSO. Thank you very much, Mr. Chairman.

Governor, you and I have talked, and you may want to share with others—you know, what happens to the Wyoming Range long term if we don't have this legislation?

Governor FREUDENTHAL. In the absence of this legislation, if you look out over the long term—particularly, multi-generational term—essentially what will happen is it will, through a series of individual actions, it will be eroded in terms of its value, both for tourism, recreation, and the other things that we care about in Wyoming.

But more importantly, you lose the opportunity to take a holistic view about what this area—the entire acreage, the 1.2 million, that acreage—what its contribution is, not just to Wyoming, but to this country. It is a national treasure.

Those of us in Wyoming treasure it most immediately because we're there. But it is a national treasure, which we believe needs national protection.

Senator BARRASSO. One last question. There's been some question raised about possibly decreased tax revenue by not going out and exploring in that area, and I've heard that a bit around the State. Any comments in how we respond to that?

Governor FREUDENTHAL. Senator, thank you. I think you and I hear—both hear the same things, is that, you know, somehow we're going to lose tax revenues. The truth is, the State's in fine position, we're doing fine.

It's very interesting to me that those same people who say, "You need to lease this because you might lose tax revenues," are very quick to come back in and say, "But, oh, by the way, you can reduce my taxes, or you can give me some other kind of a break." So,

I end up with a terribly unsympathetic heart with regard to an argument that essentially is premised on, "Please let use pay taxes," because they're saying that on one side, and on the other side they're saying, "Give us a break."

Senator BARRASSO. Sounding more like Ronald Reagan every day.

[Laughter.]

Senator BARRASSO. Governor, we appreciate that, we appreciate you being here, I think some of the other panel members may have a question or two. Thank you very much.

Senator WYDEN. Senator Smith, any questions?

Senator SMITH. No, thank you.

Senator WYDEN. Governor, I'm going to let you go in just a second, and certainly you've done excellent work, and I want to commend my friend, Senator Barrasso—we're going to try to move on your legislation, you know, quickly. Chairman Bingaman has asked that we look at this in the subcommittee, and there may be some questions about one provision or another. But certainly you've done some very good, good work.

But I can't let you go without talking to you about the procedural snafus that, unfortunately, stand in front of us. Senator Smith and I, for example, have been working to 5 years to pass legislation, much like what you've done—a consensus bill with various industry groups, and environmental organizations, others, on the Mt. Hood Wilderness legislation. It has just been very difficult getting over some of the procedural hoops.

So, we all hope that we can get environmental legislation—important environmental legislation, like the legislation that you and Senator Barrasso are moving—out of the Senate. Thus far, it has been very hard to do it on Senate-originated bills; the legislation has had to come from the House. But, we're hopeful we'll be able to clear it.

I bring this up only by way of highlighting the fact that, particularly in the West, we've got an awful lot of thoughtful people who understand that it's possible to protect treasures, and be sensitive to economic development at the same time. They go out, without a lot of shouting, and without a lot of fanfare, and they put together sensible initiatives, like you and Senator Barrasso have done. Then it comes to Washington, and then somehow it gets caught in some of these sort of procedural battles that don't seem very important to anybody except a handful of concerns in Washington, DC.

So, I hope that we can get your legislation addressed, just as we're trying to get the Mt. Hood Wilderness legislation address, and unless you'd like to add anything further, we'll excuse at the time, and let you try to figure out how to get through the friendly skies to Wyoming.

Governor FREUDENTHAL. Senator, fortunately, I have an airplane that the Republican legislature bought for me.

Senator WYDEN. This is good.

Governor FREUDENTHAL. This is good, I find it to be useful.

[Laughter.]

Governor FREUDENTHAL. I want to, I do want to tell you, I appreciate the fact that you're willing to take a look at this. I watch from

afar what all of you, on both sides of the aisle deal with, on trying to get anything done back here. Obviously at a distance it's not quite as frustrating for us as it is for you on the front line.

But, I think that any Governor will tell you that a lot of the difficulty we have—and particularly for public land States—is that even when we can figure something out, and get it put together, it somehow—as you point out—gets lost in a labyrinth of values that are unrelated to what we're trying to get done.

So, if there's anything that I can do, or that—frankly, I think you'd find other western Governors who would also help—but if there's anything that we can do—other than send you aspirin, or something—I mean, I'm not quite sure how—I, frankly, am not sure how you guys deal with it, because at least in our context, we get a decision made one way or the other, and yours seems to be a delay, and delay. As the Supreme Court once said, you know, justice delayed is justice denied.

But I do appreciate your time, I appreciate the committee's indulgence, and we'd be glad to help work out any questions in any way possible.

Senator WYDEN. You're being logical, and Heaven forbid that logic prevail on all of these kind of matters.

Chairman Bingaman and Senator Domenici have been exceptionally helpful, in terms of this committee trying to go forward in bipartisan efforts, and we'll pursue your cause in just that kind of fashion. We'll excuse you.

Governor FREUDENTHAL. Thank you.

Senator WYDEN. OK.

Governor FREUDENTHAL. Thank you, Senator.

Senator WYDEN. Our next panel will be Melissa Simpson, Deputy Under Secretary of Natural Resources and Environment in the Department of Interior, and Luke Johnson, Deputy Director of the Bureau of Land Management. Let us have those two come forward. Thank you.

We'll make your prepared remarks as part of the hearing record in their entirety, and if you could take a few minutes and summarize your views, that would be helpful

Why don't we begin with you, Ms. Simpson.

STATEMENT OF MELISSA SIMPSON, DEPUTY UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Ms. SIMPSON. Good afternoon.

Mr. Chairman, and members of the committee, thank you for the opportunity to testify today on three bills that pertain to the U.S. Department of Agriculture, Forest Service.

We'll begin with the Wyoming Range Legacy Act of 2007. S. 2229 would provide for the establishment of the Wyoming Range Withdrawal Area, consisting of 1.2 million acres of the Bridger-Teton National Forest, withdrawn from all forms of appropriation or disposal, under the public land laws; location, entry and patent under the United States mining laws, and disposition of laws related to mineral and geothermal leasing or mineral materials.

The bill would also allow for the retirement and repurchase of existing oil and gas leases, and other mineral leases within the withdrawal area.

The Administration supports this bill, and looks forward to working with the Congress to address issues, such as the potential budgetary impacts, and necessary offsets.

The Department of Agriculture does have concerns with the bill, as drafted, and would like to work with the Department of Interior, and the committee, to address those concerns.

Because of the national need for energy, the Department supports the appropriate development of energy resources on National Forest System lands, in collaboration with stakeholders, while effectively protecting the environment. The Administration is committed to cooperative conservation, as is reflected in Executive Order 13352.

In this case, we recognize the interest of a wide variety of stakeholders in the goals of this bill—the list of supporters within Wyoming is long and varied, including local government officials, and the Governor, nearly 30 hunting and angling groups, over 60 trade unions, a network composed of local landowners and businesses, as well as conservation groups.

The Forest Service shares authority with the BLM to varying extents, to ensure the management goals and objectives for mineral exploration and development activities are achieved; that operations are conducted to minimize effects on natural resources; and that the land affected by the mineral operations is reclaimed.

All the existing leases in the area covered by this legislation are consistent with the Bridger-Teton Land and Resource Management Plan. However, there are a number of pending leases—oil and gas leases—in this area, that have been sold at competitive sales, but are awaiting final decision on issuance, due to an Interior Board of Land Appeals ruling; and the need for supplemental environmental analysis under NEPA.

We recommend the following clarifications on the sections of the bill: Section 2(b) of the bill sets out the purposes of the Act, including the withdrawal of areas in the Wyoming Range from local entry, leasing, and patent on the United States mining laws. However, the language in Section 3(a), which affects the withdrawal, withdraws those areas from the laws governing mineral leasing, geothermal resource leasing, and disposition of mineral materials. We recommend that the language in Sections 2 and 3 be aligned.

Section 3(a) of the bill also provides that the withdrawal under S. 2229 is subject to "valid rights in existence on the date of enactment," for the oil and gas leases that have already been issued by the BLM.

Current supplemental environmental analysis efforts are being conducted by the Bridger-Teton National Forest to determine new, excuse me, to analyze new information to meet the direction of the Interior Board of Land Appeals.

The committee should modify this section to clarify that those leases which have been sold, but have not been issues, may be issued notwithstanding the withdrawal following completion of the ongoing environmental analysis.

In Section 3(a)(3), we suggest that mineral materials be excluded from the withdrawal. Mineral materials include sand and gravel, as well as other materials critical to the maintenance of Forest Service roads and facilities. Maintaining roads and facilities is necessary to ensure proper conditions and safety for the public, and Forest Service employees. This withdrawal would prohibit the Forest Service from using locally obtainable mineral materials for public purposes that are consistent with the management of National Forests.

Section 3(c) of the bill provides that the land for which existing rights exist, become subject to the withdrawal's effect upon the termination of those rights. We feel that this provision is unnecessary. The withdrawal made by the legislation already precludes new dispositions by the United States. We would like to work with the committee to develop technical edits.

Section 3(e) would provide that the forest plan applies to areas in the National Forest that are not withdrawn by the bill, or to any leases of the land. By implication, the forest plan would not apply to areas that are withdrawn. We recommend that subsection (e) be deleted, so that there would be no uncertainty that the forest plan applies to the withdrawn area.

Section 4 would allow for retirement and repurchase of mineral leases, including oil and gas leases, for lands within the Wyoming Range. We recommend that the language be modified to also permit the retirement and repurchase of mining claims within the Wyoming Range, located pursuant to the United States mining laws, if those mining claims constitute valid, existing rights. There are currently 26 mining claims in existence within the proposed withdrawal area.

When lands are withdrawn from mineral energy, the Forest Service prepare mineral examination reports to determine whether a mining claim embracing National Forest System lands constitutes a valid, existing right under the operation of the United States mining laws.

This Department recommends that the appropriations for the administrative cost of conducting validity exams, and performing appraisals for any mining claims which constitute valid existing rights, if those are necessary, be included in section 4, so as to not create a financial burden upon the government.

We look forward to working with the bill's sponsors in the committee in clarifying those sections of the bill.

I'll move on to the other two bills: H.R. 1285 and S. 2601—this testimony concerns H.R. 1285, as passed by the U.S. House of Representatives.

Sure, OK—that's very fine.

Our position on this bill is that, we're currently opposed, because there is not a requirement for the fire district to pay a fee for the land. We've got two current statutes in play where we can—through either the Townsite Act, or for the General Exchange Act—where we can convey this property for fair market value to the fire district. We understand their desire to have a fire station closer to their community, and we support that effort. We would like to continue to work with them.

On the Colorado Northern Front Range Mountain Backdrop Protection Study Act, S. 2508, we'd just like to work with Senator Salazar and let him take a look at what has already gone on with the Forest Service with respect to their Forests on the Edge report that they've done recently, as well as their open space strategy. We feel that there's a lot of information in there that's already been done that fits very nicely within the proposed legislation, and we don't want to reinvent the wheel, we would be certainly happy to work with the Senator and the committee.

Thank you.

[The prepared statements of Ms. Simpson follow:]

PREPARED STATEMENT OF MELISSA SIMPSON, DEPUTY UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

S. 2601 AND H.R. 1285

This testimony concerns both S. 2601 and H.R. 1285, as passed by the U.S. House of Representatives. The bills would require the Secretary of Agriculture to convey, without consideration, approximately 1.5-acres of land on the Wenatchee National Forest to the King and Kittitas Counties Fire District #51 for use as a site for a new Snoqualmie Pass fire and rescue station.

The Fire District currently has a fire station located on National Forest System lands under a special use permit, several miles away from the property covered by this legislation. We understand that the Fire District wants to construct an updated facility situated at an interchange on Interstate 90 to improve response times to the many emergency situations that occur in that area. We agree that the proposed 1.5-acre parcel will meet this need. Among other administrative procedures necessary to facilitate the conveyance, a land survey will be needed to properly locate and describe the property. As is required under the Townsite Act and exchange authorities, the Fire District would normally be expected to pay administrative costs of making the conveyance, such as the survey.

The Department does not support the bills in their present form. We appreciate that the acreage has been reduced from the original House proposal of 3 acres to 1.5 acres. We do not object to conveying the lands, but we oppose the bills because they do not require market value compensation for the conveyance, although the bill does require the District to cover the survey costs associated with the conveyance. It is long-standing policy that the taxpayers of the United States should receive market value for the sale, exchange, or use of their National Forest System lands.

We also believe that this legislation is unnecessary because the Forest Service can meet the bill's objectives through current statutes that allow the Forest Service to convey this parcel to the Fire District for land or cash value. For example, under the Townsite Act, the Secretary of Agriculture may convey, for market value, up to 640 acres of land to established communities located adjacent to National Forests. Under the General Exchange Act, the Secretary of Agriculture can conduct a land for land exchange with non-Federal entities, including State and Local governments. These laws require the Secretary of Agriculture to obtain market value for exchanges or sales of National Forest lands.

Although we can not support the bills, we are eager to continue discussions with the sponsors, the Fire District, and the committee, in the hopes of assisting the District in achieving its desire to improve its capacity to provide necessary fire and rescue services.

S. 2508

This testimony concerns both this bill and H.R. 2110 for which previous testimony was provided on March 9, 2006, before the House Subcommittee on Forests and Forest Health. S. 2508 provides for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests in Colorado. In addition, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with appropriate State and local agencies, would review the lands within a study area and report to Congress on the present ownership of undeveloped lands, identify the undeveloped lands that may be at risk of development and identify and recommend actions that could be taken by all parties to preserve the open and undeveloped character of the lands.

The Department does not oppose the bills. We would like to work with the Committee and the sponsors on amendments to specify Federal, State, and local entities cooperating in the study and to provide that recommendations for actions outside of National Forest boundaries would be made by state government or the appropriate local land use planning and zoning authority, rather than the Secretary. The Department is also concerned the study boundary is not delineated on a geological or ecological feature but instead on human created boundaries identified in Section 2(b)(1). Moreover, the Department is particularly concerned with the cost associated with the bill which, if enacted, could be significant and would be funded at the expense of other work within the region or elsewhere within the Forest Service.

Loss of open space was identified by former Chief Dale Bosworth as one of the Four Threats to our Nation's forests. Loss of open space poses a tremendous challenge to effective land management. It causes loss of biodiversity and contributes to the degradation and loss of wildlife habitat. Loss of open space has three aspects:

- Habitat fragmentation—the division of habitats in forest and rangeland ecosystems into small isolated patches;
- Ownership fragmentation—the conversion of large acreages into smaller parcels; and
- Use fragmentation—the transformation of large single tracts used for forestry, farming, and ranching converted into multiple-use small tracts.

The Forest Service recently completed the "Forests on the Edge" (FOTE) report which highlights the threat to private forests from housing development. Based on the FOTE research, some 44.2 million acres (over 11 percent) of private forest across the conterminous United States could experience substantial increases in housing density by 2030. In September 2007, the Forest Service completed phase two of the FOTE which assessed housing density projections up to 10 miles from the edge of each National Forest and Grassland boundary. The report showed that the Arapaho-Roosevelt National Forest is projected to experience a moderate increase of residential development on 10% to 24.9% of adjacent private lands.

In December 2007, the Forest Service also announced the release of an "Open Space Conservation Strategy." The objective of the Strategy is to facilitate, encourage, and galvanize voluntary land conservation to help ensure that forests and grasslands across the landscape can continue to provide valued services and benefits for society. The Strategy allows the Forest Service to be a more effective partner in open space conservation. Open space benefits American citizens by providing clean air, abundant water, outdoor recreation, connected fish and wildlife habitat, scenic beauty, improved human health, renewable resource products, and quality of life. The Forest Service plans to achieve these benefits through collaboration and partnerships by working with willing landowners, conservation groups and state and local governments to promote voluntary land conservation. The study being proposed in this bill would be a local example of the Forest Service's Open Space Conservation Strategy.

This concludes my testimony. I would be happy to answer any questions you may have.

S. 2229

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify today on this bill that pertains to the U.S. Department of Agriculture (USDA), Forest Service.

S. 2229 would provide for the establishment of the Wyoming Range Withdrawal Area, consisting of 1.2 million acres of the Bridger-Teton National Forest withdrawn from all forms of appropriation or disposal under the public land laws; location, entry, and patent under the United States mining laws; and disposition under laws relating to mineral and geothermal leasing or mineral materials. The bill would also allow for the voluntary retirement and repurchase of existing oil and gas leases and other mineral leases within the withdrawal area.

The Administration supports this bill, and looks forward to working with the Congress to address issues such as the potential budgetary impact and necessary offsets. The Department of Agriculture does have concerns with the bill as drafted, and would like to work with the Department of the Interior and the Committee to address those concerns. I would like to offer some suggested amendments for the Committee to consider.

Because of the national need for energy, the Department supports the appropriate development of energy resources on National Forest System lands, in collaboration with stakeholders, while effectively protecting the environment. This Administration is committed to cooperative conservation, as reflected in Executive Order 13352, Fa-

cilitation of Cooperative Conservation. In this case, we recognize the interest of a wide variety of stakeholders in the goals of this bill. The list of supporters within Wyoming is long and varied, including local government officials and the Governor in a state that has been very supportive of energy development in other areas.

The Forest Service shares authority with the Bureau of Land Management (BLM), to varying extents depending upon the minerals in question and the lands on which they are found, to ensure that management goals and objectives for mineral exploration and development activities are achieved, that operations are conducted to minimize effects on natural resources, and that the land affected by minerals operations is reclaimed.

All the existing leases in the area covered by this legislation are consistent with the Bridger-Teton's Land and Resource Management Plan. However, there are a number of pending oil and gas leases in this area that have been sold at competitive sales but are awaiting a final decision on issuance due to an Interior Board of Land Appeals ruling and the need for supplemental environmental analysis under the National Environmental Policy Act.

We recommend the following clarifications to the proposed bill language. Section 2(b) of the bill sets out the purposes of the Act, including the withdrawal of areas in the Wyoming Range from location, entry, leasing, and patent under the United States mining laws. However, the language in Section 3(a), which effects the withdrawal, withdraws those areas from the laws governing mineral leasing, geothermal resource leasing and disposition of mineral materials. We recommend that the language in Sections 2 and 3 be aligned. We would like to work with the Committee to more accurately determine boundaries and acreage associated with the withdrawal.

Section 3(a) of the bill also provides that the withdrawal under S. 2229 is subject to "valid rights in existence on the date of enactment," for the oil and gas leases that have already been issued by BLM. The term "valid rights" may have been intended to include the oil and gas leases that have been sold, but not issued, but that would not be consistent with Interior Board of Land Appeals precedent. Current supplemental environmental analysis efforts are being conducted by the Bridger-Teton National Forest to determine if it is appropriate to issue those leases. The Committee should modify this section to clarify that those leases which have been sold, but have not been issued, may be issued notwithstanding the withdrawal, following completion of the ongoing environmental analysis.

In Section 3(a)(3), we suggest that "mineral materials" be excluded from the withdrawal. Mineral material supplies are critical to the maintenance of Forest Service roads and facilities on the forest. Mineral materials include sand and gravel as well as other materials utilized in the construction and maintenance of Forest Service roads and facilities. Maintaining roads and facilities is necessary to ensure proper conditions and safety for the public and Forest Service employees. This withdrawal would prohibit the Forest Service from using locally obtainable mineral materials for public purposes—including access to hunting and fishing—that are consistent with the management of the national forests. Replacement would be at greatly increased cost.

Section 3(c) of the bill provides that land for which valid existing rights exist becomes subject to the withdrawal's effect upon the termination of those rights. This provision is not necessary. The withdrawal made by the legislation already precludes new dispositions by the United States.

Section 3(e) would provide that the forest plan applies to areas in the National Forest that are not withdrawn by the bill or to any leases of that land. By implication, the forest plan in its entirety would not apply to areas that are withdrawn. We recommend that subsection (e) be deleted so that there would be no uncertainty that the forest plan applies to the withdrawn area. Alternatively, we would like to work with the Committee to develop technical edits.

Section 4 would allow for retirement and repurchase of mineral leases, including oil and gas leases, for lands within the Wyoming Range. We recommend that the language be modified to also permit the retirement and repurchase of mining claims within the Wyoming Range located pursuant to the United States mining laws if those mining claims constitute valid existing rights. There are 26 mining claims in existence within the proposed withdrawal area. Those claims may constitute valid existing rights if they were properly located, a discovery of a valuable locatable mineral deposit was made within the confines of the claim prior to the date that the claimed lands are withdrawn from appropriation under the United States mining laws, and those mining claims are thereafter properly maintained.

By agreement with the Department of the Interior, the Forest Service prepares mineral examination reports to determine whether a mining claim embracing National Forest System lands constitutes a valid existing right following the with-

drawal of those lands from the operation of the United States mining laws. The Department of Agriculture recommends that the appropriations for the administrative costs of conducting validity examinations and performing appraisals of any mining claims which constitute valid existing rights, if those actions are necessary, be included in Section 4 so as to not create a financial impact on the Government.

We look forward to working with the bill's sponsor and the committee to clarify the bill.

This concludes my testimony. I would be happy to answer any questions you may have.

Senator WYDEN. Very good, thank you.

STATEMENT OF LUKE JOHNSON, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. JOHNSON. Mr. Chairman and members of the committee, thank you for inviting me today to testify today on a number of bills of interest to the BLM. In the interest of time, I'd just like to summarize my testimony.

S. 832, regarding the proposed land sale, the Turnabout Ranch in Utah—the BLM support S. 832, which provides for the sale of the 25 acres of BLM-managed lands within the Grand Staircase-Escalante National Monument to Turnabout Ranch, north of Escalante, Utah.

The legislation will resolve an inadvertent trespass and will not undermine the purposes for which the Monument was established. Therefore, we support this legislative remedy.

The Administration supports S. 2229, the Wyoming Range Legacy Act, and looks forward to working with the Congress to address issues such as the potential budgetary impact and necessary offsets.

The Department does have concerns with the way the bill is drafted and would like to work with our sister agency, the U.S. Forest Service, and the committee, to address those concerns.

This area contains significant energy resources and we're concerned that a withdrawal from mineral development that is too broad could significantly impact the Administration's efforts to ensure access to important energy resources.

The Department is also concerned that it would leave these Federal resources vulnerable to drainage, without appropriate compensation to the Federal Treasury and the State if development occurs on adjacent private lands.

There are other issues, as well, outlined in my full statement, that we'd like to work with the committee to resolve.

S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act—BLM supports many of the goals of the bill, but cannot support some of the specific provisions. The legislation provides for a Federal buyout of grazing preferences within the Monument, a land exchange within the Monument between the BLM and a private landowner, and the designation of approximately 23,000 acres of land within the Monument as wilderness.

We would like the opportunity to work with the sponsor and the committee to address the issues described more fully in the testimony. BLM is opposed to Federal Government buyouts of grazing permits, and the permanent retirement of those permits. However, the BLM also recognizes the value of working cooperatively and

collaboratively with local stakeholders to fulfill its multiple use mission on BLM lands.

BLM is committed to working with the committee, the sponsors and stakeholders, in the spirit of cooperative conservation within our existing authorities.

H.R. 523, the Douglas County, Washington PUD Conveyance Act—BLM supports enactment of the Act. In testimony last year, a number of the concerns that had previously been raised were addressed, and we support the bill.

H.R. 838, Park City, Utah Land Conveyance bill—in general, we support the goals of H.R. 838, which directs the conveyance of four parcels of BLM-managed land within Park City, Utah. We would like to work with the subcommittee to address a number of the issues raised in my full testimony. Under the legislation, two parcels of land would be conveyed to Park City for open space purposes, at no cost. In addition, the BLM would be directed to sell at auction, two important parcels of land to the highest bidder. We should note that these lands have some complicating encumbrances, and are also considered to be high-value lands.

I appreciate the opportunity to testify, and I'd be happy to answer any questions.

[The prepared statements of Mr. Johnson follow:]

H.R. 523

Thank you for the opportunity to testify on H.R. 523. This legislation directs the Secretary of the Interior to convey certain public lands located wholly or partially within the boundaries of the Wells Dam Hydroelectric Project [Federal Energy Regulatory Commission Project No. 2149-19795] (Project) to Public Utility District No. 1 of Douglas County, WA (PUD). The Bureau of Land Management (BLM) supports this conveyance. During consideration of H.R. 523 by the House Committee on Natural Resources in the 1st session of this Congress, the BLM raised several concerns. These were resolved to our satisfaction in the legislation passed by the House of Representatives on October 22, 2007, and referred to the Senate. The BLM therefore supports H.R. 523.

Since 1998, the PUD has expressed a strong desire to purchase all BLM-managed public lands within the Project boundaries. Some of the public lands the PUD wishes to acquire are located within the boundaries of the Project. These were reserved for power site purposes by order of the Federal Power Commission (FPC Order dated July 12, 1962, for Power Project No. 2149). Also, the PUD has requested some public lands that lie outside (but contiguous to) the designated project boundary. The PUD's 50-year license for the project expires on May 31, 2012. Its application for relicensing must be filed with the Federal Energy Regulatory Commission (FERC) by 2010. The BLM, with management responsibilities for land located within Project boundaries, is in the initial stages of preparing to participate in the section 4(e) [Federal Power Act, 16 U.S.C. 797(e)] relicensing process.

In testimony on H.R. 523 before the House Natural Resources Subcommittee on National Parks, Public Lands, and Forests (May 10, 2007), the BLM raised two concerns. The Subcommittee subsequently adopted an amendment in the nature of a substitute that addressed our concerns, as follows:

- Resource safeguards.—BLM had encouraged the sponsor and the Subcommittee to provide safeguards to protect the known resource values on these lands, which include Bald Eagle roosts and approximately two miles of Columbia River shoreline currently open to the public. The amendment adopted by the Subcommittee added assures this protection will be provided through the relicensing process. The amendment added a new "Retained Authority" provision under which the Secretary of the Interior's role and participation in the relicensing action for the PUD is preserved even though the Federal government would no longer own land within the Project boundary. The BLM does not object to Section 5; as noted previously, we are already in the initial stages of preparing for the relicensing process and will fulfill that obligation.

- Disposition of Funds.—BLM recommended that Section 3(f) of the legislation be amended to direct that the proceeds from the sales be deposited in the "Federal Land Disposal Account" established by P.L.106-248, the Federal Land Transaction Facilitation Act (FLTFA). This recommendation was adopted.

Thank you for the opportunity to testify. I will be glad to answer questions.

S. 2229

Thank you for the opportunity to testify on S. 2229, the Wyoming Range Legacy Act of 2007. The bill provides for the legislative withdrawal of 1.2 million acres of land from mineral development, subject to valid existing rights, and offers existing lessees an opportunity for the voluntary retirement of their lease.

The Administration supports this bill, and looks forward to working with the Congress to address issues such as the potential budgetary impact and necessary offsets. The Department does have concerns with the bill as drafted, and would like to work with our sister agency, the U.S. Forest Service, and the Committee to address those concerns. This area contains significant energy resources, and we are concerned that a withdrawal from mineral development that is too broad could significantly impact the Administration's efforts to ensure access to important energy resources. The Department is also concerned that it could leave these Federal resources vulnerable to drainage, without appropriate compensation to the Federal Treasury and the State, if development occurs on adjacent private lands. We would like to work with the Forest Service and the Committee to determine appropriate boundaries and acreage associated with the withdrawal. For example, one issue to consider is whether there could be restrictions on surface disturbance, while allowing the Federal resources to be extracted from adjacent BLM lands.

There are currently 76 oil and gas leases held by production and 26 hardrock mining claims located within or adjacent to the proposed withdrawal area. We note that S. 2229 contains language in section 3(a) that preserves valid existing rights, a provision we support and consider very important for two reasons. First, those companies that have existing leases and mining claims should be able to rely upon the certainty of those underlying documents in making investment decisions critical to the development of the resources. Second, the resources at issue are potentially significant. BLM estimates that the 1.2 million acre area covered by the bill contains 8.8 trillion cubic feet of natural gas and 331 million barrels of oil that are technically recoverable using today's technology. The natural gas alone amounts to roughly one-third of a year's annual natural gas consumption for the entire nation. This production could have a substantial impact on royalty revenues that would otherwise be shared by the Federal Treasury and the State of Wyoming for the benefit of taxpayers.

While the bill recognizes valid existing rights for issued leases, the bill does not recognize the importance of those oil and gas leases that have already been sold at competitive sale, but are awaiting a final decision. These leases were offered in accordance with the land use planning process. We believe the Federal Government needs to be a reliable partner when companies make major financial investments.

With regard to the provisions in S. 2229 concerning the voluntary retirement of leases using non-federal funds, we do not object to the concept. However, we have concerns about the methods and processes set forth in the bill and suggest a number of amendments. We stand ready to work with the Forest Service, the bill sponsors, and the Committee to find a solution that will meet the needs of the American public and the citizens of Wyoming.

S. 2229 provides for the withdrawal of approximately 1.2 million acres of the Bridger-Teton National Forest (BTNF) from location, entry, leasing and patent under the mining law, mineral leasing laws, and public land laws, subject to valid existing rights. Also, the bill offers existing lessees the opportunity to voluntarily submit a written request for the retirement and repurchase of their lease and directs that the purchase price be based on the fair market value of the lease as determined by an agreed-upon appraisal.

The bill authorizes the Secretary to accept donations of lease interests and to use non-Federal funds to pay for the purchase of the lease. It specifies that the Act is not meant to limit compensation from a private, State or other source in lieu of, or in addition to, receiving compensation under the Act. Presumably, these provisions were intended to allow lessees to receive monies directly from outside groups and then donate or waive their claim to compensation from the Secretary. The acquired leases would be cancelled and made subject to the withdrawal.

MINERAL RESOURCES WITHIN THE WITHDRAWAL AREA

The Forest Service is responsible for the surface management of National Forest System land; however, the Secretary of the Interior and BLM have a vital interest in mineral development as the agency responsible for administering the 700 million acres of subsurface estate under the Mining Law of 1872 and various mineral leasing acts. BLM issues mineral leases upon concurrence of the surface management agency and works cooperatively with the agency to ensure that management goals and objectives for mineral exploration and development activities are achieved, that operations are conducted to minimize effects on natural resources, and that the land affected by minerals operations is reclaimed.

The Bridger-Teton National Forest issued the Record of Decision for their revised Forest Plan on March 2, 1990. The revised Forest Plan provided for leasing of the areas proposed for withdrawal under the bill. While the BLM has leases dating back to 1964 within the Wyoming Range, approximately 40 leases have been issued under the revised plan. Within the proposed withdrawal area, there are 143 issued or pending oil and gas leases covering more than 197,000 acres; 76 of these leases are currently under production. Bonus bids collected in 2006 on 12 competitive leases totaled almost $2.6 million. The withdrawal provisions in the bill preserve valid rights "in existence on the date of enactment." In 2006, twelve parcels were leased with bonus bids totaling nearly $2.6 million. Those leases are currently suspended, awaiting further NEPA analysis following an IBLA ruling. An additional 23 leases were sold in Fiscal Year 2006 with bonus bids totaling approximately $2.2 million. Those leases were not issued and have been placed in a pending status with the money in escrow until the additional NEPA work required by the IBLA decision is completed. We recommend that the bill be amended to preserve the opportunity for the 23 leases in pending status to be issued and developed, and that the voluntary retirement provisions also apply.

In addition to oil and gas leases, as noted earlier, there are 26 mining claims located within or adjacent to the proposed withdrawal area as well as one 160-acre sodium lease. While no activity is currently taking place on existing claims and the lease described above, the claimants are continuing to pay annual maintenance fees and the lessee is continuing to pay rental fees to preserve options for future development.

PROPOSED AMENDMENTS

We suggest a number of amendments to the provisions providing for the voluntary retirement of existing leases. Section 4 (b) of S. 2229 states, "The Secretary may use non-Federal funds to purchase any lease from a lessee who requests retirement and repurchase of the lease under subsection (a)." There is no clear indication that the Secretary has discretion in whether to purchase the lease if non-Federal funds are not available. Furthermore, the bill does not specify who would be responsible for funding the appraisals. It is our understanding that the intent of the bill is to provide a process by which outside groups could fund the voluntary retirement of the leases. We suggest that the bill be amended to allow the Secretary to accept the relinquishment by lessees of their lease interest and subsequently provide for their retirement. The bill should make clear that there is no duty for the Secretary to purchase any lease without a donation or other non-Federal funds being made available in advance. The Secretary should not be involved in the actual collection of donated funds or the repurchasing of leases. Compensating a lessee for the voluntary relinquishment of a lease should be handled using only private funding, and the Federal Government should not be involved in those transactions. We are also concerned about the advisability of retiring leases that have already been placed into production.

We would like to point out that the retirement and repurchase provisions in the bill only apply to leased minerals. However, the bill provides for the withdrawal of this area from location, entry, and patent under the mining laws and mineral leasing laws. Thus, these mining claimants would not be provided the same option for purchase of their interest under the bill.

ENVIRONMENTAL BEST MANAGEMENT PRACTICES AND THE TECHNOLOGY OF MINERAL DEVELOPMENT TODAY

Our Nation faces a great challenge in meeting its energy needs. We consume much more than we produce; this is especially true for oil. We are importing about 60 percent of our oil from foreign sources—a percentage that is expected to increase to 68 percent by 2025. We need to protect our economic and national security by increasing our ability to produce more of our energy domestically in a prudent and

environmentally sensitive way. In 2007, Federal production in Wyoming was 34.4 million barrels of oil and 1.36 TCF of natural gas. During this same time period, total Federal onshore production was 104.7 million barrels of oil and 2.8 TCF of natural gas. We appreciate the tremendous contribution the state of Wyoming makes to our Country's energy security.

The BLM also appreciates the non-energy uses and values that our public lands provide to the American people, such as outstanding hunting and fishing opportunities, diverse recreational activities, and habitat to a wide array of wildlife. While one option of retaining habitat and recreational values in the Bridger-Teton National Forest is to withdraw the land from mineral development, other possibilities exist. Across the country, hunting and fishing and other recreational activities occur side by side with energy and other resource development activities. When properly planned, energy development activities and resource protection are not mutually exclusive concepts. To the contrary, our experience shows that sound stewardship can be achieved contemporaneously with energy development. To this end, we would like to take this opportunity to highlight the cooperative efforts by BLM, surface management agencies, the states, and industry to employ new technologies and environmental best management practices (BMPs), which have been successful in decreasing the footprint of energy development and mitigating the impact of operations on important natural resource values.

For example, the energy industry's drilling technology has now evolved to the point where 22 or more deep gas wells can typically be drilled side-by-side, 7 feet apart, on a well pad that is no larger than the traditional single well pads of the past. This new practice significantly reduces the surface footprint of new development by eliminating, in this example, the other 21 well pads, roads, and sets of utilities. When combined with the use of centralized offsite production facilities, the need for roads, well pads, and truck traffic is greatly reduced. This is extremely important when it comes to protecting wildlife habitat and recreational resources.

To further reduce the visual footprint of development, new facilities can also be screened, painted, and even camouflaged. Full interim reclamation of nearly all disturbed areas can help to ensure soils stay in place and habitat values are protected during the life of development. When further protection is needed, development can also be slowly phased, one site at a time, without moving to a new area until the first area is operational, gated, and has undergone successful interim reclamation. Today's practices are a major advancement from those of even three years ago, and we expect the trend to continue.

Other tools are also available besides withdrawal to ensure non-surface occupancy of areas with significant environmental and recreation values. Moreover, we believe it is possible to consider withdrawals more selectively, rather than as a blanket approach.

These examples of BMP's and the use of continuously evolving technology indicate that environmentally conscious development of energy resources can occur in a multiple use environment.

Thank you for the opportunity to testify. I will be happy to answer any questions.

S. 832

Thank you for the opportunity to testify on S. 832, a bill to convey approximately 25 acres of lands managed by the Bureau of Land Management (BLM) to Turnabout Ranch in Utah. The BLM supports this legislation.

BACKGROUND

Turnabout Ranch is both a working ranch and a residential treatment center for troubled teens. Located north of Escalante, Utah the ranch is adjacent to Grand Staircase-Escalante National Monument (Monument). Several years ago, the owners of Turnabout Ranch realized that they were using a field that is on BLM-managed lands within the Monument for pasture and a corral and approached the BLM about purchasing these lands. It is clear that this long-standing trespass was inadvertent. (These lands were originally owned by the state of Utah and were exchanged to the BLM following the Monument designation under the provisions of Public Law 105-335.) These approximately 25 acres, which are on the edge of the Monument, are critical to the effective functioning of the ranch and treatment center. The BLM cannot undertake a sale of this parcel to the Ranch because the acres are within the Monument boundary.

S. 832 provides for a legislated sale of the 25 acres on which Turnabout Ranch is in trespass to the ranch for appraised fair market value. The bill specifies that the appraisal be completed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal

Practice. It further provides that all costs related to the sale be borne by Turnabout Ranch. Finally, following the sale of the land, the boundary of the Monument is modified to exclude just these 25 acres from the edge of the Monument.

The BLM has taken a close look at the land proposed for sale to the Ranch under S. 832. It is our belief that sale of these lands will not undermine the purposes for which the Monument was established. Therefore, we support this legislative remedy to clear title issues with a suggestion for one very technical modification.

Thank you for the opportunity to testify.

S. 2379

Thank you for the opportunity to testify on S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act. While we support the goals of this legislation we cannot support some of the specific provisions. We would like the opportunity to work with the sponsor and the Committee to address these issues.

BACKGROUND

The Cascade-Siskiyou National Monument (Monument) was established by Presidential Proclamation on June 9, 2000. Encompassing nearly 53,000 acres of Federal land managed by the Bureau of Land Management (BLM), the Monument is a place of great biological diversity due to its location at the confluence of three converging mountain ecoregions—the Cascade, Klamath and Eastern Cascade. The proclamation withdrew these public lands from a number of uses and limited commercial harvest of timber within the Monument "except when part of an authorized science-based ecological restoration project." Additionally, the proclamation directed the Secretary of the Interior to undertake a study of livestock grazing within the Cascade-Siskiyou National Monument and the effects of grazing on the Monument with specific attention to sustaining the natural ecosystem dynamics.

The BLM has been managing the Monument consistent with the proclamation for nearly eight years. A comprehensive management plan is currently pending final approval. Additionally, the BLM recently completed the mandated studies of livestock impacts within the Monument and released them to the public. The findings of these studies are currently being evaluated by the BLM, along with other available data, to determine whether grazing is occurring consistent with the Presidential Proclamation establishing the Monument. Currently 11 ranchers hold grazing leases within the Monument that authorize use of 2,714 active animal unit months (AUMs).

S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act, provides for: a Federal buyout of grazing preferences within the Monument; a land exchange within the Monument between the BLM and a private landowner; and, the designation of approximately 23,000 acres of land within the Monument as wilderness. The bill as introduced references maps without dates. It is our understanding that it is the sponsor's intention to reference a map created by the BLM at the request of his office. This testimony is based on that map dated December 12, 2006.

Section 4 of S. 2379 establishes a program to buy out grazing lessees within the Monument, requiring the Secretary (subject to the availability of funds) to offer payment of $300 an AUM to ranchers with authorized grazing within the Monument. If an individual rancher accepts the payment, the Secretary then must terminate the grazing lease and permanently end grazing in the allotment or portion of the grazing allotment. Donation of grazing leases, and subsequent mandatory grazing closures, are also contained in the bill. In addition, the BLM is obligated under the bill to construct and maintain fencing to exclude livestock from grazing allotments where the BLM may no longer lease grazing use. Finally, three grazing allotments that have been vacant for over a decade are permanently retired from grazing by the legislation.

The BLM is opposed to Federal government buyouts of grazing permits and the permanent retirement of those permits. However, the BLM also recognizes the value of working cooperatively and collaboratively with local stakeholders to fulfill its multiple use mission on BLM lands. The BLM is committed to working with the committee, the sponsors, and stakeholders in the spirit of cooperative conservation within our existing authority.

In addition, we are opposed to language obligating the Federal government to both construction and maintenance of fencing. Typically, fencing decisions are made cooperatively by the BLM and the permittee, and the BLM encourages cooperative cost sharing. The BLM's range improvement policy requires that the BLM assign maintenance of structural range improvements, such as fences, to the permittee who

is obligated to maintain them. This legislation represents a serious divergence from two decades of land management practices.

Section 5 of the bill provides for a land exchange between the BLM and the Box R Ranch. We believe that the public interest would be served by this exchange; however, we recommend that the bill be amended to ensure that the exchange is consistent with section 206 of the Federal Land Policy Management Act regarding government land exchanges, including appraisals and equal value exchange. Appraisals should follow nationally recognized appraisal standards, such as the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. The owner of Box R Ranch is obligated under Section 5 to donate his grazing lease to the Federal government. It is unclear if the intent is to value the grazing lease as part of the exchange. As noted above, we believe the exchange should independently stand on its own.

The BLM-managed land proposed for exchange is an isolated parcel of land surrounded by the Box R Ranch. The private land proposed for exchange to the Federal government is important habitat for Jenny Creek suckers and redband trout (both sensitive fish species), and its acquisition is consistent with the goals of the Monument. We should note that both parcels are within the Monument boundary.

Section 6 of S. 2379, designates approximately 23,000 acres of BLM-managed land within the Monument as the Soda Mountain Wilderness (this includes the present Soda Mountain Wilderness Study Area (WSA)). The proposed Soda Mountain Wilderness hosts an unusually high variety of species in a geographically small area due to several complex biological and geological factors and processes operating simultaneously. Ranging from 2,300 feet to 6,000 feet, the proposed wilderness area is a jewel of biological variety and encompasses some of the most diverse vegetation in the Cascade-Siskiyou National Monument. Plant communities include open grassy slopes and meadows, hardwood and shrub woodlands, as well as dense mixed conifer and white fir forests. The Oregon Gulch Research Natural Area, with its mixed conifer Douglas-fir and Ponderosa forest with large Sugar Pine and incense cedar, and Scotch Creek Research Natural Area, with steep-sided drainages and waterfalls, are within the proposed wilderness. Along with one of the highest diversities of butterfly species in the United States (as many as 112 different species have been identified within the Monument), the area is also home to an extensive population of small and large mammals (including black-tailed deer, elk, bear, mountain lions and bobcats), as well as widespread fish species in the many creeks. The area provides critical habitat for several sensitive, rare, threatened, and/or endangered species such as peregrine falcons, northern spotted owls, Greene's mariposa lily, Gentner's frittilary, Bellinger's meadow foam, redband trout, and the Mardon skipper butterfly.

Congress has the sole authority to designate lands to be managed permanently as wilderness. We believe these areas are manageable as wilderness, and we support the designation. There are some technical issues related to section 6 that we would like the opportunity to clarify. In particular, we would like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability and avoid conflicts.

Section 8 of the bill authorizes appropriations for compensation for grazing buyouts, fencing and other costs to exclude cattle from allotments that are retired. We oppose this section, and note that the amounts authorized appear insufficient to complete the work anticipated by the bill and that the BLM does not have alternative sources of funding. In addition, the authorized amounts are not included in the FY2009 President's Budget request and are not available within current Congressional appropriations.

In addition to the specific issues we have raised, there are a number of minor or technical modifications (including mapping issues) that we would like to discuss with the sponsor, as well as the Committee, before this legislation moves forward.

Thank you for the opportunity to testify. I will be happy to answer any questions.

H.R. 838

Thank you for the opportunity to testify on H.R. 838 which provides for the disposal of four parcels of Bureau of Land Management (BLM) managed lands in Park City, Utah. As a matter of policy, we support working with states and local governments to resolve land tenure and land transfer issues that advance worthwhile public policy objectives, and we have no objection to the transfer of these specific lands out of Federal ownership. The Department of the Interior is mindful that legislated land transfers often promote varied public interest considerations; part of our role is to help inform Congress and the public about the tradeoffs associated with such transfers. In general, we support the goals of the legislation, but would be able to

support the bill only if amended to address a number of issues raised in this testimony, particularly the proposed transfer of high-value land without compensation to taxpayers.

BACKGROUND

Originally founded as a silver mining town in the 1860s, the last of Park City's mines closed in the early 1970s. Today, Park City is recognized as one of the premier ski destinations in the country. Many of the events for the 2002 Winter Olympics were held in Park City which is home to three elite resorts: Park City Mountain Resort, Deer Valley Resort and the Canyons Resort. Growth in Park City and Summit County has been monumental over the last few decades, and housing and land prices are among the highest in Utah.

The BLM manages four parcels of Federal land within Park City, in the Deer Valley area. They range in size from a half acre to just over 91 acres. These parcels are interspersed with high end housing and have encumbrances on them including old unpatented mining claims, rights-of-way, and old mining houses in trespass. Additionally, the BLM has a Recreation & Public Purposes (R&PP) lease with the city on the largest of the parcels (Parcel 16, the Gambel Oak Parcel). This lease was first issued to the city in 1985 for the purpose of the planned development of recreational facilities. That lease is currently a source of contention between the BLM and Park City because the City's R&PP development plans have not been completed, and there is no legal public access to the parcel. The BLM understands that Park City has reconsidered its plans and wishes to maintain the land for open space, not public recreation. Open space that does not provide any additional public value, such as recreational facilities, is not an allowed use under the R&PP Act.

Section 1 of H.R. 838 proposes to convey to Park City, Utah all right, title and interest of the United States to two parcels of land in the Deer Valley area. These parcels are generally known as the White Acre Parcel (Parcel 8) and the Gambel Oak Parcel (Parcel 16); together, they comprise just over 112 acres. The White Acre Parcel is public land currently identified for disposal through BLM's land use planning process, while the Gambel Oak Parcel is currently under an R&PP lease to the city. The bill directs that the lands be maintained by the city as "open space and used solely for public recreation purposes . . .". Finally, this section requires Park City to pay the Secretary of the Interior an amount consistent with recreational pricing under the R&PP Act. Under the R&PP Act, a conveyance to governmental entities for recreational purposes is without cost.

We should note that if the lands were to be administratively patented to Park City under the R&PP Act, "open space" would not be an acceptable use of the lands unless qualifying recreational facilities were part of the proposal. It should be noted that these are high value lands. If these lands were sold to Park City for open space under authority other than the R&PP Act, the Federal government would be compensated at fair market value.

Furthermore, the legislation appropriately provides for the transfer of the lands subject to valid existing rights. The Gambel Oak Parcel has 11 unpatented mining claims held by three different claimants. No validity exams have been undertaken on these claims under a previous agreement with Park City. The BLM rarely conveys land with these types of substantial, valid existing rights, but it is not unprecedented. We note that the parcel also contains a number of rights-of-way. BLM regularly conveys land subject to rights-of-way.

Furthermore, we recommend the addition of a reversionary clause at the discretion of the Secretary. Such a clause would ensure that the Federal government retains a reversionary interest in these lands if they are not used for the specific purposes for which they are transferred.

Section 2 of the bill directs the sale of two additional parcels, Parcel 17 (0.5 acres) and Parcel 18 (3.09 acres) at auction and requires that the sale follow the Federal Land Policy and Management Act, except for planning provisions in sections 202 and 203. There are a number of encumbrances on these parcels. Specifically, Parcel 18 includes a portion of one mining claim as well as several late 19th century buildings that are listed on the National Register of Historic Places. Ownership status of these buildings remains unresolved. Several of these houses are currently occupied in trespass, and one is the subject of an outstanding color-of-title ruling by the Interior Board of Land Appeals (IBLA). Last fall an additional color-of-title claim was filed against the remaining three buildings. Additionally, the parcels contain a number of existing rights-of-way. The legislation provides for the auction subject to valid existing rights.

It is important to note that the existing mining claims, trespass actions, title disputes, and related activities on these lands may significantly complicate a convey-

ance. In particular we recommend removing from the auction the piece of land in Parcel 18 on which IBLA has determined a color-of-title action.

Section 3 provides for the deposit of the receipts from the sales under section 2 into a special account in the Treasury. These funds would then be available for reimbursement of costs associated with the sales and environmental restoration projects on public lands in the general area. We are concerned that disposition of receipts in this manner would circumvent BLM's normal budget process which takes into account the resource needs of BLM offices in each state. We suggest that any receipts from this land transfer either be directed to the Federal Treasury or be deposited in the land sale account already established under the Federal Land Transaction Facilitation Act (FLTFA), where the proceeds could be directed to priority acquisitions of inholdings, primarily within the State of Utah.

In addition, the Administration does not support section 3(b), which allows any amounts deposited in the special account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

Thank you for the opportunity to testify, I will be happy to answer any questions.

Senator WYDEN. Thank you very much, and I know Senator Cantwell feels very strongly about her legislation, the Snoqualmie Pass Fire Station Conveyance.

I'm kind of mystified about your opposition on this one, Ms. Simpson. My understanding is that this involves an acre and a half, is that right?

Ms. SIMPSON. That's correct. It went from 3 acres to 1.5 acres in the transfer from the House over to the Senate.

Senator WYDEN. OK. So, the Department says it opposed the conveyance because it doesn't require market value compensation, the Fire District was willing to lease the parcel at market value from the Forest Service, but was refused.

So, the question is, why would the Forest Service be unwilling to lease the parcel to the Fire District, since that would seem to address both the Department's concern about market value, and the Fire District's need?

Ms. SIMPSON. My understanding from the Forest Service is that they are opposed to a lease because they want the Fire District to have the property in perpetuity. We already have the ability to convey it to them at fair market value.

Senator WYDEN. That's the photo, over there, and boy, this sure doesn't look like what Senator Cantwell wants to do is going to be the end of Western civilization. So, I sure hope that you all can work it out, OK?

Ms. SIMPSON. We're working with the District on funding sources.

Senator WYDEN. Good.

Senator Barrasso.

Senator BARRASSO. Thank you very much, Mr. Chairman.

I'll ask Ms. Simpson, if I could, and then maybe Mr. Johnson, too. Are any of you familiar with the similar withdrawal that's occurred—this is regarding S. 2229—and the Front Range in Montana, or the program in New Mexico, and if you could share your impression on how that process worked, as perhaps a model for the Wyoming Range?

Mr. JOHNSON. I'm not sure that there's a direct comparison in terms of what we're trying to, what you've proposed to do here, or that we ever were asked to testify on that bill, but I think there are obviously some comparisons in terms of your intentions of try-

ing to protect the area, and obviously the Rocky Mountain Front Range.

Ms. SIMPSON. With respect to the Forest Service, at that time we advocated very strongly for a continuation of the public process that was going on, that would have involved an amendment to the forest plan that was underway. We wanted to see the outcome of that. Legislation was passed before the plan amendment was completed, so there is some similarity, in the fact that there is an ongoing public process.

Senator BARRASSO. Mr. Johnson, the S. 2229 allows for valid and existing leases to be purchased and retired based on fair market value. Does your agency have experience and expertise to determine fair market value of existing leases? Do you feel that the Department can act with prudence and accountability, charged with this?

Mr. JOHNSON. Senator, if the intention in the bill would be to have a non-Federal transaction with a non-Federal parties, it would be the view of the Department that that transaction ought to take place outside, without the Secretary playing the role of determining what that value might be.

The Department certainly does have an Office of Appraisal Services that plays that role at the Department, but if it is a non-Federal transaction with non-Federal parties, we believe that the Secretary ought not to play the role of negotiating or deciding what that value ought to be.

Senator BARRASSO. Finally, Mr. Chairman, I would say that I appreciate hearing from both them the words "the Administration supports the bill." There are 40 people behind you that if you hadn't said that, they'd have—I'm sure—wanted to visit with you and encouraged you to have done that.

I'll be happy to carefully review your written testimony and have my staff work with you to ensure that I completely understand your concerns, and see if we can address those.

Senator WYDEN. Senator Smith, any questions?

Senator SMITH. Let me just ask a couple of you, Mr. Johnson. As I understand it on the Cascade-Siskiyou Monument—if the BLM studies show the impact of commercial livestock grazing to be incompatible with protecting the Monument's native species and natural features, the BLM must retire those grazing allotments on the Monument. So, then the agency begins this review of the compatibility of grazing within the Monument. Can you tell us what you all have picked up about this review? In effect, give us a summary of the results?

Mr. JOHNSON. We have, Senator, as you know, the proclamation does create a unique set of circumstances, you've quoted. We recently released the livestock impact studies that were conducted and made those available to the public. We are in the process of analyzing some of the data, and the process that we will proceed with is to subsequently conduct rangeland health assessments, which is currently ongoing based upon some of that data, and then proceed with a NEPA process, and then ultimately a determination of grazing compatibility.

Senator WYDEN. One other question for you about the Cascade-Siskiyou, Mr. Johnson. Some folks from Lincoln, our community of

Lincoln, have contacted us about a boundary issue that was recently identified, but dating back to the 1920s that could be resolved by a land exchange. This, again, is another very small one—something like under 2 acres—between the landowners and the Monument. They're aware that BLM land exchanges normally are expensive and time-consuming, and my question is, are you aware of this particular land exchange, and if you are, would you support it, and support our getting it done in a timely kind of fashion?

Mr. JOHNSON. I think the city—is the Deerfield Learning Center, I think? Just recently I was made aware of that, and I think we can work with you and your staff to make sure that we find a resolution of that, so certainly.

Senator WYDEN. Great. We want to be able to move on this quickly. Could you do that within, say, the next 2 weeks?

Mr. JOHNSON. Yes, Senator, we will work with you on that.

Senator WYDEN. OK, very good. Anything either of you would like to add further?

We'll excuse you at that time, thank you both for your service.

Our next panel, Andy Kerr, Consultant, Soda Mountain Wilderness Council, Mike Dauenhauer of Ashland, Oregon, Claire Moseley, Executive Director of the Public Lands Advocacy, Gary Amerine, Citizens Protecting the Wyoming Range, and Chris Caviezel, and I hope I'm pronouncing that right. If you all will come forward.

Welcome to all of you, and I didn't get a chance to give a formal welcome to you, Andy Kerr, and Mike Dauenhauer. We're really glad both of you are here.

I also want to note that Dave Willis, who many call the Father of the Cascade-Siskiyou National Monument was taken ill, wasn't able to come here today, but he has just put hours and hours and hours into working for this particular vision.

Andy, we really appreciate your good work.

Mike, your efforts—I think this is exactly the kind of partnership that the Governor of Wyoming was talking about—the Western-style partnerships that bring people together.

So, why don't the two of you start, take your 5 minutes, we'll go right down the row, and we've got folks from throughout the West, and we're always glad in this committee to have Westerners, so, let's begin with you, Mr. Kerr.

STATEMENT OF ANDY KERR, CHAIRMAN, CONSULTANT, SODA MOUNTAIN WILDERNESS COUNCIL, ASHLAND, OR

Mr. KERR. Thank you, Mr. Chairman—to the Soda Mountain Wilderness Council, and Dave Willis would want to have me pass on his regrets that he couldn't make it, and his appreciation to both you and Senator Smith for your work on this legislation, and he'll be back in the saddle soon.

This legislation—we're obviously in support of it. It has three major elements—the designation of the Soda Mountain Wilderness land exchange, to consolidate public ownership in the Monument, and to enhance the Monument values, and the big part of it is the voluntary and equitable resolution of what I would view as the inherent incompatibility of livestock grazing in a—one of the Nation's premier National Monuments, set aside for ecological purposes.

So, all three of those components are important, and would further the purposes of the National Monument and be in the public interest.

My written statement has detailed background materials on the proposed Soda Mountain Wilderness. I will summarize that it's kind of where East meets West, and North meets South, and that means that where the Cascades, and the Coastal Forest, and the California Chaparral, and the Oregon desert, and the dry forests of the Klamath and Siskiyou Mountains come together. As a result of this ecological collision, there's a lot of biological diversity and important natural value.

This proposed wilderness also includes 7 miles of the Pacific Crest Trail, it's the home to 10 endangered species. It has one of the highest diversities of butterflies—which is related to the diversity of flowers. It has a very high mollusk diversity, it's habitat for a unique sub-species of redband trout, the Jenny Creek red-band trout, and it is the location of Pilot Rock, which is a landmark used by people in the area of the Memorial.

So, the wilderness is—there's not a lot of conflicts, there's no private in-holdings, there's—it's already dedicated to non-commodity purposes inside the National Monument. There aren't any mining claims to worry about, grazing would be resolved by another part of the bill. The area is closed by the Monument Proclamation to off-road vehicles and to industrial logging. So, the Wilderness is very valuable, ecologically and recreationally, and it doesn't have a lot of resource conflicts.

There's been editorial support by Oregon's largest daily, The Oregonian, but also The Register Guard, The Portland Tribune, the Daily Tidings, and other newspapers, so we think there's a lot of support for that.

The Soda Mountain Wilderness Land Exchange is the second component of the bill. More information in my statement—in summary, we believe—conservationists believe that it is in the public's interest. It furthers the purposes of the Monument, it provides more essential spawning habitat for the Jenny Creek redband trout, it would protect the Jenny Creek Canyon, and it would also be a way to resolve the livestock grazing issue on the Sandy Creek grazing. So, the land exchange is a good idea.

The grazing lease retirement, we also think is very important. It's, we think, ecologically imperative and economically rational, and also fiscally prudent and socially just, and politically pragmatic.

The Monument Proclamation requires that if grazing is found to be in conflict, that the grazing must end. However, we fear that BLM will take a different view, and they will seek to modify the leases, by limiting the intensity of the duration, or the timing, or the frequency of the method of the livestock grazing in an attempt to both preserve objects of biological interests as required by the Monument Proclamation, and to continue livestock grazing. We think that is not what the Proclamation requires, and we also believe—the ranchers, when they tell us, that they say that additional restrictions on this livestock grazing will make it infeasible to continue.

So, we have come together with a solution that we think can work, that can provide for permanent retirement of the livestock grazing at the rancher's voluntary acceptance, in exchange for Federal compensation. This has been done before by Congress—in extraordinary circumstances—Congress has bought out grazing leases before.

It has done it in Capitol Reef National Park, as recently as 1998 it did it in Idaho in the expansion of a bombing range, and it did it in—the chair and Senator Smith are both involved in the Scenic Mountain legislation, where a grazing buyout of a grazing permit was wrapped up in a rather complicated land exchange.

So, it's been done—it's been done in extraordinary circumstances, and I would argue that this is an extraordinary circumstance in that the Presidential Proclamation for the National Monument changed the rules on a small set of ranchers. It's not a broad change in grazing policy, or something, that applies to all ranchers, but this is a narrow set.

So, we think that it is appropriate for Congress to compensate them, and it would be cheaper for the taxpayers to do that. It would avoid litigation, the cost to the government, the cost to the parties—so we think that they should, we think that the price of $300 in AUM is fair, because it's—while it's above market value, it's comparable to replacement value.

I'll use an analogy of when you're—you total your car, you get the market value of the car, but when you total your house, through a hurricane or a flood or something like that, you get replacement value. Because it's more likely that you're going to total your car, that it is—the totaling of your house is a much rarer event, and more serious. We think this is a serious event for the ranchers, in that they deserve something approximating replacement value.

So, in conclusion, you know, thanks both to Senator Smith and Senator Wyden for introducing this legislation, thank you for the hearing today. We've heard the testimony of the BLM and, I think that their concerns—many of them, at least—can be addressed without much work.

So, thank you.

[The prepared statement of Mr. Kerr follows:]

PREPARED STATEMENT OF ANDY KERR, CONSULTANT TO THE SODA MOUNTAIN WILDERNESS COUNCIL, ON S. 2379

With towering fir forests, sunlit oak groves, wildflower-strewn meadows, and steep canyons, the Cascade-Siskiyou National Monument is an ecological wonder, with biological diversity unmatched in the Cascade Range. This rich enclave of natural resources is a biological crossroads—the interface of the Cascade, Klamath, and Siskiyou ecoregions, in an area of unique geology, biology, climate, and topography . . . . The monument is home to a spectacular variety of rare and beautiful species of plants and animals, whose survival in this region depends upon its continued ecological integrity.

Proclamation Establishing the Cascade-Siskiyou National Monument[1]
June 9, 2000 (Attachment 1)*

My name is Andy Kerr. I am a consultant to the Soda Mountain Wilderness Council on matters relating to the proposed Soda Mountain Wilderness, as well as live-

[1] The Proclamation Establishing the Cascade Siskiyou National Monument is included here as Attachment 1.

* Attachments 1–5 have been retained in subcommittee files.

stock grazing and other issues in the Cascade-Siskiyou National Monument. I am filling in today in place of Dave Willis, who has contracted the flu.

The Klamath-Siskiyou ecoregion in southwest Oregon and northwest California is the most botanically diverse coniferous forest in North America, if not the world—a veritable Noah's Ark of botanical diversity. The ecoregion is relatively undeveloped and relatively high elevation. It serves as a land bridge between the Cascade Mountains and the Great Basin, and it genetically connects the mountainous Klamath-Siskiyous with the rest of the West. The Cascade-Siskiyou National Monument area is the ecological loading dock for the botanically diverse Klamath-Siskiyou ark—that is the scientific object of interest for which the monument was proclaimed. And that is why the monument Proclamation refers to the area as "an ecological wonder" and "a biological crossroads."

The Cascade-Siskiyou Monument's Proclamation states that the area "is home to a spectacular variety of rare and beautiful species of plants and animals whose survival in this region depends upon its continued ecological integrity."

Thank you, Chairman Wyden and Senator Smith, for introducing S. 2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act. If enacted into law, this legislation will improve ecological and watershed protection and restoration within the national monument. The legislation includes three major components:

1. designation of the Soda Mountain Wilderness;
2. a land exchange to consolidate public ownership in the monument and enhance monument values; and
3. voluntary and equitable resolution of the inherent incompatibility of livestock grazing in one of our nation's premier wild areas.

All three components are politically inter-dependent and all three further the purposes for which the Cascade-Siskiyou National Monument was established.

THE SODA MOUNTAIN WILDERNESS

One of the most striking features of the Western Cascades in this area is Pilot Rock, located near the southern boundary of the monument. The rock is a volcanic plug, a remnant of a feeder vent left after a volcano eroded away, leaving an outstanding example of the inside of a volcano. Pilot Rock has sheer, vertical basalt faces up to 400 feet above the talus slope at its base, with classic columnar jointing created by the cooling of its andesite composition.

Proclamation Establishing the Cascade-Siskiyou National Monument June 9, 2000

Background materials about the proposed Soda Mountain Wilderness are attached to this statement (Attachment 2).*

- The proposed Soda Mountain Wilderness is:
  - —at the intersection of many divergent ecosystems and landscapes, including the Siskiyou and Cascade mountain ranges, the Oregon Desert, California chaparral, and High Cascade and coastal westside forests;
  - —home to ten rare, threatened or endangered species, including northern spotted owl, Greene's Mariposa lily, Genter's fritillary, Ashland thistle, pygmy monkey flower, clustered lady's slipper, green-flowered wild ginger and Siskiyou fritillary;
  - —host to ~7 miles of the Pacific Crest National Scenic Trail;
  - —renowned for one of the highest diversities of butterflies in the country (120+ species);
  - —noted for one of the highest diversities of mollusk species in the country;
  - —habitat for Jenny Creek redband trout, western pond turtle, elk, black bear, bobcat, golden eagle, goshawk, prairie falcon, and peregrine falcon;
  - —critical deer winter range ("best of the last" in the region);
  - —remarkably botanically diverse; and
  - —home to Pilot Rock (elev. 5,910'), a columnar basalt landmark visible from throughout the region.
- Major tree species in the proposed wilderness include Douglas-fir, ponderosa pine, Oregon white oak, California black oak, incense cedar, western juniper, bigleaf maple, sugar pine, madrone, Douglas hawthorn, shining and arroyo willows, mock-orange, Douglas-spirea, Oregon ash, white alder, black cottonwood, birch leaf mountain mahogany, and quaking aspen.
- Establishing the Soda Mountain Wilderness would benefit current and future generations of Oregonians.
- Congress has designated backcountry Wilderness in numerous other national parks and monuments.

- Designating the wilderness would conflict with few, if any, commodity or other uses. The proposed wilderness is:

  —entirely federal public land (no private inholdings);
  —~23,000 acres entirely within the 53,000-acre Cascade-Siskiyou National Monument in Oregon (already dedicated to non-commodity purposes);
  —already withdrawn from potential mineral development (per CSNM proclamation; and there are no historic mineral claims);
  —would not conflict with livestock grazing (grazing would be eliminated via voluntary grazing lease retirement);
  —already closed to off-road vehicles (per CSNM proclamation);
  —already closed to commercial logging (per CSNM proclamation); and
  —is little-used by mountain bikers (the CSNM proclamation closed the former Schoheim Jeep "Road" to all "mechanized" vehicles and the CSNM management plan closes most of the remainder of the trails in the area to mechanized use).

- Designating the Soda Mountain Wilderness would have no effect on the Northwest Forest Plan.
- The proposed Soda Mountain Wilderness includes:

  —Oregon Gulch Research Natural Area (1,056 acres);
  —Scotch Creek Research Natural Area (1,800 acres);
  —Pacific Crest National Scenic Trail (~7 miles); and
  —a BLM-Recommended Wilderness Area endorsed by President George H.W. Bush (6,447 acres).

- Wilderness designation is favored by editorials published by the Ashland Daily Tidings, Medford Mail-Tribune, Eugene Register-Guard and the Portland Oregonian.

THE ROWLETT LAND EXCHANGE

All Federal lands and interests in lands within the boundaries of this monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, including but not limited to withdrawal from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument. (emphasis added)

Proclamation Establishing the Cascade-Siskiyou National Monument
June 9, 2000

Background information about the proposed Rowlett Land Exchange is attached to this statement (Attachment 3).* In summary, the proposed land exchange:

- is in the public interest;
- furthers the purposes for which the national monument was established;
- adds approximately two-thirds of a mile of essential spawning habitat for the Jenny Creek redband trout in Keene Creek and Lincoln Creek to the national monument (the trout is an object of biological interest identified in the monument proclamation).
- would protect the very scenic and highly visible Keene Creek Canyon;
- has the added benefit of retiring livestock grazing on the Box R Allotment.

The parcel sought for public ownership is generally forested and is contiguous with BLM land to the north.

GRAZING LEASE RETIREMENT

The Secretary of the Interior shall study the impacts of livestock grazing on the objects of biological interest in the monument with specific attention to sustaining the natural ecosystem dynamics. Existing authorized permits or leases may continue with appropriate terms and conditions under existing laws and regulations. Should grazing be found incompatible with protecting the objects of biological interest, the Secretary shall retire the grazing allotments pursuant to the processes of applicable law. Should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes unless the Secretary specifically finds, pending the outcome of the study, that such reallocation will advance the purposes of the proclamation. (emphasis added)

Proclamation Establishing the Cascade-Siskiyou National Monument
June 9, 2000

The Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act provides that—if eligible lessees voluntarily relinquish their interest in federal public land livestock grazing in and near the national monument—the federal government will compensate them and permanently close the allotments, or portions thereof, to livestock grazing.

To local public lands ranchers, the proposed grazing lease retirement program is the most important component of this legislation. The Soda Mountain Wilderness Council supports a fair and equitable way to end livestock grazing in and near the national monument.

Grazing lease retirement in and near the national monument is ecologically imperative, economically rational, fiscally prudent, socially just and politically pragmatic.

PROCLAMATION-REQUIRED GRAZING IMPACTS STUDY

The monument proclamation states:

> *The Secretary of the Interior shall study the impacts of livestock grazing on the objects of biological interest in the monument with specific attention to sustaining the natural ecosystem dynamics . . . . Should grazing be found incompatible with protecting the objects of biological interest, the Secretary shall retire the grazing allotments pursuant to the processes of applicable law.*

The government grazing studies are complete, as are additional studies by the National Center for Conservation Science and Policy. The scientific findings are clear: livestock grazing is incompatible with the protection of objects of biological interest and sustaining natural ecosystem dynamics in the monument. (See Attachment 4* for a summary of the grazing impact studies.) To conservationists, the language of the proclamation is clear: if continued livestock grazing conflicts with protecting monument values, the former must end.

However, BLM is likely to have a different view. The agency will probably seek to modify the grazing leases by limiting the intensity, duration, timing, frequency and/or method of livestock grazing in an attempt to both preserve objects of biological interest in the monument and continue livestock grazing. New grazing restrictions would render continued grazing more costly and difficult, and perhaps untenable, in the monument.

"PERMANENT" GRAZING LEASE RETIREMENT

The proclamation also states:

> *Should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes unless the Secretary specifically finds, pending the outcome of the study, that such reallocation will advance the purposes of the proclamation.*

This language provides for grazing lease retirement, but it does not necessarily mandate permanent lease retirement. The modification of grazing leases to reduce grazing impacts in the monument will be controversial—and interminable. Congress should make clear that, if grazing lessees voluntarily waive their interest in their federal grazing leases, domestic livestock should never again darken the door of the loading dock to nature's ark.

CONGRESSIONAL POLICY FOR VOLUNTARY GRAZING PERMIT/LEASE RETIREMENT IN EXTRAORDINARY CIRCUMSTANCES

Congress has authorized and funded voluntary grazing permit/lease retirement in extraordinary circumstances in the past (see Attachment 5).* Congress has compensated ranchers for the loss of federal grazing permits/leases in a national park, a bombing range, and a unit of the National Landscape Conservation System:

- Capitol Reef National Park, Utah
- Juniper Butte Bombing Range, Idaho
- Steens Mountain Cooperative Management and Protection Area, Oregon

The possibility of continued grazing in the Cascade-Siskiyou National Monument is at least as extraordinary as the examples of Congressionally authorized permit/lease retirement cited here.

In addition, for more than 50 years, whenever the Department of Defense has taken public lands for national security purposes, a statute has required that the Department compensate any affected grazing permittee/lessee for lost grazing privileges. The military has also bought out federal grazing permits/leases on public land to mitigate for harm caused to endangered species from military activities on military reservations.

TO PAY OR NOT TO PAY?

In other cases, Congress has only provided that grazing permits/leases voluntarily relinquished to the federal government would be permanently retired—Congress did not provide compensation to participating ranchers. In these cases, a third party compensated the ranchers. The Soda Mountain Wilderness Council believes that it is fair and just for Congress to pay grazing lessees who voluntarily waive their interests in grazing leases in and near the Cascade-Siskiyou National Monument. While munificent to the affected ranchers, it still cheaper for the taxpayers—considering the amount of ongoing subsidies, defending against future litigation, and other costs associated with continued grazing.

HOW MUCH TO PAY?

S. 2379 would compensate participating lessees at a rate of $300/AUM. While this amount is above market value, it is comparable to replacement value of the lost forage. When a car is totaled, the insurance company pays the owner market value. When a hurricane or a flood wipes out a house, the insurance company pays replacement value. The choice between market value and replacement value is based on the likelihood of occurrence of the associated event. Cars are totaled far more often than houses. The federal government rarely cancels federal grazing leases. Voluntary grazing lease retirement is a rare event.

A FAIR AND JUST ACT

Many of the families that have ranched in and near the Cascade-Siskiyou National Monument have done so for generations. With the monument proclamation, the federal government has changed the rules on this group of public lands ranchers. Some would like to reconfigure their operations to rely solely on private land; others are near (or past) retirement. It's not just a business for them, but a way of life. Voluntary lease retirement would allow each ranching family to realize their own goals.

CONCLUSION

The Soda Mountain area is more than just botanically interesting; it is an important link for migration, dispersion, and the process of evolution in the Northwest.

Dr. Tom Atzet, U.S. Forest Service
Southwest Oregon Area Ecologist
March 22, 1994

Senator Smith, with the cooperation of Senator Wyden, has crafted S. 2379 in a way that can work for the local conservation and livestock grazing communities. The legislation furthers the public interest and the purposes for which the Cascade-Siskiyou National Monument was established. Enactment of S. 2379 will enhance the protection and restoration of a botanically diverse ecoregion that serves as a loading dock to the Klamath-Siskiyou ark. The legislation is fair to ranchers and it will benefit future generations of Oregonians and all Americans.

Thank you.

Senator WYDEN. Thank you very much.

What we're going to do is break from our order. Senator Cantwell is here, and it is really a hectic day, even by Senate standards, and the Senator has been a very valuable member of this subcommittee and we have already talked a bit, Senator, about your fine piece of legislation, and how it is that the Administration somehow is under the judgment that this 1.5 acre effort is so difficult to consummate.

But, I think you will say it much better than any of us possibly could, so why don't we let you hold forth with your opening statement, and glad you could make it.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman, and I thank you for holding this hearing, and for that indulgence.

We are at a hearing today on a bill that would transfer an acre and a half of forestland to the Snoqualmie Pass Fire District, to help them build a new fire station, and we're—I want to welcome the Fire District Commissioner Mr. Chris Caviezel here, and thank you for working so hard on behalf of the people of Snoqualmie Pass.

People may have seen Snoqualmie Pass in the news lately, because we got about 15 feet of snow there, and we've had—for the first time in a long time, we actually had to close the Pass to cross-traffic just to make sure that the residents of our State weren't subject to avalanche conditions.

So, I also want to thank the chairman for holding this hearing on H.R. 523, a bill that would help Douglas County PUD, as well.

But, back the Snoqualmie Pass—obviously it serves a portion of two counties on both sides of the Cascade, and it's along Interstate 90, but it's a really a small community, only 350 people. But when it's ski season, it goes much bigger, and the estimates are that it could be 20,000 patrons, on a busy weekend. So, the Department of Transportation estimates that 60,000 vehicles travel through that Fire District on a busy day, so it makes it one of the busiest mountain highways, really, in the country.

The area is a major transportation corridor for goods and services between eastern and western Washington, that's why when this shutdown of I–90 at the Pass caused—I don't know what the estimates were, but it was something well into the millions a day of lost economic revenue because of that.

So, the all-volunteer fire department averages, I think something like 300 calls—not to steal from your testimony—but, with about a 10 percent annual increase in the volume of calls, which is more than triple the amount of calls, a typical all-volunteer fire department would have to respond to in a year.

So, 84 percent of those incidents are from non-taxpaying residents, and consequently the fire district has a characteristic, really, of a large city; and the limited resources of a small community.

So, that's the challenge that we face and this—in the recent years—this area has been a scene of major winter storms, multi-vehicle accidents and—as I mentioned—avalanches. So, the first—the fire district here is the first responder, and that means that it's not uncommon for the community, really, to be isolated, because of those avalanches and problems, for hours or even days at a time. So, they have to have the resources to respond to this swollen community.

So several thousand people can be stranded at the Pass during these periods, when the Pass is closed, and while the Department of Transportation works quickly to try to get the roads back open—it can be very taxing on local resources.

For decades the fire district has been leasing its current site from the Forest Service, and they operate out of an aging building, which really wasn't even designed, I think, as a fire station. So, through their hard work and dedication, they have served the community, and I think the fire district, what we need to do is, step up here and resolve this issue.

The parcel is on Forest Service property, immediately adjacent to a freeway interchange, between Frontage Road, and the Interstate itself. So, it's right in the middle of already developed land. The parcel was formerly a disposal site, during the construction of the freeway, and is now a gravel lot.

So, it's my understanding that there are offers to support the construction of the new fire station, so I appreciate the attention to this issue. My colleagues here, from the Northwest, along with my colleague Senator Murray, in reviewing this legislation before us, and continuing to work with this community to try to help get a resolution for a community that is trying to deal with its own problems, but needs the resources of being located right in the middle of this forest area.

Thank you.

Senator WYDEN. I thank the Senator. I and Senator Bingaman will do everything we can to help you, and to move this quickly. You and your constituents have done a good job—you look at that picture and it is hard to see why the Federal Government is making such a commotion out of something that really looks like a parking lot. What you want to do is get this conveyance up and in place.

We appreciate your good work, and we'll try to get this moving quickly.

OK, our next speaker, Mike Dauenhauer, and Mike—thanks for coming, a long trip, and please take your 5 minutes, or so, and tell us your thoughts.

STATEMENT OF MIKE DAUENHAUER, DAUENHAUER RANCH, ASHLAND, OR

Mr. DAUENHAUER. Thank you very much for having me.

My name is Mike Dauenhauer, and I'm here today as one of 16 ranchers who hold valid grazing leases in and near the Cascade-Siskiyou National Monument in Jackson County, Oregon.

I've been a cattle rancher my whole life, and I currently serve as the president of the Jackson County Stockman's Association. I'm here to urge Congress to enact S. 2379 into law, and resolve the conflicts that arose with the creation of the Monument in June 2000.

The affected ranchers have the support of the County Commissioners, State and local Cattlemen's Association, State representatives, our Senators and our Governor. Evidence of that is attached to my written statement.

Since the designation of the Monument in 2000, our future as cattle rangers in and near the Monument has become uncertain, at best. The Proclamation signed by President Clinton, requires a unique, first-of-its-kind Grazing Impact Study, to determine if cattle grazing is compatible with the objects of biological interest in the Monument.

The language used in the Proclamation is not found anywhere else, at least that I can find. The language used in the Proclamation leaves the ranchers in a no-win situation.

The Proclamation states that if—the grazing leases can be canceled by the Secretary of the Interior, if grazing is found to be incompatible. The environmental community interprets the Proclamation to say that if any conflicts occur, than all grazing must cease. The BLM states that if conflicts are found, changes could be made, without ending all grazing.

The problem with the BLM's idea is the fact that if I lose any more of my AUMs, it won't be economically feasible for me to go out there anymore.

My point is this—regardless on your stance on this, whether you're Andy or me—we believe it will end up in court. This bill is a solution that will save everyone time and money, and it will also keep the ranchers somewhat whole.

The bill also includes a $300 per AUM payment to the affected ranchers. In return, we give up our grazing leases. The payment is far below what it will cost us to replace the grazing allocated to us in the Taylor Grazing Act, but it will help us change our operations and resolve, once and for all, the Monument grazing conflicts.

I know that ownership and payment for grazing privileges is a contentious issue. The courts have interpreted grazing on Federal lands as a privilege, rather than a right. However, revoking these privileges will cost us real money. While the government won't compensate without passage of the bill, our grazing privileges, when they change hands, are taxed by the IRS. In addition, Oregon taxes them as real property.

If Congress agrees that we should be paid, then the question becomes, at what price? I would hope the Congress—as Andy stated—would look at compensation in terms of replacement value, and whether you figure on buying or renting replacement forage, it is more expensive than the $300 we're asking for in the bill.

I would also hope that Congress would be willing to find a way to pay the ranchers before the Wilderness designation was made. This would ensure fairness, and it would also make the environmentalists and the ranchers come to the finish line at the same time.

The bill also includes a property change, which Andy alluded to—I don't need to go over that. There is also fencing costs and provisions included in the bill that are necessary to protect grazing lands from the unique and specific protections stated in the Proclamation. Without these, undue hardships will be placed on nearby ranchers.

Both sides of this conflict agree that the passage of this bill is a win-win solution. We would not be here today if it weren't for Senator Gordon Smith's efforts and commitment.

His willingness to help us in any way, proved invaluable. We are also greatly appreciative of the efforts of Senator Ron Wyden who co-sponsored the bill.

But the most amazing part of this journey has been the coming together of the environmental and the ranching communities, and as you well know, we don't agree on much, and this was no excep-

tion. But after 4 long years of negotiations, and some fairly heated debates, here we are, both supporting the same bill. It proves, once again, that anything is possible.

I would like to conclude by saying that it is truly an honor to speak to you today, and for a cowboy from Southern Oregon, it's quite a thrill and something I never thought I'd get the opportunity to do. I hope that I can look back on this someday, and know that I had a small part in the passage of this bill.

Thank you.

[The prepared statement of Mr. Dauenhauer follows:]

PREPARED STATEMENT OF MIKE DAUENHAUER, DAUENHAUER RANCH, ASHLAND, OR, ON S. 2379

My name is Mike Dauenhauer. I am here today as one of sixteen cattle ranchers that hold valid livestock grazing leases in and near the Cascade-Siskiyou National Monument (CSNM) in Jackson County Oregon. I have been in the ranching business all my life. I currently serve as President of the Jackson County Stockmen's Association. I urge Congress to enact S. 2379 into law to resolve conflicts created by the unique regulatory and statutory restrictions placed on traditional grazing practices by the creation of the national monument. The affected ranchers have the support of our county commissioners (attached),* both the state (attached)* and local (attached)* cattlemen's associations, our state representative (attached),* our state senator (attached)* and our governor (attached),* our local newspaper (attached),* the state's largest newspaper (attached)* other concerned groups and individuals. Evidence of support is attached to my written statement.*

Since the designation of the Monument, June 2000, the future of economically viable livestock grazing has become increasingly uncertain in and near the monument. The designation proclamation specifically requires a unique, first of its kind, grazing impact study to try to determine if livestock grazing is "compatible" with "the objects of biological interest" in the monument. Furthermore, the proclamation states that existing grazing leases can be cancelled by the Secretary Of Interior should grazing be found to be incompatible.

The environmental community interprets the proclamation to say that if any conflicts occur, then all grazing must cease. Presently BLM contends that if conflicts are shown, possibly changes in grazing practices could be made without the end of all grazing. The Proclamation language leaves these opposing viewpoints to be solved in court if the conflict is not resolved by other means. This avenue promises to be a very long and costly process for the government, ranchers, environmental interests and taxpayers. I enclose an opinion piece* that appeared in the local paper that will give you a flavor of what we are up against.

This situation also leaves the ranchers in a very insecure position as to the viability and continuity of their ranching operations dependent upon the grazing leases they have used for generations. Even if our livestock grazing is merely reduced or changed, such modifications may well make continued grazing impossible.

S. 2379 is a solution worked out between the ranching and environmental communities to resolve the Monument grazing conflicts in a much cheaper, positive, effective and timely manner. It benefits taxpayers, cattlemen, environmental interests and society in general. While the Monument proclamation gives the cattlemen the right to rescind their leases for future grazing allocation, no government compensation would be provided. S. 2379 provides some compensation for the ranchers that voluntary rescind their leases and try to restructure their lives without the uncertainty of many years of lawsuits and conflicts to determine if they can continue to graze in and near CSNM lands.

Cattlemen feel that creation of the national monument and specific proclamation language has and will change traditional methods of operation—not found in similar grazing areas—to provide for environmental and political concerns specific to grazing on monument lands. These changes in grazing practices will unfairly restrict our ability to use monument forage resources to provide an economical business atmosphere to make a living and do what we love. Whether it is right or wrong for the environment, Monument grazing is a contentious political issue, due for a very long and expensive conflict, if not resolved by S.2379.

* Documents have been retained in subcommittee files.

The $300.00/Animal Unit Month (AUM) payment in S.2379 is a bargain for the government, considering alternative costs of litigation, manpower devoted to court battles, continuing studies and specific monument grazing management. It is far from enough to replace the grazing allocated to ranchers by the Taylor Grazing Act and harvested for generations from the federal lands, but it will help ranchers to change operations and resolve, once and for all, the monument grazing conflicts.

I know that ownership and payment for grazing privileges is a contentious issue. The courts have interpreted grazing on public lands as a privilege rather than a right. However, revoking that privilege will cost us real money. While BLM won't compensate us without enactment of S. 2379, our grazing privileges, when they change hands are taxed by the IRS. In addition, Oregon taxes them as real property.

If Congress agrees that we should receive compensation for our grazing leases in and near the national monument, then the question is at what price. Even if—and I think it would take a miracle—BLM did allow us to continue grazing, my grazing lease—because it is tied up in the national monument—no longer has any market value. It has turned from an asset to a liability.

The current market value of monument grazing leases is near zero. I urge Congress to consider compensation in the context of replacement value. The table at the end of my statement examines two methods of determining the cost of forage that we ranchers will have to acquire to replace the loss of our federal grazing leases and compares them to the proposed $300/AUM federal payment in S. 2379. Whether it is figured on renting forage annually or buying pastureland to replace the lost government forage, the cost is far in excess of the $300/animal unit month specified in S. 2379. As you can see, private forage costs a lot more than federal forage. If $300/AUM federal government payment were received and safely invested, such would only go part way toward acquiring replacement forage for lost federal AUMs due to the monument proclamation.

S. 2379 also includes a common-sense property exchange. The Rowlett exchange will further the monument purposes and also consolidate both government and private ownership. Mr. Rowlett has agreed to donate his interest in his federal grazing lease to the federal government after the exchange is completed.

The fencing costs and provisions in S. 2379 are necessary to protect other grazing lands from the proclaimed unique and specific protection desired on Monument lands. Without these provisions, the monument proclamation places undue hardship on nearby livestock ranches.

The most amazing part of this journey has been the coming together of the environmental and the ranching communities. As you well know we don't agree on much, and this was no exception. Four years of negotiations and some heated debate, and here we are both supporting S. 2379. That proves again that anything is possible.

Both sides of the conflict agree, the passage of this bill is a win-win solution. We would not be here today if it weren't for Senator Gordon Smith's efforts and commitment. His willingness to help in any way possible proved invaluable. We also greatly appreciate the efforts of Senator Ron Wyden, co-sponsor of S. 2379.

I would like to conclude by saying that it truly is an honor to speak to you today. For a cowboy from Southern Oregon, this is quite a thrill, and something I never thought I'd get the opportunity to do. I hope I can look back on this someday, knowing that I had a small part in the passage of S. 2379.

Thank you for your time.

Replacement Value Computation for Lost Federal Permitted AUMs on the Cascade-Siskiyou National Monument			
Givens for Both Alternative Methods:	**10-Year**	**30-Year**	
• Interest Rate	3.750%	4.375%	Current US Treasury Bond Rate (www.bloomberg.com/markets/rates)
• Federal Grazing Fee (2008)	$1.35	$1.35	Determined annually by BLM and USFS.
A. Renting Private Forage Annually			
Estimated Market Cost of Renting Alternative Private Irrigated Forage	$27.50	$27.50	Cost of replacement forage per AUM.
Difference Between Public and Private Forage	$26.15	$26.15	The amount in $/AUM of providing alternative forage (market cost minus federal grazing fee).
"Endowment" to annually yield alternative forage cost:	$747.14	$597.71	The capitalized replacement cost of annually paying the difference between public and private forage.
B. Acquiring Private Pastureland			
Estimated Cost Per Acre of Irrigated Pasture Land	$3,250	$3,250	Amount per acre to acquire private land.
AUMs/Irrigated Acre/Year	6.5	6.5	Number of AUMs/acre/year available from that private land.
Alternative Annual Return On Investment	$113.75	$142.19	The amount of money yielded annually if the per/acre price of land was instead invested in a US Treasury bond.
ROI/AUM	$17.50	$21.88	The alternative annual return on investment per replacement AUM.
Difference Between Public and Private Forage	$16.15	$20.53	The annual cost amount in $/AUM of providing replacement forage.
"Endowment" Necessary to Annually Yield Alternative Forage Cost per AUM.	$461.43	$469.14	This is a capitalized replacement cost per AUM of replacement forage.
C. $300/AUM Federal Government Payment			
Annual Yield Invested in Long-Term US Treasury Bond	$10.50	$13.13	Annual yield of federal government payment that could be applied to alternative forage ($/AUM).
February 2008			

Senator WYDEN. Mike, well said. You've made the Senate's Cowboy Caucus proud. So, thank you.

[Laughter.]

Senator WYDEN. We've got another Senator with a time crunch, and that's my colleague from Oregon. If our other witnesses from Wyoming and Washington—it's acceptable to them—let's let Senator Smith ask his questions of the Oregon witnesses, and then let us excuse him, because he's got a heavy schedule.

Senator SMITH. Thank you, Mr. Chairman, and my colleagues, I appreciate your indulgence.

Mike, I know that the many cattlemen organizations have had heartburn over this. Can you give me an update on where they are in terms of support or opposition to this bill?

Mr. DAUENHAUER. We have support. The main problem that we've had is, it's a very unique situation. I'm not in favor of buyouts, it's just not the way we are. But, in this situation, in this very specific, unique situation, it is our only solution. So, our support is good.

Senator SMITH. So, the opposition is, at least, quiet at this point, and really understand the uniqueness of this?

Mr. DAUENHAUER. I think they do.

Senator SMITH. Mike, how long has your grazing operation been around?

Mr. DAUENHAUER. My dad bought the Ranch in 1961.

Senator SMITH. Sixty-one.

Andy, I was going to ask you a question but you already answered it in your testimony. Some of the opposition—not opposition, but concern expressed by some of my colleagues relates to compensation for giving up grazing rights. You made the point I was going to make, which is that those who are expressing a degree of opposition, anyway, have had these similar arrangements done in their own States, and that is true.

Mr. KERR. There's a history of Senators from both sides of the aisle obtaining compensation for ranchers under—you know, they made the case to Congress.

You know, I think I'll take one exception with the term—I think it's illuminating, of this debate. You said "grazing rights," that's what ranchers say, and conservationists say "grazing privileges." So, the idea of a right is that if it is taken, it is subject to compensation under the 5th amendment.

There's a long history of court cases, since 1905, many Supreme Court cases, and others, that say it's not a right.

But there is—while there is not a property right, I think that most conservationists will recognize there is a property interest. As Mike noted, when—at taxable events, such as the sale of ranches that are associated with public lands grazing—the IRS recognizes the value of these grazing permits. Not that the Forest Service or the BLM, if it chooses to revoke those permits, has to compensate, as a matter of law.

But, there's also another case—since 1950, when the military takes public lands for national security purposes, they have routinely compensated ranchers for their lost grazing permits, associated with that military expansion.

So, this is—it's not, in one sense, a new idea here.

Senator SMITH. No, of course not.

Mr. KERR. So, you know, I would argue that national security also includes our natural security of protecting wild places and nature, and this is an extraordinary circumstance, but it's not an unheard-of circumstance.

Senator SMITH. Right. I agree with your characterization, in terms of natural security, as well, and I appreciate the way environmental groups have worked with our cattlemen on this issue, and I note that environmental groups have supported ranchers receiving bonus incentives for relinquishing these permits—whether they're rights or privileges—environmental groups are supporting these incentives.

Mr. KERR. Yes, we're—many groups are. Some groups favor retiring their permits, but favor the use of private money, if it's available. Other groups are comfortable with a government payment. You know, it's a kind of a threshold issue is, you know, are these permits—do they have market value? I think they do.

Now, the permits in the Cascade-Siskiyou National Monument, since they've become a National Monument, essentially have junk value. No other rancher would come to Mike and say, "I want to buy your grazing permits," or, "buy your ranches associated with these grazing permits," so——

Senator SMITH. But, since 1961, they've had a value to Mike's family.

Mr. KERR. When they bought them, they bought this base property—and that's a term under the Taylor Grazing Act—that has these allotments on Federal lands, these AUMs tied to it, and they have used them, and now if they tried to sell them, they get nothing for them.

Senator SMITH. Andy, can you give the Congress—and specifically the Senate—assurance that once this bill is enacted and wilderness is created, that environmental groups will follow through on their commitments?

Mr. KERR. Yes, I think we certainly can, and we want to. The—we believe in this legislation, and the understandings that we have with these ranchers, we are fully committed to following through on, and we're going to do everything we can to fulfill those commitments, and I have no reason to believe that we will not.

Senator SMITH. Great, well, I know you and Mike to be people of integrity, and Ron and I are counting on that, because we want to pass this, and get this behind us, and leave the world a better place, economically and environmentally, so—thank you, Mr. Chairman.

Senator WYDEN. Very, very good. I'll have some additional questions, Senator Smith said it very well.

You Wyoming folks have been very patient, Ms. Moseley—you've heard about our fire stations, and our monuments—and let's make your prepared remarks as part of the record in their entirety, and if you could summarize your main concerns, that would be helpful.

STATEMENT OF CLAIRE M. MOSELEY, EXECUTIVE DIRECTOR, PUBLIC LANDS ADVOCACY, PETROLEUM ASSOCIATION OF WYOMING, DENVER, WY

Ms. MOSELEY. Certainly.

Mr. Chairman, members of the subcommittee, I'm Claire Moseley, Director of Public Lands Advocacy, and I'm here today representing not only Public Lands Advocacy, but also the Petroleum Association of Wyoming.

I guess I appreciate the dubious honor of being the one to present balance to the panel, since unfortunately our—my industry, the oil and gas industry—does not necessarily support Senator Barrasso's bill, S. 2229. We do support Senator Barrasso's goal of preserving the natural beauty that is an integral part of Wyoming's heritage. However, we believe those can be achieved while preserving the access needed to develop oil and gas resources beneath the Wyoming Range.

I find it interesting, the rhetoric surrounding this issue. I think it's somewhat disingenuous—the energy industry does not seek out to lease new resources from Federal lands that are already withdrawn, such as Wilderness, National Parks, Wilderness Study Areas, et cetera, et cetera.

I have to point out that 50 percent of Federal lands are already completely withdrawn from oil and gas activity, as a result of these designations.

I would also like to point out that 25 percent of the Federal lands in Wyoming are already withdrawn from oil and gas development and leasing.

Most of the Wyoming Range, as you've noted in my testimony, is located on top the Wyoming Overthrust Belt. According to a national study done by the Department of Energy, estimates are that the Wyoming Range holds over 12 trillion cubic feet of natural gas. Few places exist within the United States that have that kind of potential, but I also would like to point out that, according to the 2006 Environmental Policy Conservation Act review of this area, 69 percent of that Federal land in the Wyoming Range is already—excuse me, 69 percent of the land in the Wyoming Overthrust Belt—is unavailable for leasing.

The bill that Senator Barrasso has introduced would put the remaining areas that are available off limits, as well.

The Wyoming Range falls within the Bridger-Teton National Forest, it's 3.4 million acres. Out of that acreage only—less than 500,000 acres are available for oil and gas leasing, and I'm talking about available. As far as leases issued, we're looking at maybe around 60,000 to 100,000 acres. So, we're not talking about a huge amount. It's the only area on the Bridger-Teton National Forest that has been made available for leasing. The rest of the half million acres that the Forest Service has made—has declared available for leasing—has never been leased.

The fact that recreation and a wide diversity of wildlife and habitat thrive throughout the southern end of the Wyoming Range, along with the rest of Wyoming, is a testament to industry's commitment to protecting Wyoming's world-class wildlife, and scenic beauty.

Energy producers are committed to working with Federal land managers to reduce their environmental impacts. Operators have a long history of commitment to working with the Wyoming Game & Fish Department, local landowners and citizens, to reach win-win outcomes that meet energy and environmental objectives. That

working together, we will lead to a stable economy for Wyoming, over the long term, while preserving environmental values, cherished by our citizens.

New technology advancements make it possible to minimize industry's footprint in sensitive areas—such as directional drilling, horizontal drilling techniques, which allow producers to drill wells—multiple wells—from a single pad.

We're concerned that opportunities to make use of these improved technologies would be precluded under this bill, because in order to access the minerals, you have to have a lease.

We appreciate Senator Barrasso's decision to structure the bill's lease buyback concept as a voluntary option for operators. We also appreciate the Senator's commitment to protecting the rights of existing leaseholders. To successfully accomplish these goals, we recommend adopting an amendment that would strengthen and clarify the rights of leaseholders. In addition, language is needed which clarifies that any buyback sum be specific—must specifically include the value of the resource under the lease.

With respect to the term, the Wyoming Range, we would ask that the bill's provisions be limited to the Wyoming Range, as defined by topography and maps of the area.

I'll hurry up, I've only got another couple of points, if that's OK.

Senator WYDEN. Sure.

Ms. MOSELEY. Finally, we support the Senator's provisions and prohibitions in section 3 of the bill, which preclude establishment of a buffer area, adjacent to the boundaries of withdrawn land. We also support the bill's direction that the Bridger-Teton forest plan will apply to land that is not withdrawn. However, we believe that language needs to be added to subsection 3 of the bill, to protect field development, recognizing that future technology will extend the ability to reach out with a well borer, underlying minerals that are adjacent to existing, producing fields, to ensure that the ability of field operators in the Wyoming Range to access and development these critical resources in the future.

Finally, we are currently working on language to address the concern, with respect to valid, existing rights. I'm sure you can appreciate that within my industry, in particular, it's very difficult to reach a consensus, so we're still working on language that we would like to provide for the subcommittee, in that regard.

Thank you for allowing PLA, and Petroleum Association of Wyoming to present our views.

[The prepared statement of Ms. Moseley follows:]

PREPARED STATEMENT OF CLAIRE M. MOSELEY, EXECUTIVE DIRECTOR, PUBLIC LANDS ADVOCACY, PETROLEUM ASSOCIATION OF WYOMING, DENVER, WY, ON S. 2229

Chairman Wyden and members of the Subcommittee, my name is Claire Moseley, Executive Director of Public Lands Advocacy (PLA), and I am here today representing not only PLA, but also the Petroleum Association of Wyoming (PAW). PLA is a national nonprofit trade association whose members include independent and major oil and gas producers as well as nonprofit trade and professional organizations that have joined together to foster environmentally sound exploration and production on public lands. PAW, a member of PLA, is Wyoming's largest and oldest oil and gas trade organization, the members of which account for over ninety percent of the natural gas and over eighty percent of the crude oil produced in the State. I would like to thank the Senate Committee on Energy and Natural Resources Subcommittee on Public Lands and Forests for the opportunity to testify at this hearing on S. 2229, the Wyoming Range Legacy Act. We also thank Senator

Barrasso and his staff for seeking industry's views on this legislation and ensuring our concerns are heard.

Our members are committed to developing their federal oil and gas leases in ways that benefit Wyoming's and the nation's interests. The petroleum industry, as America's energy producers, contributes to the nation's energy supply while at the same time providing comprehensive protection of Wyoming's environmental resources. The members of PAW and PLA support Senator Barrasso's goal of preserving the natural beauty that is an integral part of the heritage of the great State of Wyoming. However, we believe this goal can be achieved while preserving the access necessary to develop the very significant natural gas resources that lie beneath the Wyoming Range. Therefore, we oppose S. 2229 as drafted.

The petroleum industry has been exploring for and developing oil and gas in Wyoming for 124 years. Members of PLA and PAW are taking a keen interest in S. 2229 because it would place much of the Wyoming Range and adjacent areas off-limits to future mineral leasing. We are concerned because this legislation would close the door to all future opportunities to explore for and produce much needed energy resources that are believed to occur there.

Natural gas is extremely important to the nation, not just to the petroleum industry or the states where the resources are produced. According to the Energy Information Administration (EIA), the states with the highest demand for natural gas are: Texas, California, Louisiana, New York, Illinois, Michigan, Ohio, Florida, Pennsylvania, and New Jersey. Conversely, the Rocky Mountain States (or Public Land States) produce much of the natural gas required to sustain the standard of living and economies of the rest of the nation at the levels they expect. Meeting American consumer demands for energy, which is expected to increase 23 percent by 2025, requires investments by both industry and the Federal government to find and produce oil and gas, as well as refining, processing distributing and marketing the wide variety of products derived from them.

According to the United States Geological Survey (USGS) an estimated 69 percent of the nation's undiscovered oil and 51 percent of its natural gas resources lie beneath Federal public lands. However, for much of the last century, most of the oil and gas was produced from state and private lands. As these resources became depleted, industry has been forced to seek out new sources on public lands to meet escalating demand for energy supplies.

It is important to our discussion today to put America's energy producers' activities on the public lands into proper context. The energy industry does not seek out new resources from federal lands that are already withdrawn such as wilderness areas, national parks, national monuments, wilderness study areas (WSA), wild and scenic rivers or national wildlife refuges. These lands comprise nearly 50 percent of all federal land. Industry's attention is focused on those lands available for oil and gas leasing and development as determined through the federal land use planning process. In order to put our concerns in a more detailed perspective specifically to S. 2229, as of January 2007 approximately 7.74 million acres (25%) of the federal land in Wyoming are already permanently withdrawn from oil and gas leasing due to designated wilderness, wilderness study area designations, or because they are in national parks or wildlife refuges.

Our members are concerned by the scope of S. 2229 because most of the Wyoming Range is located atop a geologic feature known as the Wyoming Overthrust Belt. PAW and PLA members, along with the Bureau of Land Management, the U.S. Geological Survey, and the Department of Energy, participated in a natural gas resource assessment, Balancing Natural Gas Policy, which was published in 2003 by the National Petroleum Council. Estimates from that study indicate the Wyoming Range is projected to hold 12 trillion cubic feet (TCF) of technically recoverable natural gas. Few places exist in the US with that kind of potential, which is why access to the Wyoming Range is acutely important from the perspectives of Wyoming's economic well-being and the nation's energy security. Despite the potential significance of this region, the 2006 Energy Policy and Conservation Act (EPCA) Phase II study, Scientific Inventory of Onshore Federal Lands' Oil and Gas Resources and the Extent and Nature of Restrictions or Impediments to Their Development, found that approximately 69 percent of the Federal lands throughout the Wyoming Thrust Belt is already unavailable for leasing. S.2229 would place the few areas that remain off limits, thus making it even more difficult for industry to tap these critical reserves.

It must be recognized that of the 3.4 million-acres encompassed by the Bridger-Teton National Forest, which includes the Wyoming Range, all but 520,384 acres are currently closed to oil and gas leasing, including approximately 93,116 leased acres that have been suspended. The remaining 460,186 acres for which a site-specific leasing decision has been made have not been leased. As such, only 60,198 acres have been leased and are available for exploration and development activities.

Furthermore, lessees will only be allowed to develop their prospects on this small number of leases provided surface occupancy is allowed and they can conduct their construction and drilling operations during certain times of the year. It is also important to note that both BLM and the Forest Service require NEPA analyses to be performed that fully consider public concerns and potential impacts of proposed drilling projects. These analyses specifically provide the basis for identifying mitigation measures designed to protect sensitive resources.

For the record, the southern part of the Wyoming Range has enjoyed production since 1986. The fact that recreation and a wide diversity of wildlife and habitat thrive throughout the southern end of the Range, along with the rest of Wyoming, is a testament to industry's commitment to protecting Wyoming's world class wildlife and scenic beauty. Energy producers are committed to working with federal land managers to reduce their surface and environmental impacts on current federal leases. As such, operators have a long history of commitment to working with WGFD, local landowners and citizens to reach win—win outcomes that meet energy and environmental objectives; that working together will lead to a stable economy for Wyoming over the long term while preserving environmental values cherished by her citizens.

In a time of rapidly escalating demand for natural gas in the United States, the elimination of 12 TCF from future access would be an enormous loss not only to the citizens of the US; such a loss would be even greater to the State due to foregone lease bonuses, rentals, production royalties and other revenue associated with exploration and production such as sales, use, ad valorem and income taxes. Lack of access to reserves in the Overthrust Belt would make it more difficult for producers to meet consumer and industrial demand for energy resources in Wyoming and across the country, which will lead to higher prices.

As the members of this committee may be aware, significant technological advancements in recent years have made it possible to minimize industry's footprint in sensitive areas. Directional and horizontal drilling techniques allow producers to drill multiple wells from a single drill pad. However, opportunities to make use of these improved technologies would be precluded under S. 2229 because access to federal minerals is prohibited without a valid lease. Other advances include increased production through improved well completion techniques and faster, more effective reclamation of disturbed areas after production ceases. These improvements greatly enhance the compatibility of oil and gas with wildlife, other uses and users of the public lands, and facilitate recovery of energy resources that might otherwise be foregone.

As the Senate moves forward in refining S. 2229, PLA and PAW urge that the bill's focus be limited to specific areas of concern rather than encompassing the entire Wyoming Range and adjacent federal lands. In addition, all existing leases previously awarded through federal government public lease sales should be excluded from the bill. These active leases represent a contractual agreement between industry and the federal government, which must be honored. As such, we urge that the bill exclude:

- Leases that do not yet have active production
- Leases that have been issued but administratively suspended by the BLM pending the completion of additional NEPA analysis (e.g., leases issued by BLM pursuant to the December 2005 and April 2006 lease sales)
- Leases for which BLM has a binding commitment through a lease sale, but have yet to be issued pending completion of additional NEPA analysis (e.g., the parcels auctioned at the June and August 2006 lease sales).

PROPOSED AMENDMENTS

PLA and PAW appreciate Senator Barrasso's decision to structure the bill's lease buyback concept as a voluntary option for operators. We also appreciate the Senator's commitment to protecting the rights of existing lease holders. To successfully accomplish these goals, however, we recommend adopting an amendment that would strengthen and clarify the rights of lease holders. In addition, language is needed which explicitly clarifies that any buyback sum must specifically include the value of the resource under any lease as well as provide lessees the means to demonstrate the value of the resource.

As mentioned earlier, S. 2229 goes beyond simply withdrawing lands within the Wyoming Range from being leased in the future. PAW and PLA remain concerned about the bill's effect on leases located on lands adjacent to the proposed withdrawals. The term "Wyoming Range" has been used in an uncertain and overly broad manner in this debate. There are a number of leases adjacent to the area under discussion that are not actually in the "Wyoming Range" as identified on

USGS topographic maps. Despite this fact, S. 2229 was written in such a way to draw these leases into the debate. S. 2229 needs to clearly distinguish those adjacent lands to ensure active leases remain unencumbered. At a minimum, it is important that the bill's provisions explicitly exclude adjacent lands from the scope of the withdrawal by limiting the bill's focus to the Wyoming Range as defined by topography and maps of the area.

Finally, we support the prohibitions in Section 3(d) of the bill which preclude establishment of a protective perimeter or buffer area outside the boundaries of lands withdrawn or any prohibition on activities that can be seen or heard from within the boundaries of the withdrawn land. We also support the bill's direction that the Bridger-Teton National Forest Land and Resource Management Plan (including any revisions) shall apply to all land within the Bridger-Teton National Forest that is not withdrawn under this section.

However, we believe it is critical that language be added as Subsection 3(f) to protect field development, recognizing that future drilling technology will extend the ability to "reach out" with a wellbore to underlying minerals that are adjacent to the existing producing fields. As mentioned previously in this testimony, it may be feasible for operators to drill directionally or horizontally and produce from surface locations that allow multiple wells from an existing pad. In many instances this technology allows producers to expand their production efforts without creating additional surface disturbance. As drafted, however, the bill would permanently prevent the ability of field operators in the Wyoming Range to access and develop these critical resources in the future.

Following is specifically recommended language for inclusion in S. 2229 with respect to the determination of fair market value and the protection of future development of existing fields.

I. FAIR MARKET VALUE

Add the following language to Section 4 (c) (1):

> Section 4(c) (1)—Any buyback sum will include the fair market value of the mineral resource under a lease utilizing the lessees' demonstration of the resource value being forgone.

II. BUFFERS

Add the following language to Section 3:

> Subsection 3(f)—A one-mile development buffer zone is established around producing fields to allow for future expansion of these fields.

III. VALID EXISTING RIGHTS

An additional issue of concern relates to the protection of rights associated with existing leases. PLA and PAW's members are currently working on language that appropriately addresses this issue. We ask that Senator Barrasso afford us the opportunity to provide him with an additional amendment to S. 2229 at a later date.

Thank you again for allowing PLA and PAW to share our thoughts on this important measure. We look forward to continuing to work with Senator Barrasso and the members of the subcommittee to address our concerns as S. 2229 moves forward.

Senator WYDEN. Thank you very much.

Ms. MOSELEY. Thank you.

Senator WYDEN. I was particularly pleased you mentioned that point of technological ways to get more oil from existing wells. Craig Thomas was such a wonderful man, and such a terrific guy.

Ms. MOSELEY. He definitely was.

Senator WYDEN. He really led me and a lot of us—particularly on the Senate Finance Committee, to try to change the tax laws, to do just that. So that's a very valid point, and we'll—I'm sure Senator Barrasso and Senators may have some questions for you in a minute, and we're glad you're here.

Mr. Amerine, Citizens Protecting the Wyoming Range.

STATEMENT OF GARY AMERINE, CITIZENS PROTECTING THE WYOMING RANGE, DANIEL, WY

Mr. AMERINE. Thank you.

Chairman Wyden, Senator Barrasso, and members of the subcommittee, thank you for the opportunity to speak to you.

My name is Gary Amerine, and I own and operate Greys River Trophies with my wife, Jenny. Our business is a hunting, fishing, horseback riding outfit in the Wyoming Range of Western Wyoming. Jenny is here with me today.

These mountains provide our livelihood, and a safe environment where we have lived for many years, and have raised three wonderful daughters.

I'd like to tell you a little bit about this special place. From our living room, we can look out across our horse pasture, and see the spine of the Wyoming Range to the West. Wyoming Peak—the tallest mountain in the range, is one of many over 11,000 feet. It dominates our view.

These mountains have streams with rare cutthroat trout, forests and meadows full of elk, mule deer and moose.

The first time I came to the Wyoming Range, I was 20 years old. At that time, I was on a mission to hunt in as many Western States as I could—from Idaho, to Colorado, to Montana. Then I came to the Wyoming Range. Something took hold of me. I came back every year, and then finally got tired of the commute, and I stayed.

People from all over the world come to enjoy the Wyoming Range. They come to hunt, they come to fish, and they come to just relax. Nearly every type of recreation is there—back country skiing, snowmobiling, horseback riding, backpacking, canoeing, and much more.

There are two men I'd like to thank who recognize the values of this special place. The first is Senator Craig Thomas, who passed away last summer. Senator Thomas loved Wyoming, and he loved the Wyoming Range. He wanted to see it stay the way it is now in its pristine state.

The other man I'd like to personally and publicly thank at this time is Senator John Barrasso.

Senator, thank you for your vision, your leadership, and your courage.

Last year, I got on an airplane for the first time in about 20 years to come visit Senator Thomas, and talk about the Wyoming Range. I don't like flying, but I'll tell you, this is important. It's important enough for me to swallow my dislike of flying, and come to speak to you today.

The Wyoming Range Legacy Act sets aside 1.2 million acres of Public National Forest from future oil and gas leasing. It draws a circle around these mountains and says, "Oil and gas are important to our Nation's energy needs, but not here." This is a place where other uses, and other diverse businesses contribute to other segments of our economy, in particular, ranching and tourism. These are aspects of our economy that are sustainable and renewable—oil and gas are not.

I am not against oil and gas development, I'm not a hypocrite. I heat my home with natural gas, I burn fossil fuels when I haul

my horses into the mountains. But I do think there are places that are too special to drill. Come out and see for yourself, I'll have a horse saddled for you.

Wyoming is leading the way in energy production. Sublette County, where I live, is a big part of it. Two of the country's largest gas fields—the Pinedale Anticline and the Jonah Field—are within a short drive of my house.

These gas fields provide jobs, and they provide many other benefits to the local and State economy. But energy development is also having a negative impact on our wildlife.

We Wyoming people are a practical lot. We know that sometimes it is tough to live here, far away from shopping malls and interstates. But we also love our wildlife, and our wild country. We know that there is a place for balance, and the Wyoming Range Legacy Act is a step toward that balance. I am not alone. Thousands of people from all over Wyoming, and across this country—from all walks of life—support this legislation.

Today, 26 million acres of about 30 million acres of Federal land in the State of Wyoming are available for energy leasing. We'd like to keep the Wyoming Range for our kids, for their kids, for your kids, for balance.

Thank you.

[The prepared statement of Mr. Amerine follows:]

PREPARED STATEMENT OF GARY AMERINE, CITIZENS PROTECTING THE WYOMING RANGE, DANIEL, WY, ON S. 2229

Chairman Wyden, Senator Barrasso and members of the Subcommittee, thank you for the opportunity to speak to you.

My name is Gary Amerine and I own and operate Greys River Trophies with my wife Jenny. Our business is a hunting, fishing and horseback riding outfit in the Wyoming Range of western Wyoming. Jenny is here with me today. These mountains provide our livelihood and a safe environment where we've lived for many years and have raised three wonderful daughters.

I'd like to tell you a little bit about this special place. From our living room, we can look out across our horse pasture and see the spine of the Wyoming Range to the west. Wyoming Peak, the tallest mountain in the range, is one of many over 11,000 feet. It dominates our view. These mountains have streams with rare cutthroat trout, forests and meadows full of elk, mule deer and moose.

The first time I came to the Wyoming Range, I was 20 years old. At that time, I was on a mission to hunt in as many western states as I could, from Idaho to Colorado to Montana. Then I came to the Wyoming Range. Something took hold on me. I came back every year and then I finally got tired of the commute and I stayed.

People from all over the world come to enjoy the Wyoming Range. They come to hunt, they come to fish, and they come to just relax. Nearly every type of recreation is there—backcountry skiing, snowmobiling, horseback riding, backpacking, canoeing and much more.

There are two Wyoming men who I'd like to thank who recognized the values of this special place. The first is Senator Craig Thomas who passed away last summer. Senator Thomas loved Wyoming and he loved the Wyoming Range. He wanted to see it stay the way it is now in its pristine state.

The other man I'd like to personally and publicly thank at this time is Senator John Barrasso. Senator, thank you for your vision, your leadership, and your courage.

Last year, I got on an airplane for the first time in about twenty years to come visit Senator Thomas and talk about the Wyoming Range. I don't like flying. But I'll tell you, this is important. It's important enough for me to swallow my dislike of flying and come to speak to you today.

The Wyoming Range Legacy Act sets aside 1.2 million acres of public national forest from future oil and gas leasing. It draws a circle around these mountains and says—oil and gas are important to our nation's energy needs, but not here. This is a place where other uses and other diverse businesses contribute to other segments

of our economy—in particular ranching and tourism. These are aspects of our economy that are sustainable and renewable. Oil and gas are not.

I am not against oil and gas development. I'm not a hypocrite. I heat my home with natural gas. I burn fossil fuels when I haul my horses into the mountains. But I do think that there are places that are too special to drill. Come on out and see for yourself, I'll have a horse saddled for you.

Wyoming is leading the way in energy production. Sublette County where I live, is a big part of it. Two of the country's largest gas fields, the Pinedale Anticline and the Jonah Field, are within a short drive of my house. These gas fields provide jobs and they provide many other benefits to the local and state economy. But energy development is also having a negative impact on our wildlife.

We Wyoming people are a practical lot. We know that sometimes it is tough to live here, far away from shopping malls and interstates. But we also love our wildlife and our wild country. We know that there is a place for balance and the Wyoming Range Legacy Act is a step toward that balance. I am not alone. Thousands of people from all over Wyoming and across this country, from all walks of life, support this legislation.

Today, 26 million acres of about 30 million acres of federal land in the state of Wyoming are available for energy leasing. We'd like to keep the Wyoming Range for our kids. For their kids and for your kids. For balance.

Senator WYDEN. Well said. I just noted, you are talking about 1.2 million acres, and Mr. Caviezel is now going to talk about one and a half acres.

[Laughter.]

Senator WYDEN. We've got everything in the universe before the committee today. Welcome.

STATEMENT OF CHRIS CAVIEZEL, CHAIRMAN, BOARD OF FIRE COMMISSIONERS, SNOQUALMIE PASS FIRE & RESCUE, SNOQUALMIE PASS, WA

Mr. CAVIEZEL. Thank you, Mr. Chairman.

My name is Chris Caviezel, I'm the Chairman of the Board of Fire Commissioners for Snoqualmie Pass Fire & Rescue, Volunteer Fire Department serving the Greater Snoqualmie Pass.

This unincorporated area has 350 full-time residents. In addition, we have a wintertime ski area which sees an estimated 20,000 people a day during the peak of the season.

The Washington State Department of Transportation also estimates that up to 60,000 vehicles will travel through our fire district on a busy day, tying us as the most heavily traveled mountain pass highway in the country.

Snoqualmie Pass has an enormous amount of snowfall, with an average of 32 feet of snow each year over the last 10 years, which makes the region an appealing destination, recreational area. However, this also results in avalanches and rockslides on both sides of the Pass, creating difficulty, accessibility and emergency service issues.

These unique demographics challenged local resources to the limits. Our fire department averages over 300 calls a year, nearly a 10 percent annual increase in call volumes.

Snoqualmie Pass is completely surrounded by Forest Service land. To the north and south of us are the Cascade Mountains, and along the Interstate-90 corridor, Forest Service land extends to the east and west of us, well beyond our seven and a half response area in each direction.

While our primary mission is to fight fires and provide emergency medical services in our local residential setting at nearby

Interstate highway, the impacts of the surrounding Forest Service land definitely affect our mission.

The Forest Service has the primary responsibility for putting fires out on their land. However, the nearest Forest Service resources are nearly 30 miles away, in the town of North Bend.

Though Snoqualmie Pass's all-volunteer fire station is not obligated to respond to any fires on Forest Service land, we gladly do so. We are usually the ones in the position to get to the fire first, giving us a better chance at containing the fire before it can get out of hand and present a much larger problem.

It is also important to note that our all-volunteer fire department must respond quickly to prevent fire from spreading onto Forest Service land. The nearest career department is also in North Bend, and during the recent fire we've had support come to us from over an hour away.

Two years ago, our fire department was contacted by the Forest Service to ask if we would be interested in purchasing the land that we currently lease. We were very surprised, because we did not know it was possible to acquire Forest Service land. Yes, we were interested, but no, we did not have the money.

We have long-recognized the pressing need to build a new fire station. Our current fire station as originally built in the 1930s as a maintenance shed for the Department of Transportation. The current station has numerous safety, utility, structural and operational deficiencies that cannot be resolved in the existing structure.

One problem of note is that, due to the slope of the roof it sheds snow in front of the apparatus base. This is especially significant when we are dispatched for an emergency, the fire station sounds when we get a call, which can trigger the release of the snow off the roof, leaving up to a 4-foot ridge of snow and ice in front of our rigs, preventing a response until the path is cleared.

Over the past 12 years, we have looked at numerous properties, and we have determined that this property fits our needs best, because it is centrally located, easily accessible to east and westbound Interstate 90, as well as highway 906.

The centrality of the site not only provides for faster, more efficient responses, once the apparatus are on the road, but it also allows the volunteers to travel to the station quicker, for a shorter turnout time.

Furthermore, it is a level site with no significant construction issues, which will enable the district to build the station for less than other sites. This will also make the construction of the helipad possible, creating a safe area to land helicopters, as we currently have no dedicated helipad for airlift patients.

Monies received through fire department-levied property taxes this year will equate to around $217,000. This money is barely enough to sustain current operations and required programs. Since Snoqualmie Pass is surrounded by Forest Service land, and because we cannot levy a tax against the U.S. Forest Service, we are severely prohibited from expanding our tax base, we must rely upon outside assistance for continued operation. Unlike almost all of the other fire departments in the State of Washington, most of our customers—up to 80 percent—are non-taxpaying residents;

rather, they are people that are driving through the area, visiting the ski area, or visiting U.S. Forest Service land.

I know that while Federal land isn't often given to local agencies, there is a precedence, as long as it's a relatively small acreage, as well as being used for a public purpose, and not leading to private profit.

S. 2601, introduced by Senator Cantwell, would convey land without cost to our fire department. I realize that this is not done very often but I believe our unique circumstances more than justify this to be done, and it would ease the burden of building a new fire station.

A companion bill, H.R. 1285, passed the House of Representatives by a voice vote on July 23, 2007.

[The prepared statement of Mr. Caviezel follows:]

PREPARED STATEMENT OF CHRIS CAVIEZEL, CHAIRMAN, BOARD OF FIRE COMMISSIONERS, SNOQUALMIE PASS FIRE & RESCUE, SNOQUALMIE PASS, WA, ON S. 2601

Hello, my name is Chris Caviezel. I am the Chairman of the Board of Fire Commissioners for Snoqualmie Pass Fire & Rescue, a volunteer fire department serving the greater Snoqualmie Pass community in the State of Washington.

This un-incorporated area has 350 full-time residents. In addition, we have a winter-time ski area which sees an estimated 20,000 people a day during the peak of the season. The Washington State Department of Transportation also estimates that up to 60,000 vehicles will travel through our fire district on a busy day, tying us as the most heavily traveled mountain pass highway in the country.

Snoqualmie Pass has an enormous amount of snowfall with an average of 32 feet of snow each year over the last ten years, which makes the region an appealing destination recreational area. However, this also results in avalanches and rock slides on both sides of the pass creating difficult accessibility and emergency service issues.

These unique demographics challenge local resources to the limits. Our Fire Department averages over 300 calls a year and is seeing a nearly 10 percent annual increase in call volumes.

Snoqualmie Pass is completely surrounded by Forest Service land. To the North and South of us are the Cascade Mountains and along the Interstate-90 corridor, Forest Service Land extends to the east and west of us, well beyond our 7½ mile response area in each direction.

While our primary mission is to fight fires and provide emergency medical services in our local residential setting and nearby inter-state highway—the impacts of the surrounding Forest Service Land definitely affect our mission. The Forest Service has the primary responsibility for putting fires out on their land, however, the nearest Forest Service resources are nearly 30 miles away in the town of North Bend. And though Snoqualmie Pass's all volunteer fire station is not obligated to respond to any fires on Forest Service Land, we gladly do so. We are usually the ones in the position to get to the fire first, giving us a better chance at containing the fire before it can get out of hand and present a much larger problem.

It is also important to note that our all-volunteer fire department must respond quickly to prevent fire from spreading on to Forest Service Land. The nearest career department is also in North Bend and during a recent fire we have had support come to us from over an hour away.

Two years ago our Fire Department was contacted by the Forest Service to ask if we would be interested in purchasing the land that we currently lease. We were very surprised because we did not know it was possible to acquire Forest Service Land. Yes, we were interested, but no, we did not have the money.

Through a series of discussions with the Forest Service, we also learned that there is a different parcel of land that they would be willing to consider. This other parcel would allow us to build a new station with less impact to current operations and the new location, due to its location and accessibility, would meet all of our operational needs. Also, it should be noted, that the land that we desire is a parking lot used occasionally in the winter. From a wildlife connectivity standpoint, the MP 53 location would be located exactly half way in between the wildlife crossing at MP 54.5 that DOT is scheduled to build in the near future as part of the highway reconstruction and the connectivity corridor proposed at MP 51.5 in the USDA Forest Service report by Singleton and Lehmkuhl (2000).

We have long recognized the pressing need to build a new fire station. Our current Fire Station was originally built in the 1930's as a maintenance shed for the Department of Transportation. The current station has numerous safety, utility, structural, and operational deficiencies that can not be resolved in the existing structure. One problem of note is that, due to the slope of the roof, it sheds snow in front of the apparatus bays. This is especially significant when we are dispatched for an emergency. The Fire Station siren sounds when we get a call, which can trigger the release of the snow off the roof, leaving up to a four foot ridge of snow and ice in front of our rigs preventing a response until the path is cleared.

Over the past 12 years we have looked at numerous properties and have determined that this property fits our needs best because it is centrally located, easily accessible to east and west bound Interstate-90, as well as Highway 906. The centrality of this site not only provides for faster, more efficient responses once the apparatus are on the road, but it also allows the volunteers to travel to the station quicker for a shorter turnout time. Furthermore, it is a level site with no significant construction issues, which will enable the District to build the station for less than other sites. This will also make the construction of a helipad possible creating a safe area to land helicopters as we currently have no dedicated heli-pad for airlift patients.

Monies received through fire department levied property taxes this year will equate to around $217,000. This money is barely enough to sustain current operations and required programs. And since Snoqualmie Pass is surrounded by Forest Service land (and because we can not levy a tax against the U.S. Forest Service) we are severely prohibited from expanding our tax base and must rely upon outside assistance for continued operation. And unlike almost all of the other fire departments in the State of Washington, most of our customers, up to 80%, are non-taxing paying residents. Rather, they are people that are driving through the area, visiting the Ski Area, or visiting U.S. Forest Service Land.

I know that while Federal land isn't often given to local agencies, there is precedence as long as it's a relatively small acreage as well as being used for a public purpose and not leading to private profit.

Once the property is acquired we will need to fund the project to build the new Fire Station. Funding for the entire project is not expected to come from any one source. The Snoqualmie Pass Land Conveyance Act would overcome the first hurdle that has seemed to plague this department for over ten years. Funding sources for building the actual fire station are being pursued with the help of State Representative Bill Hinkle, the Washington State Fire Fighter's Association, Washington State Fire Chiefs Association, the Washington State Legislature, the Governor's Office, Federal Sources, and Homeland Security Grants. None of these processes have been found to allow funding for the purpose of purchasing property alone.

Senate Bill 2601, introduced by Senator Cantwell would convey land, without cost to our Fire Department. I realize that this is not done very often, but I believe our unique circumstance more than justify this to be done and it would ease the burden of building a new fire station. A Companion bill, HR 1285, passed the House of Representatives by voice vote on July 23, 2007.

Senator WYDEN. Good.

We'll start our questioning with Senator Barrasso.

Senator BARRASSO. Thank you very much, Mr. Chairman.

Ms. Moseley, just two questions. We had talked earlier today in the hearing about the similar Front Range issue in Montana, and then New Mexico—do you think those were good models for lease buybacks?

Ms. MOSELEY. I have to be perfectly honest, Senator, no, I don't. I have to say that, with respect—you know, there is so much opposition to natural gas development, and yet it can be done in an environmentally sensitive way.

The lands up on the Rocky Mountain front were a long trend with the Canadian gas field up there, it had similar potential, as the Wyoming Range. I feel that it's short-sighted to try to withdraw those lands.

So, if you're asking me if I think it's a good model—no. I actually filed a lawsuit on the Lewis and Clark, so——

Senator BARRASSO. I was primarily asking about the model for—for doing it——

Ms. MOSELEY. The model for buying back?

Senator BARRASSO [continuing]. For the buying back. Because if I heard your testimony right, and I read on page 5, you had the recommendation of the fair market value——

Ms. MOSELEY. Absolutely.

Senator BARRASSO. We heard the Administration testify, I think it was Mr. Johnson, said that he felt that the government should not interfere with agreements between private individuals, and if they could come up with a price and an agreement that the government shouldn't get in there to negotiate what the potential long-term prospects would be.

Ms. MOSELEY. I understand where they're coming from on that perspective. Clearly, the government will not be buying back the property. Therefore it would be done, you know, with a—essentially a private citizen.

But I think that there needs to be language included in the bill that directs how you reach a determination of fair market value. It needs to include the resources that are being foregone. So, from that perspective, I think it's important to have language in the bill—whether Congress needs to get involved every time fair market value is determined is, of course, not very bright.

Senator BARRASSO. Or, if Congress would be involved every time two individuals——

Ms. MOSELEY. Absolutely—it's not necessary.

Senator BARRASSO. Mr. Amerine, first, I'm glad you got on that airplane to come here today and share your story, and thank you for being here, thank you for bringing your wife along.

Where you work is not that far north of the Jonah Field, the Pinedale Anticline, you work with—and you're out there, I'm sure you're running into people who work in the oil fields, but also come to recreate in the Wyoming Range. I'm sure your paths cross.

Anything you can, kind of share with us, in terms of many of the people who really work in the oil patch, and the impact that they have, and their beliefs about the Wyoming Range?

Mr. AMERINE. As the Pinedale Anticline and Jonah Field has developed, more and more new residents into the area from various States—Louisiana, Texas, wherever—are coming to that area. They like to recreate just like anybody else does, and the Wyoming Range is a pretty intriguing place to them. I get numerous hunters from other States, that have either moved to Wyoming to participate in energy development, or they're on short-time basis to take them on hunting trips during the fall. So, we have had that meeting, you know, there's people that enjoy that country.

Also, we have oil and gas families that enjoy—I see them camped up there, along various roads, fishing, picnicking or whatever—the wife and family is in another State, they come up for a week or two to visit their husband who's working out on one of the developments and they end up there—it's a nice place to get away. We've taken some of those people on horseback rides during the summer, to explore those areas.

Senator BARRASSO. Anything you want to add about the importance of wildlife fisheries of the Wyoming Range?

Mr. AMERINE. You know, obviously wildlife is the basis of my business, whether it be hunting in the fall, or summer horseback rides—everybody wants to see that mule deer buck or that large elk bull or moose. So, wildlife is crucial to my occupation.

These areas that they're anticipating drilling, and the areas we're looking at setting aside through this withdrawal are the areas that these fawns—mule deer fawns—and elk calves, and moose calves are born. This is where they start life. We're already encroaching on some of their winter range with energy development, and now we're basically in their nursery. That could be, in the long run, that could be detrimental to my business.

Senator BARRASSO. Gary, I want to thank you for being here.

Claire, I want to thank you, and appreciate you being here today.

Thank you, Mr. Chairman.

Senator WYDEN. Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman. Mr. Caviezel, if I could ask you a few questions about the current situation—you're currently in a leased situation, is that right?

Mr. CAVIEZEL. That is correct.

Senator CANTWELL. But there are issues here, obviously, with response time and better location?

Mr. CAVIEZEL. The Forest Service came to us a couple of years ago, asking us if we wanted to get out of the—or, excuse me, if we would like to purchase the land. They were looking to absolve the lease, basically.

Senator CANTWELL. Yet, have you asked them about leasing this new——

Mr. CAVIEZEL. I have asked them about leasing them the new land, and they said that they would not consider it.

Senator CANTWELL. Why not?

Mr. CAVIEZEL. They didn't give a reason.

Senator CANTWELL. But, they want you off of this particular property?

Mr. CAVIEZEL. Right, and they're not kicking us off, like, tomorrow, so—but they do want—they do want—because of, I think part of it has to do with we own the building that's currently on the land. So, for whatever reason, they don't want that situation to occur anymore. Because we have to—once we vacate the land, we have to take care of that—take the building with us, or demolish it, correctly.

Senator CANTWELL. What other alternatives have you looked at for funding?

Mr. CAVIEZEL. For funding?

Senator CANTWELL. Yes.

Mr. CAVIEZEL. For purchase? Or for——

Senator CANTWELL. Anything else. I mean what do you think the market——

Mr. CAVIEZEL. For the——

Senator CANTWELL [continuing]. Value is we're talking about?

Mr. CAVIEZEL. For the land?

Senator CANTWELL. Yes.

Mr. CAVIEZEL. Probably a half million to a million dollars.

Senator CANTWELL. OK, and so what funding sources, additionally, have you looked at?

Mr. CAVIEZEL. We have done a lot of research in terms of trying to find money for property. It's in terms of grants, and in terms of talking to the legislature. There's—the funding is not out there to buy the property. We have had some conversations that have said that once we get the land, come back to us, we can, you know, talk about building the building.

Senator CANTWELL. Which—and that doesn't even include getting rid of the other building, right?

Mr. CAVIEZEL. That's—exactly. Fire Chief Matt Cowan and I—we went to a fire building design workshop last June, and one of the questions we kept asking is—where can we find money to buy property? The consistent answer we got was, "Good luck."

Senator CANTWELL. You're this small community of what, a couple of hundred people? But yet, you have this responsibility, you know, in the wintertime, for 20,000 people on a given day who are roaming around, and 60,000 people who are passing by.

Mr. CAVIEZEL. Exactly.

Senator CANTWELL. Every day.

Mr. CAVIEZEL. Exactly.

Senator CANTWELL. But you're—those few hundred people are supposed to come up with a solution to meet the needs of all of those people?

Mr. CAVIEZEL. That's what we're being told.

Senator CANTWELL. OK, well, anyway—that's why we have the legislation and working with you, but thank you for illuminating that on the testimony.

But you did say, but it does—does this new spot give you a better response time?

Mr. CAVIEZEL. It does. I mean the current location's OK. This new location would be the absolute best location.

In the fire service, you know, you're talking, you know 10 or 15 seconds can make a huge difference in trying to save a life. You know, if we're going to make a change, we want to do it the best that we can. So, this is the best location from a fire response standpoint.

Senator CANTWELL. How far down on both sides of the Pass do you go?

Mr. CAVIEZEL. We got from mile post 42, to mile post 60, which is about 18 miles. I would gather, that's probably the largest response area along I–90 for any fire department.

Senator CANTWELL. OK. Thank you, Mr. Chairman.

Senator WYDEN. You've made a very good case, Mr. Caviezel. I mean, why the government is putting you through all of this is sort of beyond me, but I thank you for coming.

I have only a couple of questions for our Oregonians who came. Mike—to start with, with you—you've obviously ranched the land here for a long, long time. Your family—very deep roots there. Every time I have a town meeting at, you know, home, ranchers come and talk about all of the challenges that a ranching family now faces. How is this legislation going to help ranching families, for the long term, in the area?

Mr. AMERINE. The 16 of us that are involved, it's going to keep us whole. If we can get what we consider this small payment, we can reconstruct our operations and continue to ranch.

If we don't get this legislation, not only do we not run cattle on open range anymore, but the value of our base property is affected, as well. As you know, with the land-use laws in Southern Oregon—or in Oregon, in general—it's a ranch. You can't subdivide it, and we don't want to subdivide it. We want to keep ranching, or at least have the opportunity to. This legislation gives us the chance to continue to do that. If we choose to sell our ranch in the future, if we can replace that summer forage with something else, then our ranch is still whole.

Senator WYDEN. Andy, you've been doing this awhile, and I think we were all smiling when Mike had said earlier in his prepared comments—you know, we don't necessarily agree 100 percent of the time on all of these kinds of issues. But this looks to me, like a textbook case of how it ought to be done at the local level—I mean, it's homegrown, it's got a broad base of folks—how did this all come together? I'm sure that, you know, Dave Willis, with his incredible energy and passion for working with people was a huge catalyst in this, but how did this come—how many years have you all been at this?

Mr. DAUENHAUER. Four years. I think part of giving Dave kind of a left-handed compliment; his intense disdain for cows is how we got to.

[Laughter.]

Mr. DAUENHAUER. But no, Dave's worked really hard at this, and it was—it's just, it was the only solution we could figure out. Andy approached me a long time ago and when he first did I—my first answer was no, I don't want anything to do with it. But, as you, you know, look with a little bit of common sense, and realize that your future on that mountain is not good, you look for other alternatives, and that's how we got here.

Senator WYDEN. Andy, you want to add anything else?

Mr. KERR. I first broached the subject with Mike and other ranchers, actually, before the Monument was designated, but they didn't want to hear it then. But I think as the import of the Monument Proclamation sunk in, we started talking.

It was not easy. You know, we are traditional opponents on a lot of things. But, you know, learning to understand each others' positions and the position they're in, the positions we're in, the course that we were on, which was going to end up in the courts was going to be very costly for all of us, and we think this solution provides more certainty to all of our interests.

So, it's not easy, but sometimes you can work things out, and this is another example of something that's been worked out locally, and it has to be brought to the national legislature, and you know, national conservation organizations, national cattle interests—they're very wary of this. You know, so we have this national versus local kind of tension.

But, we think that there is the critical mass of support, among the conservation community and the livestock industry to get this done, and we hope that even Senator Smith can prevail upon your colleagues—some of which have, on this committee that have gotten buyouts such as this for others who have tried, and were not successful.

They've all been—they've had constituents in this similar boat, and they've tried to help them, and some have been successful, and some haven't.

Senator WYDEN. Thank you for all of your efforts to find common ground, and I know it's been hard, and Senator Smith and I will follow up with Chairman Bingaman, and Senator Domenici very quickly. I think, especially in this committee and in this subcommittee, we've been very proud of the fact that—on the two major forestry issues that have actually passed in the last 20 years—the County Payments legislation, and the Forest Health legislation, we haven't approached this kinds of things in a partisan kind of way, the staff folks in back of me work in a bipartisan fashion, and I think we can address these two bills—these three bills—that you all represent here, and the others that have come before us expeditiously.

With that, safe travels back to the West, and the subcommittee is adjourned.

[Whereupon, at 4:21 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF ANDY KERR TO QUESTIONS FROM SENATOR BARRASSO

Question 1. Mr. Kerr in an April 4, 2005 article in High Country News you advocated that all federal grazing permits be bought out for a price of $175 per AUM. Yet in your testimony supporting S. 2379 you are advocating for a $300 per AUM buy out.

What makes these AUMs so much more valuable than what you called for just two years ago?

Almost all declarations of new National Monuments limit, eliminate, or restrict one or more resource uses. Yet the Federal government has not been required to buyout the permit holders or lease holders of those permits that get restricted.

Answer. Proposed compensation of either $175/AUM or $300/AUM far exceeds market value for any federal public lands grazing permit in the West. The average westwide market value of a grazing permit may be $35-$100/AUM.[1] Forage value is based on location, quality, and multiple other factors. Abundant high elevation summer forage in the Northern Rockies may be worth $100+/AUM, while ephemeral forage in the hot deserts of the Southwest may only be worth $5/AUM. The rate of $175/AUM was first proposed in H.R. 3324, (108th Cong.), the "Voluntary Grazing Permit Buyout Act," introduced by Representatives Christopher Shays (R-CT-4th) and Raúl Grijalva (D-AZ-7th). Later, Rep. Mike Simpson (R-ID-2nd) introduced H.R. 5343 (108th Congress), the Central Idaho Economic Development and Recreation Act. Title IV of that bill proposed a voluntary grazing permit retirement program for certain federal grazing permits in Idaho. While the rate of compensation was unstated in the legislation, Rep. Simpson was on the record in favor of $300/AUM. As I noted in my testimony, for purposes of social equity, I recommend Congress consider compensating grazing permittees at replacement value for their federal AUMs, rather than market value. Since federal forage is heavily subsidized by the government, it is not possible to find replacement forage on private lands for a price comparable to market value. Replacement value makes affected grazing permittees whole and allows them to lease substitute forage on nearby private lands. Rancher Mike Dauenhauer's testimony included rationales to estimate replacement value.

Question 2. Why is this case so special that the general public would be benefitted in this instance by a buyout, when neither Congress nor past Administrations have seen fit to compensate other ranchers who have lost access or seen their authorized AUM numbers decreased due to other National Monument or Wilderness designations?

Answer. Never has Wilderness designation and very rarely has the establishment of a national monument result in reduced grazing on the designated public lands. For Wilderness, Congress has routinely restated or incorporated by reference the so-called "Congressional Grazing Guidelines" into site-specific Wilderness legislation that grandfather in existing grazing on designated public lands, and even supports

[1] Bartlett, E.T., L.A. Torell, N.R. Rimbey, et al. 2002. Valuing grazing use on public land. J. Range Manage. 55: 426-438 (reporting permit values are between $35-$75 in seasonal grazing states, and higher rates in states where yearlong grazing occurs) (citations omitted); Torell, L.A., N.R. Rimbey, J.A. Tanaka, S.A. Bailey. 2001. The lack of profit motive for ranching: implications for policy analysis. Proc. Current Issues in Rangeland Resource Economics Symp. Western Reg. Coord. Comm. on Rangeland Economics WCC-55. New Mexico State University Res. Rep. Ser. 737. New Mexico State University. Las Cruces, NM (unpaginated) (reporting average permit value of $40/AUM on public lands in Idaho and Wyoming).

increased grazing in Wilderness in some cases.[2] Grazing has declined in some Wilderness areas in the West, but usually only years after designation and for reasons unrelated to its status as Wilderness, such as the permittee losing the ability or interest in continuing, concerns about diminishing native species, water quality requirements and other federal policies.

In the case of the designation of the Steens Mountain Wilderness in 2000, 81,359 acres of the 174,744-acre Wilderness was defined by Congress as "livestock-free". In reality, the affected ranchers were compensated by the legislation, though such compensation was "buried" in accompanying land exchanges.[3]

In the case of national monuments, the Presidents' historic and usual practice has been to grandfather in existing livestock grazing on the affected public lands. However, the proclamation that established the Cascade-Siskiyou National Monument is unique.[4] It will actually result in reduced grazing on monument lands.

RESPONSES OF MELISSA SIMPSON TO QUESTIONS FROM SENATOR BARRASSO

Question 1. Other than the estimated million dollar value of this land, are there other reasonsthat the Mount Baker-Snoqualmie National Forest or the Forest Service believes this parcel has such important environmental or management value that it should not be conveyed?

Answer. The Forest Service does not have an appraisal for the property and is not aware of the origin of the million dollar estimate. Although land values arc high in the Snoqualmie Pass area, this seems like a very high estimated value.

The environmental value is not evident because the required environmental analysis and public review required under the National Environmental Policy Act and other laws has not been initiated. Pursuing a Townsite Act land purchase application would provide for this type of analysis before this parcel could be conveyed out of Federal ownership.

The Forest Service does not object to conveying the lands included in the bill. It has been the consistent position of this and prior administrations to oppose any legislation that does not require market value compensation for land conveyed out of Federal ownership. It is longstanding policy that the taxpayers of the United States should receive market value for the sale. exchange, or use of their National Forest System lands.

Question 2. When the fire department offered to lease the 13 acres being proposed forconveyance, why did the Forest or District reject that offer?

Answer. The Forest Service has no record of an offer or a rejection of a lease for the subject property.

Question 3. I note your concern in your testimony about local land use planning and zoning and I would like to better understand the changes that you may be asking for.

Would you recommend eliminating the non-federal lands from this study? If not, what precisely do you recommend to address the Department's concerns?

Answer. No, we would not recommend eliminating lands from the study area. The Forest Service has conducted similar studies (i.e. New Jersey-New York and Connecticut-Pennsylvania Highlands Studies) that look across the landscape and jurisdictions on Federal, State, local, and private lands. This is done in a way that is sensitive to local jurisdictions and decision-making and engages local governments and municipalities. The Forest Service recommends engaging and cooperating with local communities and stakeholders throughout the study process. In addition, any recommendations made in the study would need to be tailored appropriately to the different ownerships- Federal, State, local government, or private.

Question 4. If no changes were made to this legislation and the Forest Service is directed to complete the study, can you tell me what line items in the Region Two budget might be tasked with paying for this study? And how much that study might cost?

Answer. The primary funding code from the Region 2 budget that might be tasked with paying for this study would be NFLM (land ownership management). Other codes that may also be used are:

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[2] Kerr, A. and M. Salvo. 2000. Livestock grazing in the National Park and Wilderness Preservation Systems. Wild Earth (10)2: 53-56.

[3] Steens Mountain Cooperative Management and Protection Act (Oct. 30, 2000), Pub. L. 106-399, 114 Stat. 1655, 16 U.S.C. § 460nnn et seq. See also M. Salvo. and A. Kerr. 2000. Congress designates first livestock-free wilderness area. Wild Earth 10(4): 55 (winter 2000/01).

[4] See A. Kerr and M. Salvo. 2001. Evolving Presidential policy toward livestock grazing in national monuments. Penn State Environmental Law Review (10)1: 1-12.

- SPFH (forest health on federal lands)
- SPCH (forest health on co-op lands)
- LALW (land acquisition management)

Based on the work that has already been accomplished, the Forest Service estimates that this study could cost $500,000 to $1 million to complete. The estimated duration of the study would be 1 year.

Question 5. Are there any parts of the study called for in this bill that have already been accomplished by the Forest Service in its "Forests on the Edge" (FOTE) report?

Answer. The ongoing Forests on the Edge project does provide information on what undeveloped lands in the Front Range Backdrop Study Area may be at risk of development. The recent National Forests on the Edge report estimates that 11% of rural private lands within 10 miles of the Arapahoe-Roosevelt National Forest may see significant increases in housing density by 2030. The underlying data used in this report could be further analyzed to provide more details on expected development in the Study Area. The Front Range study could also incorporate and utilize more detailed local data on land ownership, zoning, and protected lands available from the State, Counties, municipalities, and local land trusts.

[Responses to the following questions were not received at the time the hearing went to press:]

QUESTIONS FOR LUKE JOHNSON FROM SENATOR BINGAMAN

Question 1. Your written testimony includes the following—"The Department is also concerned that it could leave these Federal resources vulnerable to drainage, without appropriate compensation to the Federal Treasury and the State, if development occurs on adjacent private lands." My understanding is that section 17(j) and the BLM's regulations on drainage (43 CFR 3100) already provide the Secretary with authority to negotiate compensation agreements in cases of drainage. Therefore, why are you concerned that that the Federal Treasury and the State would not be appropriately compensated in a drainage situation?

Question 2. Your testimony states that, within the proposed withdrawal area, 76 leases are currently producing. It is my understanding that none of the existing leases within the withdrawal area are currently producing. Could you provide more specific information about these 76 leases, which you state are currently producing, within the withdrawal area?

Question 3. Your written testimony mentions a "potential budgetary impact" and "necessary offsets" associated with this bill. Given that the bill clearly states that the withdrawal is "subject to valid existing rights," and, therefore, existing leases within the proposed withdrawal area could be fully developed subsequent to enactment of the legislation, please explain in more detail what you mean by "potential budgetary impact" and "necessary offsets."

Question 4. Your testimony states that the BLM estimates that the proposed withdrawal area "contains 8.8 trillion cubic feet of natural gas and 331 million barrels of oil that are technically recoverable." Could you please provide the data source and method used to calculate these numbers? My understanding is that the 2003 EPCA report completed by the Department of the Interior estimated that the entire Wyoming Thrust Belt province harbored only 374 billion cubic feet of technically recoverable natural gas underlying federal lands.

QUESTIONS FOR LUKE JOHNSON FROM SENATOR BARRASSO

S.2379—CASCADE-SISKIYOU NATIONAL MONUMENT GRAZING LEASES

I know that the BLM is working to complete its report on grazing and alternatives on the Cascade-Siskiyou National Monument by the end of 2008.

Question 5. Do you anticipate that the report will be completed on time and how long after that will we really know if the BLM recommends that these permits be cancelled, modified, or maintained?

Question 6. Are there real alternatives or modifications available to allow grazing to continue in the Monument? If so what are they?

Question 7. Mr. Johnson, I know the BLM reported it has 18,000 grazing permits, can you tell me how many AUMs of grazing occurred last year for the entire BLM as a result of those permits?

Question 8. If we had to buy out all BLM grazing permits and AUMs that were authorized to be grazed in year 2006 at the price called for in this bill ($300.00) that would be about $2.1 billion in total costs, is that correct?

Question 9. On average over the last 10 years how many AUMs were permitted and how many AUMs were authorized to be grazed for each year?

Question 10. I know that authorized animal numbers and AUMs have been down over the last several years due to drought; what is the maximum number of AUMs that could be allowed in FY 2008 if range conditions and moisture would allow the permit holders to maximize their numbers?

Question 11. You have a number of other National Monuments that the DOI is responsible for. How many AUMs of grazing occurred last year on these Monuments? Have permitted and or authorized AUM numbers decreased on those allotments after the Monument was designated? If so how much?

Question 12. At $300 per AUM, what would it cost to buy out all the permitted Department of the Interior AUMs on National Monuments?

Question 13. I know that the Hanford National Monument in Washington State and the Cascade-Siskiyou National Monument in Oregon both included language that potentially restricted grazing, are there other Monument proclamations that include similar language? If so what Monuments?

Question 14. What other resource uses have been eliminated from National Monuments and have any of those resource users been compensated for their loss?

H.R. 838—LAND SALES TO PARK CITY, UT

Question 15. Please provide a detailed list of the non-patented mining claims that exist in each of the parcels proposed for disposal.

Question 16. Are there any historic or cultural sites on these lands that are proposed for conveyance or sale to the City?

Question 17. Have these lands been surveyed for cultural resources or potential hazardous conditions that would preclude the federal government from conveying or exchanging these lands?

Question 18. If any hazards have been identified would the federal government accept responsibility for clean-up prior to the conveyance or exchange?

QUESTIONS FOR LUKE JOHNSON FROM SENATOR SMITH

Burned Area Rehabilitation funding is for three years following a fire. For those lands damaged by fires that are unlikely to recover their pre-fire condition, function and diversity, rehabilitation will begin after stabilization is completed, and continue for up to three years following the fires. There was a request by BLM Oregon for $587,000 in the Burned Area Rehabilitation Plan for 2008. It includes funding for 65 miles of fence, shrub planting, and five guzzlers (a man-made catch basin designed to enhance natural waters). To date, BLM Oregon has not received any funding to address these issues associated with the Egley Fire.

Question 19. Can you assure me that this funding will make its way from the Washington office to the BLM officials on the ground in Oregon to complete this work? Why has the money been held up?

20. Could the BLM address the concerns raised in the attached letter from my constituent, J. Gene Johnson?

[The letter attached separately follows:]

2973 LINDEN LANE,
Central Point, OR, February 6, 2008.

Hon. GORDON SMITH,

My inquiry is to the definition of the word "public" by the BLM on right. of way agreements on private lands. Medford BLM has explained that the word "public use" means the BLM only, not the general public. I am including a right of way agreement on one of the roads in question.

A large number of gates have been installed on private property on BLM right of way agreements blocking access for the public to parts of the Monument and the proposed wilderness. The private gate at Randcore Pass Road on a BLM right of way blocks access to the public on a road that has been open for over 50 years (map included).*

A letter from the Ashland Field Manager states the BLM has now exclusive rights and has access for administrative use only but leaves out for other public use as the agreement states. It would seem that this interpretation has far reaching affects

* Map has been retained in subcommittee files.

on access for the public to our National Forest for the future. For the past 25 years I have camped for a few days each summer in our wilderness areas of Southern Oregon. Years past I camped for a weekend in this area below the gate at Randcore Pass Road This is no longer accessible to me and others that visited this area in years before the gates.

Sincerely,

J GENE JOHNSON.

APPENDIX II

Additional Material Submitted for the Record

ENDANGERED HABITATS LEAGUE,
February 25, 2008.

CARL ARTMAN,
Assistant Secretary for Indian Affairs, Department of the Interior, 1849 C Street, N.W., Room 4162, Washington DC.

Re: Environmental Consequences of Fee-to-Trust Transfers

DEAR SECRETARY ARTMAN: The Endangered Habitats League ("EHL"), a nonprofit Southern California regional conservation organization, writes to bring to your attention a significant environmental legal issue that essentially eliminates important environmental safeguards intended to protect some of California's most sensitive and imperiled natural habitats. By virtue of a serious loophole in federal law that permits the exploitation of the benefits provided by fee-to-trust transfers, the ability of the Bureau of Indian Affairs ("BIA") and the Secretary of Interior ("Secretary") to effectively carry out their mandated duties is being unnecessarily obstructed. The loophole assumes particular significance in the Southern California Counties of San Diego and Riverside where EHL works, and where some of the most biologically diverse habitat in the United States must co-exist with an unusually high concentration of tribal jurisdictions.

While fee-to-trust transfers represent a useful means of reconstituting Native American territories and providing tribes with further opportunities for self-government, current federal law allows for significant abuse of the fee-to-trust transfer process. In some instances, Native American tribes have applied for fee-to-trust transfers on the grounds that their planned uses of the trust land will focus on preservation of the land and its resources. In actuality, however, the post-transfer use ends up being significantly different, involving development with potentially destructive environmental consequences. EHL thus urges the BIA to permit only those uses of fee-to-trust land that are specifically disclosed and considered in the application process.

EHL has noticed these situations with increasing alarm and wishes to publicly document the detrimental impact such transfers have on surrounding communities as well as on the federal government's ability to meet its obligations under the National Environmental Policy Act. Further, in light of this shortcoming in federal regulation, EHL requests that the BIA and Secretary engage in a more exacting review of applications for fee-to-trust transfers, keeping in mind the considerable impact such transfers have on the public's ability to remain involved in land use decisions that unquestionably impact them. This heightened scrutiny includes ensuring that decisions are made by independent agency staff and strictly limiting use of trust lands to those uses expressly stated in the fee-to-trust transfer application, absent further federal approval.

EHL is not requesting that the BIA arbitrarily limit the autonomy of Native American tribes. EHL is not asking that any Native American tribe be required to make a crystal ball prediction of all the possible land uses it might suggest for a particular fee-to-trust parcel. Nor is EHL asking that the BIA prevent Native American tribes from engaging in economically beneficial development of their trust land. EHL is only asking that such development be done in a manner respecting the process that was always intended by the federal government and the state of California to be controlling of these decisions, and that it be done in a manner that reflects the spirit of NEPA. EHL is not asking Native American tribes to refrain from decisionmaking; we are merely asking that when those decisions implicate the health of our collective environment, the public be given an opportunity to sit at the table.

BACKGROUND ON THE NATIONAL ENVIRONMENTAL POLICY ACT

Congress passed the National Environmental Policy Act ("NEPA") in 1969[1] to ensure that all federal agents or agencies (including the BIA and Secretary) take environmental impacts into account when making any major decision that affects the use of land in the United States. Often referred to as the "Magna Carta" of environmental laws, NEPA's stated purpose is to "foster excellent action" and "help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment." 40 C.F.R. § 1500.1 (1970).

Congress recognized, however, that in order to make fully informed decisions regarding environmental consequences, federal agencies would need assistance and input from organizations and individuals who have greater knowledge about the impacts of particular actions in specific locations as well as greater interest in the ultimate outcome. To accommodate this reality, the regulations mandate that "Federal agencies shall to the fullest extent possible . . . Encourage and facilitate public involvement in decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2. Further, agencies must "Make diligent efforts to involve the public in preparing and implementing their NEPA procedures. . . . [and] [s]olicit appropriate information from the public." 40 C.F.R. § 1506.6 (b), (d).

APPLICATION OF NEPA TO FEE-TO-TRUST TRANSFERS

The decision to grant a fee-to-trust transfer is a major federal decision with the potential to drastically affect the quality of the environment. As you are well aware, granting a fee-to-trust transfer effectively removes land from state and local jurisdiction, preventing indefinitely the application of any state or local environmental regulations. After a tribe acquires a parcel of land in trust, the only environmental oversight that exists with regard to that parcel is tribal or federal.

Congress recognized the severity of this result and, therefore, explicitly included NEPA in the regulations governing fee-to-trust transfers. Before granting a fee-to-trust transfer, the BIA must ensure that enough information has been provided in the application to allow the agency to comply with its NEPA obligations. See 25 C.F.R. § 151.10. In other words, the BIA must be provided with enough information to: (1) make "excellent" decisions, (2) take action that will "protect, restore, and enhance the environment," and (3) seek the "appropriate information from the public."

To the extent that the BIA fails to make excellent decisions, declines to take necessary action to protect the environment or refuses to seek appropriate information from the public, affected members of the public can take action. Under the Administrative Procedures Act, citizens are given a voice and a limited window of opportunity to challenge questionable decisions made regarding federal action and this transfer of land ownership. See, e.g., 5 U.S.C. § 702. Once land has been removed to trust status, however, the ability of citizens to comment upon the environmental impacts of proposed land uses or to challenge decisions that are environmentally devastating is greatly curtailed if not altogether lost.

EHL contends that the BIA must engage in a more rigorous investigation of fee-to-trust transfer applications to guarantee that the above three goals of NEPA can be met. While federal and tribal laws may be sufficient to address environmental concerns in some situations, there are not adequate backstops in place to prevent abuse of the current system. The finality of the fee-to-trust transfer process can (and does) lead to development projects and major alterations to the native environment that will go essentially unmonitored.

EXAMPLE—PROPOSED PRESERVATION SITE BECOMES THE BACK NINE

In 2001, the Pechanga Tribe of Luiseño Indians ("Pechanga Tribe") applied for a fee-to-trust transfer of 296.29 acres of land in Riverside County.

As this was a discretionary transfer by the BIA, review under NEPA was required. Accordingly, the Pechanga Tribe arranged for the preparation of an Environmental Assessment ("EA") under NEPA, which it released in March 2001. In its EA, the Tribe made several assertions regarding the use of the land in question, including the following:

- "The Tribe's purpose for taking the 296.29 acres of land into trust is to maintain the existing cultural resources that exist throughout the site." Pechanga Tribe Environmental Assessment at 1-1 (March 2001).
- "[T]he site also contains vegetation that has significant cultural value to the Tribe. The project site contains many plants important to the Tribe including

[1] President Richard Nixon signed it into law on January 1, 1970.

elderberry bushes, buckwheat, sage and oaks. This existing vegetation plays an important role in tribal rituals and diet. It is the goal of the Tribal council to preserve and maintain this important vegetation." Pechanga Tribe Environmental Assessment at 1-2 (March 2001) (emphasis added).

- "Once brought into the trust, the Tribe proposes to maintain and preserve the existing cultural resources found throughout the site. Given the vast occurrence of cultural resources found on the site, no development is proposed." Pechanga Tribe Environmental Assessment at 2-1 (March 2001) (emphasis added).
- "The future use of the property involved the continued use of an existing cultural resource center and residential unit together with the preservation of the existing cultural resources on the project site. No development is proposed or anticipated for the subject property." Pechanga Tribe Environmental Assessment at 1-1 (March 2001) (emphasis added).

Based on these representations made by the Tribe regarding its planned use of the land, the EA concluded that there would be no environmental impacts from the transfer and, therefore, proposed no mitigation measures. The EA asserts, in part:

- "There would be no environmental impacts associated with the Proposed Action. The Proposed Action would result in the maintenance of existing uses on the proposed trust parcel . . . Land and Water resources would likewise not be impacted, due to the lack of any proposed development." Pechanga Tribe Environmental Assessment at 2-3 (March 2001) (emphasis added).
- "The proposed action will result in no change in use or activity and no alteration to existing conditions at the proposed site. Therefore, the fee-to-trust action will result in no impact to existing biological resources on the proposed site." Pechanga Tribe Environmental Assessment at 4-1 (March 2001) (emphasis added).

Based upon the representations made by the Pechanga Tribe regarding its planned use of the land and based upon the determination in the Tribe's self-commissioned EA that the transfer would result in "no environmental impacts," the BIA issued a Finding of No Significant Impact on March 22, 2001. In making this finding, Clayton Gregory, Regional Director of the Pacific Region, relied on several factors, including:

- "The Band's intended use of the property involves the continued use of an existing cultural resource center and residential unit together with the preservation of the existing cultural resources on the property. No change in land use or development is proposed for the property."
- "The proposed action will result in the long-term protection of cultural resources."
- "There will be no significant impacts to land resources."
- "There will be no significant impacts to sensitive plants, wildlife or habitats."
- "There will be no significant impacts to water resources."

Finding of No Significant Impact, Proposed Trust Acquisition of Eleven Fee Parcels, Pechanga Indian Reservation Riverside County, Calif. ("FONSI") at 1 (March 22, 2001) (emphasis added).

As required under NEPA, the BIA published this FONSI, along with the Pechanga Tribe's EA, and opened both up to public comment. Given that it had been stated and re-stated that no development was proposed for the property, the BIA did not receive any adverse comments.

On January 9, 2003, the BIA noticed its intent to accept the property into trust for use by the Pechanga Tribe. On the issue of "Proposed Land Use," the Acting Regional Director of the BIA found, "The sole purpose of the acquisition is the preservation and the protection of Luiseño people's natural and cultural resources. The Pechanga Band is committed to protecting and preserving the invaluable and irreplaceable cultural resources of the Pechanga and Luiseño people." Bureau of Indian Affairs, Notice of Decision at 4 (Jan. 9, 2003) (emphasis added).

While the public was given an opportunity to comment on the EA, FONSI and notice of decision, the BIA received no comments because, again, "no change" in land use and "no development" was proposed for the parcel. Pechanga Tribe Environmental Assessment at 1-1 (March 2001), Finding of No Significant Impact, Proposed Trust Acquisition of Eleven Fee Parcels, Pechanga Indian Reservation Riverside County, California ("FONSI") at 1 (March 22, 2001).

In August 2003, the same year its fee-to-trust transfer was granted, the Pechanga Tribe released the Pechanga Resort and Casino Expansion and Economic Development Project Environmental Study, describing the potential environmental impacts of its planned casino expansion on the Kelsey tract, a section of the Pechanga Res-

ervation that is adjacent to the parcel the Tribe had just acquired in trust. This study made passing reference in its cumulative impacts section to an 18-hole golf course as a future project related to its planned casino expansion.

Unfortunately, the referenced golf course was neither directly addressed in this 2003 tribal environmental study, nor was it fully contained within the Kelsey tract. In early 2007, the Pechanga Tribe commenced golf course construction through the disruptive grading of land on both the Kelsey tract and the adjacent fee-to-trust parcel, the same parcel that was to be used for "maintain[ing] and preserv[ing] the existing cultural resources found throughout the site" and the same parcel on which "no development [was] proposed or anticipated." Pechanga Tribe Environmental Assessment at 1-1, 2-1 (March 2001).

This golf course development was especially troubling given the parcel's location within "criteria cells" in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"). The MSHCP was the result of a decade of discussions, negotiation and planning among the County of Riverside, all the cities in Western Riverside County, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, infrastructure providers, various landowners, and business and environmental groups. It represents a consensus plan, allowing for expedited development and highway and other infrastructure while, at the same time, designating the highest value habitat areas for conservation. The vast majority of the 296.29 acres transferred to the BIA in trust for the benefit of the Pechanga Tribe in 2003 had been designated under the MSHCP as within criteria cells, or areas possessing biological attributes that require specified levels of conservation. Application of the criteria during the land use process will result in permanent protection of all or portions of such cells.

The grading and construction of a golf course pose several potential hazards to wildlife and biodiversity in the fee-to-trust land and in adjacent areas. Besides direct loss of habitat, lighting, traffic and polluted runoff all may affect the parcel's suitability as part of a critical corridor for wildlife movement between nearby National Forests in the Santa Ana and Palomar Mountains. And even if the golf course alone were consistent with the MSHCP, incompatible development may occur on the remainder of the site in the future, potentially throwing the regional MSHCP permits into jeopardy. Had the land remained under local land use jurisdiction, any development application would have undergone a public process through which a determination would be made whether to set aside all or a portion of the land, via purchase or otherwise, for conservation. The change of use following the fee-to-trust transfer, however, deprived the land of the protection that the MSHCP afforded. Further, had EHL or other interested individuals or organizations known that the Pechanga Tribe planned to build a golf course on the parcel, they would have commented on, and contested, the BIA's FONSI and Notice of Decision to grant the fee-to-trust transfer. Indeed, the entire Riverside County community was deprived of the opportunity to participate in any meaningful decision-making regarding use of the land, and because the decision to build the golf course was made after the fee-to-trust transfer and NEPA process became final, the BIA was deprived of the ability to make a fully informed and "excellent" decision regarding the environmental effects of its transfer action.

EHL explains this situation not to question the Pechanga Tribe's motives in seeking its fee-to-trust transfer, nor to suggest any wrongdoing on the part of the Tribe. It is quite possible that the Pechanga Tribe, after acquiring the land in trust, simply changed its mind about the best utilization of the parcel. But this is exactly the problem. EHL highlights this situation as an example of the type of disconcerting land use changes that are permissible under the current scheme, preventing the BIA from making "decisions that are based on understanding of environmental consequences" and divesting citizens of the opportunity to engage in discussions regarding development that necessarily impacts their surroundings.

In response to these and similar concerns subsequently raised after the discovery of the construction of this particular golf course and its impacts on the sensitive native ecosystems, Pechanga's General Counsel John Macarro wrote that "once the land is placed in trust a tribe has complete zoning and planning authority over it, and can change land uses just as a county or city can change or update its general plan or zoning designations."

Mr. Macarro is correct in stating that once land goes into trust, the tribe exercises complete zoning and planning authority over it, but he is incorrect in analogizing this to the planning authority of counties or cities. In California, the majority of cities and counties are decidedly not free to arbitrarily change their general plans or zoning designations without public oversight. The California Environmental Quality Act ("CEQA") moderates and informs any decisions made by local or state agencies that may have "significant environmental effects." Cal. Code Regs., tit. 14, § 15002

(as amended July 27, 2007). Under CEQA, public agencies have a duty to avoid or minimize environmental damage and the regulations note that "[p]ublic participation is an essential part of the CEQA process." Id. at § 15201. Therefore, if a city in California were to decide to change its use of city-owned land, or if anyone wanted to buy and build on city-owned land, they would likely need to prepare and submit an environmental impact report ("EIR") for public comment before the city could approve the land-use change. If the EIR was insufficient, or if issues and concerns raised by the public were not adequately addressed through discussion of mitigation options in the Master EIR, concerned citizens could file a petition for a writ of mandate challenging the approval of the project. Id. at § 15232. Further, city-and county-owned land is often also subject to community-oriented collaborative agreements, such as Riverside County's MSCHP, which require community discussion and consensus-building around decisions that affect sensitive land use.

Because trust land has been removed from any local jurisdiction, however, Native American tribes are actually endowed with an über-autonomy, and have little obligation to connect with the broader community when making potentially significant and destructive decisions regarding the use (or misuse) of that land. Tribal EIRs cannot substitute for state and local regulations because they vary in coverage and are enforceable, if at all, only by the state (in the case of state-tribal compacts relating to gaming development) or a federal agency. Often, if public input is even required by a tribal environmental policy act,[2] the public has no knowledge that it has been excluded from the process until it is too late, and is left with no recourse.

Federal law previously provided some backstop in 25 U.S.C. § 81, requiring that the Secretary approve any agreement made by any person with any Native American tribe for "the payment of money . . . in consideration of services for said Indians relative to their lands." Such federal approval over post-transfer development would necessarily trigger NEPA, thus imposing an opportunity for public comment and surrounding community oversight.

This section was revised in 2000, however, to apply only to agreements or contracts that encumber Native American lands for a period of 7 or more years. A few other regulations similarly address the federal approval of contracts, but only for specified uses of the land, such as mineral rights, timber harvesting and hunting and fishing rights. Thus, while there exists a patchwork of regulatory requirements regarding changes in the use of trust lands, it does not provide coverage sufficient to ensure that the BIA is meeting its charge to take "actions that protect, restore, and enhance the environment." Indeed, most development activity with the potential to destroy surrounding habitat has no public oversight protection whatsoever.

PROPOSED REMEDIES

EHL believes the impact of these regulatory loopholes could be significantly diminished by alterations in the BIA's decision-making process regarding fee-to-trust transfers. This begins with hiring independent BIA staff to review and consider fee-to-trust transfer applications; staff whose salaries or career path are not reliant upon the tribes themselves.[3] Beyond this initial step, the BIA must be willing to take a "hard look" at the proposed uses of trust land and consider them not only in the context of the fee-to-trust application, but in the larger context of the applicant tribe's current land holdings and, potentially, its gaming facilities. Given the

[2] Notably, 25 C.F.R. § 151 does not require the Secretary to even consider whether a tribal environmental policy is in place before granting a transfer.

[3] In its September 20, 2006 report, the Office of the Inspector General of the U.S. Department of Interior reviewed a proposed Memorandum of Understanding between the BIA Pacific Regional Office and the "California Fee To Trust Consortium Tribes." See Office of Inspector General Report of Investigation at 1 (Sept. 20, 2006). What the Inspector General found was that tribal members of the consortium were willing to give up certain amounts of Tribal Priority Allocation ("TPA") funds so that the BIA could hire "professional staff" to assist in the processing of their (i.e., the consortium members') fee-to-trust transfers. Id. at 2. Each tribe that elected to join the consortium was required to donate a minimum of $3,000 in TPA funds per year, but there was no maximum donation. The redirected TPA funds are used to hire full time BIA employees whose sole duty is to review and process tribal feeto-trust applications submitted by consortium member tribes (including reviewing title status and completing environmental reviews of the involved properties). Id. At the end of their review process, the consortium staff makes a recommendation to the adjudicating official whether they believe the application should be accepted into trust or not. Per the report, almost all fee-to-trust applications submitted through the consortium are given favorable recommendations. Id. After reviewing this system, the Inspector General found that "The ability of an all-tribal body to influence the selection, performance awards, and duties and responsibilities of the federal consortium staff—coupled with the fact that the tribes control the purse strings from which the consortium staffs' salaries are dependent—results in a patent perception of a conflict of interest. This investigation has found this appearance of a conflict of interest to be, in fact, real." Id. at 1.

increasing scarcity of native ecosystems and the dwindling biodiversity of southern California, we can no longer afford to simply rubber-stamp fee-to-trust transfers.

Perhaps most importantly, the BIA should restrict the use of trust lands to those uses expressly stated on the face of the fee-to-trust application. To the extent that its trustee obligations allow, the federal government should be willing to exert its jurisdiction over land acquired in a fee-to-trust transfer and should require Native American tribes to seek additional BIA approval for any proposed land use that was not originally approved in the application. As stated above, the federal government already requires additional approval when a tribe contemplates certain land uses. By simply requiring tribes to utilize the land for the purposes under which it was requested, the BIA would ensure that all potentially damaging changes in land use occur through the established NEPA framework and would allow for public comment and oversight on any alterations that could affect the quality of the land or impact neighboring communities.

We request the opportunity to meet with you and your staff in order to further discuss these issues and develop workable solutions.

Very truly yours,

DAN SILVER,
Executive Director.

SODA MOUNTAIN WILDERNESS COUNCIL,
March 5, 2008.

Hon. RON WYDEN,
Chair.

Hon. JOHN A. BARRASSO,
Ranking Member.

Hon. GORDON SMITH,
Member, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.

Please enter this letter and the three attachments listed below into the hearing record for the February 27, 2008, Public Lands and Forests subcommittee hearing on S. 2379, "The Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act, " introduced by Senators Smith and Wyden on November 16, 2007.

TO FACILITATE EASIER CIRCULATION TO RELEVANT INTERESTED PARTIES, THIS SUBMISSION DEALS ONLY WITH THE SODA MOUNTAIN WILDERNESS PROPOSAL BOUNDARY PORTION OF S. 2379. THIS IS NOT MY FULL CONTRIBUTION TO THE HEARING RECORD.

DEAR SENATORS WYDEN, BARRASSO, AND SMITH, My name is Dave Willis. I chair the Soda Mountain Wilderness Council (SMWC), based near Ashland (Oregon), and am a charter board member of SMWC, which began in 1984. Thank you for the opportunity to submit this information for the hearing record. I regret that a bad case of flu prevented me from accepting Senator Wyden's invitation to testify in person on February 27. Please accept my thanks to subcommittee members and staff for permitting SMWC's consultant and colleague, Andy Kerr, to testify in my place with his own testimony on February 27, which SMWC supports. My further deep and grateful thanks to both Senator Smith and Senator Wyden for introducing S. 2379.

Since 1983, I have been involved with many, many others in efforts to achieve the best protection possible for the ecologically unique and valuable landscape that now has the Cascade-Siskiyou National Monument at its core. I am part-owner of property that borders the Monument and have lived on this property since 1979. I am probably as familiar with the on-the-ground specifics of S.2379's 23,000+ acre Soda Mountain Wilderness proposal as anyone. Though some may know a corner or three better than I, I believe I have the best general on-the-ground knowledge of the whole proposal, based on almost thirty years of personal horseback, hiking, and fishing trips into the area by myself and with many others. I, the SMWC board, consulting scientists and residents, and former Bureau of Land Management (BLM) staff cumulatively developed the 23,000+ acre Soda Mountain Wilderness proposal boundaries, which encompass only Medford District BLM land entirely within, and in the southern backcountry of, Oregon's 53,000 acre Cascade-Siskiyou National Monument.

It is utterly normal and necessary (because of the threat of "industrial tourism," but not only for that reason) for the backcountry of National Parks and Monuments

to be designated as wilderness by Congress. In fact, the National Park Service manages more of the National Wilderness Preservation System than any other federal agency (-see www.wilderness.net "General Information: Who Manages Wilderness?"). However, the Bureau of Land Management (BLM) is relatively new to the task of managing National Monuments. BLM is historically accustomed to a "multiple-use" approach to land management that often tilts toward commodity production and mechanized recreation. In western Oregon, only two-thirds of one per cent of BLM lands have been congressionally designated as wilderness (-see Attachment 1).*

The Cascade-Siskiyou National Monument's June 2000 Proclamation mandate that Monument public lands " ... are hereby set apart and reserved .. for the purpose of protecting" the Monument's native species and natural features presents a new challenge for a BLM whose custom and culture has been institutionally biased in favor of commodity production and mechanization. Regardless, congressional wilderness designation for the backcountry of a National Monument is nothing new (even ifBLM is new to National Monuments)—and congressional wilderness designation is fully consistent with the specific "purpose-statement" protection mandate that is meant to hone the management direction for this particular Monument. Indeed, wilderness designation for at least 23,000 southern backcountry acres of the 53,000 acre Cascade-Siskiyou National Monument will encourage BLM to take the Monument Proclamation's protection mandate seriously here, at least in the Monument backcountry, as BLM transitions from multiple-use management to managing for the purpose of protecting the public lands of the Cascade-Siskiyou National Monument.

Especially because of the paucity of congressionally designated wilderness on western Oregon BLM land and on BLM land in Oregon's 2nd congressional district in general, we were cautiously pleased and encouraged to read the Soda Mountain Wilderness portion of BLM Deputy Director Luke Johnson's February 27, 2008, testimony regarding S. 2379. BLM Deputy Director Johnson's written testimony states, regarding S. 2379's provision for "designation of approximately 23,000 acres ofland within the Monument as wilderness" (p. 1), that "We believe these areas are manageable as wilderness, and we support the designation" (p. 3, italics mine).

The caution in our pleasure with Deputy Director Johnson's support for "approximately 23,000 acres ofland within the Monument as wilderness" derives from two other portions of his testimony on behalf of BLM:

- On page one ofhis/BLM's testimony, Mr. Johnson notes that S. 2379 "as introduced references maps without dates." He points out that his/BLM's testimony of support for a Soda Mountain Wilderness proposal is based on a BLM map "dated December 12, 2006."
- On page three ofhis/BLM's testimony on S. 2379, Mr. Johnson states: "There are some technical issues related to section 6" (SEC. 6. SODA MOUNTAIN WILDERNESS.) "that we would like the opportunity to clarify. In particular, we would like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability and avoid conflicts."

BLM IS NOT USING THE CORRECT SODA MOUNTAIN WILDERNESS MAP

On behalf of SMWC and our members/allies, we most recently submitted a wilderness boundary map—via a November 9,2007, e-mail to Senator Smith's and Senator Wyden's public lands staff, Matt Hill and Michele Miranda (and others) n dated "November 7, 2007" (Attachment 2).* Accompanying our e-mailed "November 7, 2007" map was a three-page memo, entitled "Narrative for Soda Mountain Wilderness proposal map dated 'November 7, 2007'" (Attachment 3)* that explicated portions of the "November 7,2007" map perhaps not easily discerned from the "November 7" map's level of resolution. The third paragraph of this "November 7, 2007" memo was in bold italics, and read as follows: "We request that the .wilderness proposal boundaries on this 'November 7, 2007' map, as clarified by the narrative below in this memo, be the Soda Mountain Wilderness proposal boundaries of reintroduced S. 3858." ("S. 3858" was an earlier, 109th Congress, version of S. 2379.)

In an immediate November 9, 2007, e-mail response to me, Matt Hill, Senator Smith's helpful staff in this process, noted his receipt of the "November 7, 2007" map and narrative and wrote: "Thanks, Dave ... The bill is silent on the map reference since we'll need BLM to draft up official maps anyway. But we'll use these when we ask them for that service."

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* Attachments 1–3 have been retained in subcommittee files.

On December 6,2007, I learned from Erik Fernandez at Oregon Wild (ef@oregonwild.org) that he had GIS information that could help BLM with their "official" version of the "November 7, 2007" map we had submitted. Via a December 6,2007, e-mail, I asked Senator Smith's Matt Hill ifMr. Fernandez's GIS information would be helpful to BLM's mapping efforts. That same day Mr. Hill e-mailed Mr. Fernandez, asking Mr. Fernandez to send the GIS info to Laurie Sedlmayr via Laurie Sedlmayr@blm.gov at BLM. Mr. Fernandez e-mailed that GIS information to BLM's Ms. Sedlmayr on the same day—December 6, 2007.

It is not clear to me why, at a February 27, 2008, subcommittee hearing on S. 2379, BLM would be referencing a "December 12,2006" map when it seems BLM was in possession of much more updated mapping information at least two and one half months—if not longer—before the February 27,2008, hearing.

BLM's map "dated December 12,2006" (referenced in BLM's February 27, 2008, subcommittee hearing testimony on S. 2379) is an inaccurate version of a superceded map SMWC/et.al. had submitted earlier in 2006. As well, BLM's "December 12,2006" map does not reflect the boundaries submitted in SMWC's "November 7,2007" map. Personal conversation on January 8, 2008, with a BLM staff member familiar with the situation indicated a chronic reluctance by BLM to map our submitted wilderness boundaries accurately, despite clear direction from Senator Smith's office to do so. I was e-mailed by Senator Smith's public lands aide Matt Hill on November 9,2007, that our submitted map was to be passed on to BLM for BLM to produce an "official" map that replicated our submitted boundaries. Yet this was not the map BLM referenced in BLM's February 27, 2008, subcommittee hearing testimony on S. 2379.

I am not familiar with all the processes involved in referencing a map in a wilderness bill. Please forgive me if I am unduly alarmed at BLM's mismapping because of my unfamiliarity with these processes. But our "November 7, 2007" boundaries are tiered to our agreement with Monument area ranchers as to what will constitute an acceptable final bill relative to our negotiations with Monument area ranchers. Our "November 7,2007" boundaries were also what we submitted in good faith prior to the introduction of S. 2379. We were given to understand that that map would be BLM's "official" map for use in the legislative process. Please take whatever steps are necessary to make our "November 7, 2007" map the "official" starting point for any boundary discussions regarding S. 2379's proposed Soda Mountain Wilderness. Unless I am mistaken, BLM's subcommittee hearing reference to their "December 12, 2006" map, "created at the request of' the bill sponsor's "office," seems to reflect outdated and miscued information at best—and reflects a serious mapping problem that needs to be rectified as soon as possible.

"... THE OPPORTUNITY TO WORK WITH THE SPONSOR AND ... COMMITTEE ..."

BLM's hearing testimony requests the opportunity to work with S. 2379's sponsor and the Committee on boundary adjustments to the Soda Mountain Wilderness proposal. (We assume BLM is referring to boundary adjustments additional to those they have already instituted without consultation by mismapping our first submitted mid-2006 map and ignoring our most recently submitted map of November 7, 2007.) We, too look forward to clarifying Soda Mountain Wilderness proposal boundaries with Senators Smith and Wyden and the Committee.

However, we are hopeful that many issues could be cleared up—and much bill sponsor and Committee staff time and effort spared—if the Committee would set BLM free to talk with us directly. While we feel we know the land "on-the-ground" here quite well, we do not claim to know every administrative detail or in-the-BLM-files encumbrance that may (or may not) be associated with every acre. Local BLM staff have been unwilling to discuss boundaries with us, claiming they are legally prevented from doing so. It may be that if BLM was enabled to sit down with us, we could iron out many discrepancies between their boundaries and ours by looking at and discussing the same information together at the same time. We think it's certainly worth a try—and we respectfully request that you enable BLM to meet with us to discuss Soda Mountain Wilderness proposal boundaries as soon as possible.

A few acres here and there on a large scale map may seem inconsequential from your DC offices. But they are very consequential to advocates of this area who know each acre and have hiked, horsebacked, fished, hunted, camped, botanized, birded, and bonded with these forests, meadows, streams, canyons, ridgetops, and rocky promontories for years and years and want them to receive the best protection possible for years to come. We care about this place. Twenty acres here and sixty acres there are more to us than the mere administrative inconvenience they may represent to BLM. Little Pilot Rock, the conifer forest north of Soda Mountain, the Pa-

cific Crest Trail, and the Agate Flat pine/oak savannah are worth our time and effort.

Thank you, again, for your own efforts toward improved protection for this special area by your introduction and consideration of S. 2379. It is for good reason that the Cascade-Siskiyou National Monument's Proclamation calls it "an ecological wonder." We look forward to continued conversation with you, your staff, and the Committee toward a bill as deserving of superlatives as the place itself.

Thank you for considering my remarks above, which specifically regard only issues pertinent to Soda Mountain Wilderness proposal boundaries in S. 2379. Again, I will submit other written testimony regarding other aspects of S. 2379 subsequently.

Gratefully,

DAVE WILLIS,
Chair.

SODA MOUNTAIN WILDERNESS COUNCIL,
March 8, 2008.

Hon. RON WYDEN,
Chair.

Hon. JOHN A. BARRASSO,
Ranking Member.

Hon. GORDON SMITH,
Member, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.

Please enter this letter and the first two (of three) attachments listed below into the hearing record for the February 27, 2008, Public Lands and Forests Subcommittee hearing on S. 2379, "The Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act," introduced by Senators Smith and Wyden on November 16, 2007.

THIS "MARCH 8" SUBMISSION IS SUBSEQUENT TO MY EARLIER "MARCH 5" SUBMISSION RE: THE SODA MOUNTAIN WILDERNESS PROPOSAL BOUNDARY PORTION OF S. 2379. THIS IS THE SECOND PORTION OF MY CONTRIBUTION TO THE WRITTEN HEARING RECORD. THIS SUBMISSION PRIMARILY:

- Documents the long history of, and growing public support for, the ca. 23,000-acre Soda Mountain Wilderness designation in Oregon that is "Section 6" of S. 2379.
- Clarifies common misperceptions about the Soda Mountain Wilderness proposal.
- Documents extensive editorial board support in Oregon for both designation of a ca. 23,000-acre Soda Mountain Wilderness ami compensated and permanent federal grazing lease retirement in the Cascade-Siskiyou National Monument area.

DEAR SENATORS WYDEN, BARRASSO, AND SMITH, My name is Dave Willis. I chair the Soda Mountain Wilderness Council (SMWC), based near Ashland (Oregon), and am a charter board member of SMWC, which began in 1984. Thank you for the opportunity to submit this "March 8" written information for the hearing record in addition to my/our "March 5" written submission. Again, I regret that a bad case of flu prevented me from accepting Senator Wyden's invitation to testify in person on February 27. Again, please accept my thanks to subcommittee members and staff for permitting SMWC's consultant and colleague, Andy Kerr, to testify in my place with his own testimony on February 27, which SMWC supports. My continued grateful thanks to both Senator Smith and Senator Wyden for introducing S. 2379.

THERE IS, AND HAS BEEN, BROAD PUBLIC SUPPORT FOR S. 2379'S APPROXIMATELY 23,000 ACRE SODA MOUNTAIN WILDERNESS PROPOSAL—AND THE SUPPORT CONTINUES TO GROW

Since first proposed by the Soda Mountain Wilderness Council (SMWC), under the guidance of founding chair and wildlife biologist Bruce Boccard in 1984 (who died in 1987), support for congressional designation of a 32,000 acre Soda Mountain Wilderness—which includes 23,000+ acres in Oregon and ca. 9,000 adjacent acres in California—has continued to grow.

ON RECORD AS SUPPORTING AT LEAST THE 23,000-ACRE OREGON PORTION OF THE SODA MOUNTAIN WILDERNESS PROPOSAL ARE . . .

Government entities (see Attachment 1)* on record in support of the Soda Mountain Wilderness proposal include:

- The Governor of Oregon (since Gov. Roberts' administration and including Gov. Kulongoski's support as recently as his February 24, 2008 letter to Oregon's congressional delegation urging wilderness designation in the 110th Congress).
- The City of Ashland (since 1985)—including the Mayor of Ashland's appearance in our 1991 film promoting the wilderness proposal, SODA MOUNTAIN: A Living Legacy.
- The Jackson County Commissioners (June 6, 2006)—if part of a Cascade-Siskiyou National Monument area federal grazing lease retirement in which conservationists contribute "a substantial financial contribution" separate from legislation.
- The Bureau of Land Management (BLM), Department of the Interior, in their February 27, 2008, spoken and written testimony on S. 2379—though please see my March 5, 2008, submission to the hearing record re: discrepancies between BLM's map and ours.

Editorial boards of local and statewide Oregon newspapers (see Attachment 2),* including:

- Repeatedly, Oregon's statewide newspaper, The Oregonian, published in Portland, Oregon's largest city and largest metro-area.
- Repeatedly—since 1985—southwest Oregon's regional newspaper in Jackson County, where the Soda Mountain Wilderness proposal is located, Medford's Mail Tribune.
- Repeatedly, the closest newspaper to the wilderness proposal, Ashland's Daily Tidings.
- The newspaper of Oregon's historically second largest city, The Register-Guard, published in Eugene, the closest large city to the Soda Mountain Wilderness proposal.

Conservation groups (see Senate Energy and Natural Resources Committee, Subcommittee on Public Lands and Forests, February 27,2008, hearing record re: S. 2379) supporting the Soda Mountain Wilderness proposal include:

- National groups, including: The Wilderness Society, the Sierra Club, the Campaign for America's Wilderness, and Backcountry Hunters & Anglers.
- State/regional groups, including: Oregon Wild, the Oregon Natural Desert Association, and the Oregon Council of Trout Unlimited.
- Local southwest Oregon groups and other local Oregon groups, including: Siskiyou Project, Klamath-Siskiyou Wildlands Center, Umpqua Watersheds, Soda Mountain Wilderness Council, Friends of the Kalmiopsis, McKenzie Guardians, and the Audubon Society of Portland.

Cattlemen's groups...

- Though not supporting wilderness designations in general, in their support of S. 2379 local and state cattlemen's groups implicitly support the Soda Mountain Wilderness proposal as part of the compromise process that led to introduction of S. 2379.

This is not an exhaustive list of supporting groups, individuals, and/or entities.—The support above refers to specific on-the-record support for congressional designation of the 23,000+ acre Soda Mountain Wilderness proposal in Oregon and does not refer to concurrent and past support of many of these groups, individuals, and entities (except the cattlemen)—and many others—for establishment of, and best protection for, the Cascade-Siskiyou National Monument. The 23,000+ acre Soda Mountain Wilderness proposal is in the southern backcountry of BLM's 53,000 acre Cascade-Siskiyou National Monument in Oregon.

CLARIFYING "THE SODA MOUNTAIN WILDERNESS PROPOSAL"

The boundaries of the Soda Mountain Wilderness proposal have changed slightly over time. Confusion is also caused by inclusion or exclusion of the ca. 9,000 acre California portion of the wilderness proposal relative to the 23,000+ acre Oregon portion. Additionally, BLM's 6,447 acre Soda Mountain Wilderness Study Area

*Attachments have been retained in subcommittee files.

(WSA) is confused by some with the ca. 23,000 Oregon BLM acres proposed for wilderness in S. 2379. Though included in S. 2379's ca. 23,000 acre Soda Mountain Wilderness, BLM's 6,447 acre Soda Mountain WSA is only a part of it. The small WSA acreage itself, first begrudgingly recognized by BLM in the timber heyday of the late 1970s as 5,400+ acres, is sometimes itself a source of further confusion because of increased BLM-listed acreage over time due to improved BLM mapping techniques and other factors.

Former President George H.W. Bush recommended the Soda Mountain WSA to Congress in 1991 for designation as wilderness. Congress had not acted on that—or any—Soda Mountain Wilderness proposal until Senator Smith and Senator Wyden's introduction of S. 3858 in the 109th Congress on September 6,2006, and S. 3858's subsequent reintroduction into the 110th Congress on November 16,2007, as S. 2379, Section 6(a) of which includes "approximately 23,000 acres of Monument land ... to be known as the 'Soda Mountain Wilderness.'"

Over the years—and especially since the 23,000+ acre Soda Mountain Wilderness proposal became part of the southern backcountry of the 53,000 acre Cascade-Siskiyou Monument in 2000—BLM has acquired private land (added to the wilderness proposal) and done restoration management (including road closures/decommissioning and stream restoration) that have increased the suitability of the wilderness proposal for wilderness designation. Nevertheless, when then-Oregon/Washington BLM State Director Bill Luscher toured the area by horseback back in 1987, his judgment was that "If Soda Mountain's not wilderness, nothing's wilderness."

Adding to confusion about the proposal, the summit of Soda Mountain itself is not part of the Soda Mountain Wilderness proposal. The summit of Soda Mountain, along with its fire lookout tower, communications facilities, and vehicle access road, are not included in the 23,000+ acre wilderness proposal boundaries on BLM land in the Cascade-Siskiyou National Monument.

To summarize:

- Approximately 9,000 acres of the citizen's Soda Mountain Wilderness proposal are in California. S. 2379 does not include or involve any of these ca. 9,000 California acres.
- S. 2379 proposes that "approximately 23,000 acres of Monument land" in Oregon already managed by BLM be "designated as . . .'the Soda Mountain Wilderness.'" There is no private land in S. 2379's Soda Mountain Wilderness.
- BLM's 6,447 acre Soda Mountain Wilderness Study Area (WSA) is part of the approximately 23,000 acres of BLM Monument land proposed for wilderness by S. 2379. Since President George H.W. Bush's recommendation of the WSA for wilderness in 1991, and since the inclusion of the entire Oregon portion of the wilderness proposal in the Cascade-Siskiyou National Monument in 2000, BLM has done much to improve the suitability of the larger-than-WSA wilderness proposal for wilderness designation.
- Neither the summit of Soda Mountain, the communications facilities on top of Soda Mountain, nor the vehicle access road to the top of Soda Mountain are proposed for wilderness designation by S. 2379, the BLM, or the Soda Mountain Wilderness Council.

For the purposes of this submission for the record regarding S. 2379, the 23,000+ acre "Soda Mountain Wilderness proposal" refers to the "November 7, 2007" Oregon-only map and narrative which I/SMWC submitted for the S. 2379 hearing record as "Attachment 2" and "Attachment 3" with my SMWC cover document dated March 5, 2008.

Thank you, again, for your efforts toward improved protection for this special area by your introduction and consideration of S. 2379. It is for good reason that the Cascade-Siskiyou National Monument's Proclamation calls it "an ecological wonder." We look forward to continued conversation with you, your staff, and the Committee toward a bill as deserving of superlatives as the place itself.

> *In southwest Oregon, the flows of forest life run north and south along the Cascades, east and west along the Siskiyous. These great flowers converge along the Oregon-California border, in an area known for its highest peak, Soda Mountain. Far more than a mere "corridor, " this region is a crossroads, where species at the limits of their ranges mingle to form unique communities, and through which organisms travel to new biological worlds.*
>
> Pepper Trail, Ph.D.—USFWS Ornithologist.

> *. . . to reemphasize: The Soda Mountain area is more than just botanically interesting; it is an important linkfor migration, dispersion, and the process of evolution in the Northwest.*

Tom Atzet, Ph.D.—30-year USFS Southwest Oregon Area Ecologist.

Gratefully,

DAVE WILLIS,
Chair.

LINCOLN COUNTY WYOMING,
BOARD OF COUNTY COMMISSIONERS,
Kemmerer, WY, February 26, 2008.

Committee on Energy and Natural Resources, United States Senate, Washington, DC.

Subject: Wyoming Range Bill

HONORABLE COMMITTEE MEMBERS: The following addresses our concerns regarding recently introduced legislation to withdraw oil and gas leasing within the Wyoming Range. Since the large majority of the Wyoming Range lies within Lincoln County, we feel it important to have a say in what occurs here.

At the October 24th hearing on climate change legislation Senator Barrasso stressed the importance of local input, saying "Local governments, whose economic vitality depends on energy production, have a lot to lose under the proposed bill. Communities with energy-based economies deserve a seat at the table in any climate change debate," He continues, "I cannot imagine a more important constituency to any discussion of climate change than those communities who depend on energy extraction."

We agree. We feel strongly that local governments have input on issues that will negatively impact the economic vitality of the County. The legislation proposed would totally remove our ability to provide input into the matter and instead leave that to Legislators from other states to consider.

Lincoln County is involved as cooperators and partners in the development of the Kemmerer BLM Resource Management Plan, Pinedale BLM Resource Management Plan, and the Bridger/Teton National Forest Plan Revision. This NEPA process has been ongoing for several years and we have invested considerable time and dollars to insure that resource management is balanced and considers economic impact to local economies, tax bases and desires of our constituents. These are processes established by law to insure such issues are considered in management of public lands. The planning process is based on science, facts, analysis and public input. Legislation circumvents this process and replaces it with a political process.

There are those who would applaud this legislation under the guise of protecting resource values that are not protected under other processes when in fact those processes exist. In fact these individuals seek political solutions to circumvent established processes that provide broad input and analysis.

It is said that the legislation would protect agricultural interests. However, grazing allotments in the Wyoming Range continue to be withdrawn from grazing or purchased for wild sheep habitat. The sheep inventory in the Bridger-Teton NF Counties has declined substantially (-78%) from 1970 to 2006. Logging has come to a halt, as evidenced by the rust colored landscape of beetle infested forests. The "roadless" designation has effectively eliminated motorized access for recreation, hunting, vegetative treatments, logging, and other uses. These restrictive actions have created defacto National Parks while touting "protection" of multiple use.

It is said that the legislation would protect wildlife habitats for future generations. However, the number of outdoorsmen who hunt and fish continue to decline each year, both nationally and statewide. Conversely, big game numbers continue to exceed herd unit objectives set by the Wyoming Fish and Game Department. Yet nothing in the legislation recognizes any current overpopulation of big game.

Continued access to energy and mineral resources associated with public lands is paramount to the well being of County residents and its economy, the state of Wyoming and national security. Our area is now facing similar movements to protect the Pinedale Anticline, Jack Morrow Hills, Adobe Town, Atlantic Rim, and Upper Platte Valley from gas exploration. Although there is a means in the legislation to address existing lease holders through compensation, we see nothing that will address the financial and economic losses to Lincoln County and its communities.

We ask that the local governments and federal agencies be allowed to continue with the process in place and that political solutions be postponed, pending the outcome of the ongoing Resource Management Plans and Forest Plan Revision.

Sincerely,

KENT CONNELLY,
Chair.

JERRY T. HARMON.
TAMMIE ARCHIBALD.

STATEMENT OF THE WILDERNESS SOCIETY, ON S. 2229

The Wilderness Society, representing over 300,000 members and supporters from across the United States, would like to go on the record as supporting without reservation S.2229, the "Wyoming Range Legacy Act of 2007". We believe the national forest lands addressed in this bill are of national significance and that its passage would benefit many Americans from all walks of life as well as future generations to come. But, equally important and persuasive is that this bill has diverse, bi-partisan, and passionate support from across Wyoming. It is for this reason that over time three Republican Senators from the Cowboy state (former Senator Thomas, sponsor Senator Barrasso, and co-sponsor Senator Enzi) have worked to author and/or support this legislation, and the state's Governor has been an early and consistent supporter as well.

NATIONAL VALUES OF THE WYOMING RANGE

The Wyoming Range Legacy Act of 2007 protects a remarkable natural treasure for the entire country. This 150-mile long rugged mountain chain in far western Wyoming comprises the southwestern portion of the Greater Yellowstone Ecosystem and provides important habitat for big game, rare predators and other wildlife that range across this landscape. In particular, the Range contains streams supporting four species of cutthroat trout, half the state's moose population, and prized herds of elk, mule deer and pronghorn antelope. In addition, development here has the potential to impact the Class One airsheds of several neighboring wilderness areas and Grand Teton and Yellowstone National Parks; protecting the Wyoming Range will help maintain the ecological integrity of these gems of our national park system.

The Wyoming Range garners some of the highest precipitation in the state, which creates diverse and abundant habitat for wildlife and provides a crucial source of surface water for ranchers and communities around these mountains. The mountains provide untrammeled habitat for many rare and sensitive species, and offers winter, summer and birthing range for big game. It is no wonder then, that Wyoming residents value the Wyoming Range for its world-class hunting and fishing and recreational opportunities. More than 45 outfitting businesses make their livelihood in these mountains, and its beautiful backcountry provides Wyoming families many options for camping, fishing and exploration by foot, horseback, snow machine or car. The Range contains the spectacular 75-mile Wyoming Range National Recreation Trail and over 300 miles of groomed snowmobile trails and the renowned National Outdoor Leadership School (NOLS) uses these forest lands extensively for a summer and winter wilderness classroom.

DIVERSE AND STRONG STATEWIDE SUPPORT

Given the diversity of interests that utilize and depend upon these mountains, it is no surprise that the Department of Agriculture noted the impressive base of support for this legislation in Wyoming: "The list of supporters within Wyoming is long and varied, including local government officials and the Governor in a state that has been very supportive of energy development in other areas." The Wyoming Range has brought people together from all walks of life and from across the political, social and economic spectrum. In addition to our elected officials, this legislation enjoys support from businesses, ranchers, sportsmen, local chambers of commerce and tourism boards, conservation groups and gas field workers, the state's newspapers and blue-collar unions. Two independent grassroots groups have developed in Wyoming to express the growing statewide support for protection of these mountains: Citizens Protecting the Wyoming Range, and Sportsmen for the Wyoming Range.

We include as an attachment a list of some of the many interests that support protection for the Wyoming Range (Attachment A).*

ENSURING A LANDSCAPE OF BALANCE

The Committee may well wonder why it is that one of the greatest energy producing states in our nation would support legislation to restrict future energy development in the Wyoming Range. There is a simple explanation: balance.

This bill works to ensure that public lands within our state continue their long tradition of providing balanced multiple use. The Wyoming Range is such an example. As the Department of the Interior has testified, these mountains already provide significant acreage for oil and gas leasing. Seventy-six oil and gas leases are held in production in the southern portion of the Range. There are numerous other leases still valid in the Range that this legislation will not affect, and that could be developed in the future. Wyoming people know that multiple use does not mean every acre has to provide every use, and in fact, gas development in western Wyoming has shown the state that this use dominates the landscape and becomes a single-use. The BLM lands adjacent to the Wyoming Range contain the largest producing natural gas fields in the country—the Jonah and Pinedale Anticline fields. Western Wyoming people are struggling to cope with the environmental and socioeconomic impacts of these developments and this direct experience with full-field development informs their support for this legislation. The Wyoming Range Legacy Act will provide balance across the landscape of public lands in Wyoming. The state's BLM lands provide an extraordinary contribution to the nation's demand for energy, and Wyoming is proud of that contribution. Yet Wyoming believes that national forest lands need not be industrialized any further. Senator Craig Thomas often spoke about this need to view the multiple use mandate of our public lands across the mix of BLM and forest service lands. It is no wonder that the slogan of this Wyoming Range effort has become "enough is enough."

The committee has heard testimony from the Department of the Interior and industry that these lands are needed for future development. To show the importance of withdrawing these national forest lands to ensure balance, we have attached a map of Wyoming depicting the amount of federal land in our state already authorized for oil and gas development (Attachment B).* It is staggering. Of the 30 million acres of federal lands in Wyoming, over 25 million acres are conceivably open for leasing, in that they are not permanently restricted from this activity. In 2007, over 13 million acres of these 25 million acres were leased for oil and gas development. In 2006 the BLM issued more new drilling permits—3,692, than it issued in all the rest of the nation. And despite all this tremendous development activity, there is still ample room for further development without needing to add these forest lands. Of the over 13 million acres of federal lands leased in Wyoming, only about 4 million acres are actually held in production, or 29%.

SPECIFIC COMMENTS ON THE LEGISLATION

The Wilderness Society believes S. 2229 as introduced provides a balanced and moderate approach in how it addresses potential future oil and gas development on national forest lands in the Wyoming Range. This is for the following reasons:

1. All national forest lands in the Wyoming Range with currently producing leases on them (approximately 43,000 acres in Riley Ridge and Marathon True gas fields) are explicitly excluded from the legislation's proposed withdrawal area.

2. The legislation expressly states that valid existing rights are protected and so the development rights contained in these leases are not impacted by S. 2229. This means that on approximately 75,000 acres within the proposed withdrawal area where such valid rights exist future drilling and gas production could occur even with passage of this legislation.

3. The lease retirement provisions in the legislation do not require any federal appropriations and do not require any action on the part of valid leaseholders within the withdrawal area. Instead, this legislation's premise is that it creates the option for holders of valid lease rights who voluntarily decide to come forward to either donate their leases back to the federal government or negotiate their buy out by private parties. Thus, the legislation only provides the opportunity and context for this to happen by ensuring that there will be no future leasing of the area, including that any returned leases will not be re-offered for lease.

*Attachments have been retained in subcommittee files.

4. The fundamental approach of this legislation is not untried but represents a model that has been successfully used elsewhere. For example, on Montana's Rocky Mountain Front, following passage in late 2006 of legislation (Division C, Title IV, Sec. 403 of the "Tax Relief and Health Care Act of 2006") withdrawing over 400,000 acres comprising national forest and BLM lands, four different lease retirement deals totaling over 63,000 acres have now been consummated. The most recent one occurred in March 2008 where Kohlman Partnership agreed to sell its valid leases in the Badger Two Medicine portion of the Front withdrawn area to Trout Unlimited which will then donate the leases back to the federal government.

CURRENT USGS DATA ON NATURAL GAS RESOURCES IN THE PROPOSED WITHDRAWAL AREA INDICATES LITTLE IMPACT FROM PROPOSED WITHDRAWAL

We were surprised by claims that S. 2229 could affect potentially significant resources, specifically the BLM's assessment that the withdrawal area contains 8.8 trillion cubic feet (TCF) of natural gas and 331 million barrels of oil (MMBO). This estimate is based on an Advanced Resources International, Inc. report published in May 2001, called "Federal Lands Analysis Natural Gas Assessment, Southern Wyoming and Northwestern Colorado," which utilized 1995 United States Geologic Society (USGS) data for the Wyoming Thrust Belt Province and Southwestern Wyoming Province. However, the USGS in 2002 and 2003 produced updated and more accurate data sets for these two provinces, which included an over 90% reduction in estimates of oil and gas reserves in the Wyoming Thrust Belt province.

The Wilderness Society has produced a GIS analysis of S. 2229's withdrawal area using the most current USGS 2002/2003 data sets and the same assumptions used by the BLM and Advanced Resources International in their assessment (i.e. analyzed for technically recoverable amounts, used mean resource amounts, assumed homogenous distribution across each play, etc). Our results show that S. 2229's withdrawal area contains just 1.2 TCF of technically recoverable natural gas and 4.6 million barrels of oil.

Please see Attachment C* which shows the total oil and gas resources for the Wyoming Thrust Belt and Southwestern Wyoming provinces and the Wilderness Society's analysis of resources within S. 2229's withdrawal area. Attachment D* is a detailed narrative explaining the methodology and data sets we used for our analysis.

Furthermore, in practice the amount of oil and gas that could be recovered from the Wyoming Range is likely far smaller. The USGS based resource estimates of 1.2 TCF/4.6 MMBO are for "technically recoverable," meaning that these resources could be produced using current technology without regard to economic costs or profitability. When one considers the challenging terrain found in the Wyoming Range, mitigation requirements likely needed to protect the Range's exceptional natural values, and other factors, it is likely that the economically recoverable subset of the withdrawal area's reserves would be much lower than 1.2 TCF/4.6 MMBO.

Finally, it is fundamentally inaccurate to present any resource estimates for S. 2229's withdrawal area as amounts that would not be available for domestic consumption and production royalty contribution. This is because most of the natural gas within the withdrawal area falls within areas that are already validly leased and could still be developed after passage of this legislation. For natural gas (the primary resource of concern given the miniscule amount of oil reserves estimated) 1.1 TCF of the 1.2 TCF of total technically recoverable resources within the withdrawal area are located in its northeast quadrant which is part of the USGS Southwestern Wyoming Province (See map in attachment B). Looking at a map showing the over 75,000 acres of valid, existing leases within the withdrawal area, one will see that most of these are located in the Southwestern Wyoming province portion of the withdrawal area.

Given the analysis and discussion presented above, we would hope that it is obvious that claims of 12 TCF of natural gas in the Wyoming Range, as Claire Moseley of Public Lands Advocacy presented in her testimony to the Senate Subcommittee, are completely unfounded. As her testimony explains, this number was derived from an industry group assessment (the National Petroleum Council's "Balancing Natural Gas Policy") which looked at the entire Wyoming Over thrust Belt. Their assessment is not based on the most recent USGS 2003 data and is for an area vastly bigger that the proposed withdrawal boundary and also includes producing lease areas in the Wyoming Range (Riley Ridge, Marathon True field, etc) that are not included in S. 2229's withdrawal area.

NO SIGNIFICANT BUDGETARY IMPACT AND NO NEED FOR SCORING

The Wilderness Society believes that S. 2229 would have no significant budgetary impact and not require any offsets. As noted earlier, the legislation requires no federal appropriations and would potentially have little impact on royalty payments from future production in this area (both because of the limited amount of economically recoverable resources at stake and the fact that most of the affected resources fall within areas currently under valid lease that could still be developed under this legislation).

Also, S. 2229 would not impact possible future payments to the government from lease sales, at least in the next ten year period. This is because:

1. In public meetings during 2006 and 2007 the Bridger Teton national forest stated that they do not anticipate any additional new lease sale offerings to occur in the near future.
2. The 75,000 acres of validly existing leases in the withdrawal area are not likely to expire and be re-offered for leasing during the next decade. All of these leases are currently suspended with the suspensions likely to continue for several years (at least until a new Bridger Teton Forest Plan is implemented sometime in 2009-2011 but possibly longer). Once suspensions are lifted, these leases have 3-5 years remaining on their 10 year expiration clock. Furthermore, a sizeable portion of these leases are part of the South Rim unit agreement where an up to 200 well proposal has been submitted (i.e. in coming years all of the leases in the unit could be "held in production" and kept valid indefinitely).
3. The state of Wyoming and Department of Agriculture signed a Memorandum of Understanding (MOU) in 2006 that states that there would be no future leasing in any inventoried roadless areas contained in the Bridger Teton and Shoshone national forests. Essentially all of the currently unleased lands within S. 2229's withdrawal boundary are inventoried roadless area on the Bridger Teton national forest. This prohibition on new leasing is to continue until a new forest wide oil and gas leasing availability determination is made which is expected to be a separate, multi year process that would begin following completion of a new Bridger Teton forest plan. Here is how the MOU signed by Assistant Agriculture Secretary Mark Rey and Wyoming Governor Freudenthal explains this: "The suitability of lands for oil and gas leasing will be evaluated during the ongoing forest plan revisions. A subsequent leasing availability decision will identify specific acres in the suitable land use area where leasing may occur and the specific stipulations that apply on those acres. No additional oil and gas and mineral leases will be approved within inventoried roadless areas on Bridger-Teton and Shoshone National Forest Land until such time as the oil and gas availability decisions are made."
4. Even if the new Bridger Teton forest plan and subsequent availability determination were completed in say the next 5 years, there is good possibility that the Forest Service would make little or none of the Wyoming Range available for new leasing. Public participation in the forest planning process to date as well as cooperating entities like the state of Wyoming and some counties have made abundantly clear their desire to see a significant change from the current forest plan with most or all of the national forest lands in the Wyoming Range made unavailable for oil and gas leasing. If the Forest planning process and availability determination are responsive to this input, then there should not be much if any of the S. 2229's withdrawal area made available for future leasing.

We note that the Congressional Budget Office (CBO) found for similar lease withdrawal legislation pertaining to the Valle Vidal area of New Mexico's Carson National Forest that the "net change in direct spending would be insignificant in any of the next 10 years. . . . Enacting H.R. 3817 would not affect revenues." (See Attachment E). This finding was based on CBO's assessment that the Carson National Forest was at the time deciding whether to implement an oil and gas leasing program for the affected lands and if they did decide to pursue a leasing program, the revenues from leasing would likely be more than ten years out. This situation is analogous to the Bridger Teton forest lands covered by S. 2229 and the uncertainty with where the Forest Service might go in the future with a leasing program here.

DRAINAGE CONCERNS CAN BE ADDRESSED

While the BLM in its Senate Subcommittee testimony on S. 2229 expressed concern about withdrawn federal resources being drained by possible development on adjacent private lands, we feel this concern is unfounded. The Mineral Leasing Act already provides a mechanism to address such a situation: "Whenever it appears to

the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage." (30 U.S.C. 226(j)). BLM regulations also contain a section directing the agency to pursue compensatory agreements in cases where they determine drainage to be occurring (see 43 CFR Ch. 1, Section 3100.2-1).

If this mechanism in the Mineral Leasing Act and promulgating regulations is deemed insufficient to address drainage concerns with S. 2229, then language could be added to the legislation requiring adjacent lessees to provide BLM notice of any leases adjoining the withdrawal boundary and requiring the BLM to seek compensation for any drainage that might occur.

CONTESTED LEASES—SHOULD NOT BE MICRO-MANAGED IN LEGISLATION

The Wilderness Society feels that S. 2229 as now written provides the right approach to the approximately 44,000 acres of contested leases offered from December 2005 to August 2006 that were successfully challenged before the Interior Board of Land Appeals. S. 2229 does not prohibit the current U.S. Forest Service EIS process underway to address these contested leases.

Instead, the legislation establishes that all valid existing rights "on date of enactment" would be continued. Should this legislation be enacted and prohibit these contested leases from being issued that is consistent with an outcome that leaseholders were made aware of when they bid on these leases in 2006. Specifically, the BLM's Notice of Competitive Oil and Gas Lease Sale makes clear that should an appeal of a lease be successful, BLM reserves the right to cancel the lease and refund bonus bid, rentals, and administrative fees with the lease offering. Given the successful appeal of the 44,000 acres of lease offering and the unknown outcome of the Forest Service EIS addressing these appeals (the scoping notice indicates that lease cancellation is a possible outcome), it should be clear to the affected bidders for these leases that there remains a risk of lease cancellation. That S. 2229 if enacted could cause the cancelation of these leases is in line with the fact that the federal government has made no binding commitments and warned that it could cancel the leases dependent upon outcome of appeals.

No new language or change to S. 2229 is needed to specifically address the issue of the contested leases that are suspended and/or pending to be issued. The agencies have had plenty of time to address the NEPA problems with their analysis and in fact, did nothing for over a year after the matter was remanded back to the agencies by the Interior Board of Land Appeals. In fact, we fully support the concept of having the Forest Service EIS process be put on hold until Congress has determined the best fate for these lands through consideration of S. 2229. This is a view shared by Governor Freudenthal who expressed in his testimony: "Given the contested outcome of the lease sales, the strong IBLA decision authorizing the agencies to cancel these leases outright and the legislation before Congress, it would make sense that the Forest Service slow down and use caution before making a decision about leasing here."

ADDITIONAL COMMENTS

What follows is our specific response to other more minor concerns and proposed Amendments provided by the BLM and Forest Service in testimony on S. 2229:

- The BLM testified that section 4(b) on "authorizing the Secretary to use non federal funds" creates possible confusion regarding the Secretary's obligations if funding is limited and pertaining to appraisal costs. We agree and advocate that all sections and text in the bill that refer to Secretarial involvement in the purchase of leases for retirement be stricken, including Section 4(b).
- BLM's testimony expressed concern regarding S. 2229's language that implies involvement of the Secretary in the collection of funds and/or repurchase of a lease. We agree that it is likely that all lease purchase and retirement efforts in the Wyoming Range are likely to be based on private funding and thus the federal government should not be involved in those transactions, including determining the basis for any appraisal or compensation amount. Thus, Section 4(c)(1) should be stricken or significantly modified.
- Likewise, any mineral claim purchase and retirement would use private dollars and the Forest Service should not pay the costs for claim validity determinations or appraisals. These costs should be covered by any private party considering such purchase and retirement of a claim. So no appropriation addition for claim verification is needed in Section 4, as the Forest Service suggested in its testimony.

- We agree with the Forest Service testimony that Sections 2(b) and 3(a) should be made consistent so that it is clear throughout S. 2229 that the withdrawal applies to all mineral leasing and mining entry/claims, as well as land disposition.
- We do not object to the Forest Service proposed change to exclude mineral materials from S. 2229's withdrawal so that the agency can remove sand and gravel to provide for upkeep of roads and facilities.
- We firmly disagree with the Forest Service testimony that section 3(c) is not needed. It is important to make explicitly clear that where existing rights within the withdrawal area are acquired by the government or extinguished after the date of enactment, the affected lands are then subject to S. 2229 withdrawal provisions and can not be re-offered for lease or mineral entry. As currently worded, S. 2229's Section 3(c) accomplishes this and should remain in the legislation unchanged.
- We agree with the Forest Service testimony on the need for section 3(e) to be slightly amended so that it is clear that except for mining entry, mineral leasing, and land disposition the forest plan in its entirety still applies to the withdrawal area.
- We agree with the Forest Service testimony that to be consistent, Section 4 should be amended so that it is clear that valid existing mining claims could be donated or purchased and retired, similar to valid mineral lease rights in the withdrawal area.

CONCLUSION: S. 2229 IS BALANCED LEGISLATION THAT SERVES WYOMING AND THE NATION WELL

The Wilderness Society strongly supports S. 2229 and believes it would protect an area of immense value to the people of Wyoming and the country. It enjoys an unprecedented level of support in Wyoming for a public lands bill and provides a fair and workable approach with respect to the valid existing lease rights already existing in the Wyoming Range. While we are open to some minor changes and amendments as discussed immediately above, overall S. 2229's withdrawal area boundary (with inclusion of the contested lease area and exclusion of producing lease areas as well as non national forest lands) should not be changed in any way.

We sincerely thank Senator Barrasso for the leadership he has shown in drafting this important piece of legislation and his ongoing efforts to see it enacted. As well, Senator Enzi and Governor Freudenthal deserve praise. Many across Wyoming are also grateful and we are sure that former Senator Thomas would likewise be pleased with S. 2229 and the efforts to protect this namesake mountain range for Wyoming.

STATEMENT OF ROBERT FREIMARK, SENIOR POLICY ANALYST, THE WILDERNESS SOCIETY, ON S. 2379

On behalf of the 200,000 members of The Wilderness Society, including the 4,000 members residing in Oregon, I am conveying The Wilderness Society's support for the wilderness designation in S.2379, the Cascade-Siskiyou National Monument Voluntary and Equitable Grazing Conflict Resolution Act. The Wilderness Society is a non-profit, national conservation organization with the mission to protect wilderness and inspire Americans to care for our wild places.

The Cascade-Siskiyou National Monument was established to protect an "ecological wonderland" including "towering fir forests, sunlit oak groves, wildflower-strewn meadows, and steep canyons". This area is in a convergence zone at the Cascade, Klamath, and Siskiyou ecoregions resulting in its unique and outstanding geologic and biologic values.

Wilderness designations are the highest level of protection that America can give to our public lands. Such legislation permanently protects our wild areas from damaging development activities while at the same time preserving the public's right to enjoy them through activities like hiking, fishing, hunting, and camping.

Designating federal lands into the Wilderness Preservation System permanently protects scenic vistas, high quality drinking water supplies, cold water fisheries, vital habitat for wildlife , a wide variety of backcountry recreation opportunities and increases the capacity of the land for carbon storage—an important tool in the fight against global warming.

The Wilderness Society has supported the strongest protections for the federal land at Soda Mountain for several decades. We were pleased when the President, on June 13, 2000, established the Cascade-Siskiyou National Monument to protect the outstanding biological diversity and geologic values found in this region. As a

next step, we believe the strongest protection we can provide for this special area is to include the wilderness quality lands in the Monument in our National Wilderness Preservation System. S. 2379 designates 23,000 acres of the National Monument as Wilderness. The Wilderness Society strongly supports this proposed wilderness designation and commends Senator Wyden and Senator Smith for recognizing the wilderness values of this area, and advocating for wilderness protection.

OFFICE OF PLANNING AND DEVELOPMENT,
Lincoln County, WY, February 25, 2008.

Committee on Energy and Natural Resources, United States Senate, Washington, DC.

Subject: Wyoming Range Bill

HONORABLE COMMITTEE MEMBERS: Senator Barrasso and Governor Freudenthal have done a masterful job of misrepresenting the extent of the Wyoming Range Withdrawal Proposal to many Wyomingites. For many months, perception has been promoted that only small areas of Teton, Sublette and Lincoln Counties were involved. Last week's Star Valley Independent stated "The Wyoming Range is located on the east side of the Greays River" which would be about a tenth of the county area. When the maps were finally made available to local governments, lo and behold nearly one third of Lincoln County is affected. Nice spin job! Certainly this will appease many generous political contributors located in the Jackson Hole area but at what price to future Lincoln County residents?

Senator Barrasso points out that we will have more recreation related jobs. I wonder if he knows that regional economic studies show that forest outfitter employees earn about $14,000.00 and energy employees earn about $54,000.00? Although there currently are no developed gas fields in the Lincoln County portion of the Wyoming Range, the opportunity for future responsible energy development should not be sacrificed so abruptly.

Finally, the preservation bill appears to circumvent NEPA processes that would at least give local governments a seat at the table for such a drastic decision. For example, NEPA decisions would have to consider that the Lincoln County Comprehensive Plan already provides for Public Land Planning and for the responsible development of our valuable natural resources. Some of the areas on the map are already off limits to energy exploration due to terrain and habitat considerations, however most of the Lincoln County areas are high desert brush land where energy production, wildlife habitat, grazing and recreation can and should coexist. Over 70% of our county's property tax base is energy related and such an arbitrary forfeiture of future taxes and jobs is simply too drastic without a significant downsize.

Sincerely,

JOHN WOODWARD,
Planning Director.

STOP DRILLING-SAVE THE BRIDGER-TETON,
Bondurant, WY.

SENATOR BINGAMAN AND MEMBERS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, AND ITS SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS: We write to present improvements to S. 2229. First we need to provide background: who we are, what is going on in Wyoming from our perspective, and how the history and current situation drives the improvements we seek to S. 2229.

SDSBT is a citizens' organization founded in 2005 in response to a Bureau of Land Management (BLM) administrative decision to form a drilling unit in a new and unexplored area right in the Upper Bridger-Teton National Forest (Upper B-T), leap-frogging tens of miles north of current natural gas fields to a location only 35 miles from the Grand Teton National Park.

As a result of this decision by BLM and subsequent actions by the US Forest Service, SDSBT has serious problems with both of these land management agencies. And we are not alone. Many citizens across the country, including but by no means limited to those of us in the Grand Teton and Yellowstone region, have become the front line in protecting the National Parks and Forests as local competency and capability in the land management agencies declines further every year and energy companies are empowered to develop as fast as possible wherever they wish.

The agency missions are being seriously compromised, moving away from multiple land uses and disproportionately directed toward energy exploitation, often in the wrong places and just as often with inappropriate attention paid to the con-

sequences, such as the draw-down of vital water resources in a area already affected by a multi-year drought. For example, according to Plains Exploration and Development Company's own estimates, it takes 1 million gallons of water to drill a single well and more to fully develop it. Did you know that absolutely no one at the federal level—not the BLM, not the FS, not any other federal agency—-is systematically keeping track of energy-related water consumption or water contamination throughout the intermountain west or even asking the question as to whether or not the region can afford the amount of water being used solely for energy exploration and development purposes? In rural Wyoming, water is for drinking (as well as for fighting as Mark Twain said), for ranching and other agricultural uses, and for wildlife. It comes from the same streams and aquifers as water devoted to energy development. We also know how precious our water resources are, and also more about how to conserve water than most.

As it is, in rural areas we live by the hand of Mother Nature. Summer wildfires, 6-8 feet of blowing snow in the winter, avalanches that block highway access to the only hospital many miles away, pine beetle infestations, and roaming grizzles and mountain lions make life here in this part of Wyoming always interesting and often challenging. It is not always easy or safe, and it certainly isn't convenient, but the Upper Bridger-Teton is truly "God's county", and those of us who live here wouldn't have it any other way.

The National Parks and Forests are not just for us, however, but for every American who wants to know that there is a place to breathe that is still wild and free from industrial development, a place to take their children and grandchildren to see wildlife or hike a trail. And they do come. More than 3 million people visited this region last summer. Tourism is the most important industry in the western part of the state. S. 2229 will help sustain this industry, and the natural values that underpin it—but we could use more help. We ask, by means of this hearing, that the Subcommittee and then the full Committee use the opportunity to find the ways and means to basically change the overall direction of public lands management as well as to specifically improve S. 2229.

Since 2002, Washington has seen the FS and the US Department of the Interior develop a new tool box of laws, rules, orders and changes to administrative processes designed to equip the energy industry to operate freely with serious consequences for both for our public lands and the private communities who adjoin them. They now have so many tools they can "shop them" often to find those with the least environmental compliance features, including ways to limit or even exclude public participation.

Citizens have no equivalent large administrative tool box from which to fix problems that arise from poor agency decision-making. We only have the mess and the uncertainty—-and an often compromised NEPA process. SDSBT and others must engage in repeating our basic message: don't drill in the wrong places, do it better where you do, and act to protect other resource values!

The agencies, especially the FS and the BLM, take their responsibility to comply with NEPA less seriously with each passing year. Did you know that last week the US EPA Regional office in Denver found a Draft BLM Environmental Impact Statement (DEIS) so poor that they ranked the DEIS in category "3", demanding a complete redo based on the air quality impacts assessment associated with a nine fold increase in the wells sought by the companies on the Pinedale Anticline? Last year, SDSBT, based on over 80 pages of scientific and engineering analysis, was compelled to do the same, that is, call for a complete redo of the DEIS for the Eagle Prospect in the Upper Bridger-Teton; others did as well. As you may know, the comments of knowledgeable State agencies, such as the Wyoming Game and Fish Department were also ignored. This lack of credibility that the FS and the BLM share is a clear and alarming signal that all is not well!

The Upper Bridger-Teton area, many miles from the Jonah Field and Pinedale Anticline, has been called by our Governor, "too special to drill". But the leasing and exploitation plans and processes move ahead anyway within the federal agencies. Even though S. 2229 was introduced, the companies with leases are working hard to position themselves to drill. This bill must be passed but as it now stands, it doesn't have enough teeth to affect the companies who already own leases or have acquired them from original lease sales held 15 or more years ago. Thus areas such as the Upper Bridger-Teton are very much in play as certain companies have already decided, this bill not withstanding, to drill in the National Forest. The slogan of at least one company is to have a "Jonah in the woods," this from a company that, so far as SDSBT can determine, has never operated in a heavily wooded terrain with rolling topography.

In this part of Wyoming, the Upper B-T is located in the eye of the storm! The Governor has called it the camel's nose under the tent for the whole Wyoming Range where there are 150,000 acres already leased and another 44,000 contested.

Tourism of many types, including but not limited to outfitting and guiding, are big businesses in this part of Wyoming; they all rely on a pristine environment. Only 2% of all the land in the Upper Bridger-Teton area is private. All the rest is public and with the federal agencies empowering industry, we have a 1000 pound gorilla on our trails, and Halliburton trucks rolling up and down Main Street. The south Sublette County gas fields, by industry's own acknowledgement, cannot be reclaimed. When they are done these public lands will be wasted lands.

And that brings us to S. 2229. In 2006, Senator Craig Thomas accepted SDSBT's invitation to visit and see first hand where this drilling in the Forest (and near the Parks) was proposed. He looked, he saw, and he said he thought that drilling in this part of the Forest would not be such a good thing. Sadly, we then we lost him to cancer. Since then, Senator John Barrasso and Senator Mike Enzi have sponsored S. 2229. They are both supporters of mineral extraction in Wyoming, and we know this is quite a courageous step for them to sponsor this legislation, both as a legacy to Senator Thomas and to protect Wyoming's namesake mountain range. We appreciate their intent very much.

SDSBT is pleased to support this bill and honor Senator Thomas. However, we stress that the bill only takes care of tomorrow, in the form of future leasing, and it relies on industry to volunteer to retire the leases they already have. For the upper BTNF, especially the Hoback Basin and areas to the south and west, all of which are in the Yellowstone ecosystem, this bill as it now stands may have little or ever no impact. Thus SDSBT must proceed as though this bill is not in final form. Indeed, there are important improvements that we ask the Sub-committee to address in its February 27 hearing and in subsequent deliberations that will on the merits improve both the general nature and the specific implications of this legislation.

First, we think the bill should be amended to require direct congressional oversight of the process to determine fair market value that the current bill places as a matter only between the Secretary of Interior and the leaseholders. We do not have confidence in the Interior-leaseholder relationship. We are saddened to say that this resembles the fox watching the hen house, and we would be far more comfortable with Congressional oversight over the process.

Second, we think the bill should direct the Secretary of the Interior to use the Land and Water Conservation Fund from the OCS oil and gas leasing revenues for lease buyouts in addition to the funding provisions as expressed in the current bill. This option is not an appropriation of funds from the general federal treasury; instead it is the existing and appropriate place from which funds could be made available for buy-outs. SDSBT has a specific reason for this. SDSBT is small, and even though we have said we would work to raise funds to buy out the leases if given the opportunity, and even though we have calculated the investment in these leases and could as well calculate our estimate of a fair market value, it is likely, with Interior and the leaseholders as the only participants in that determination, our ability to raise all that may be needed may be compromised.

Our third recommendation is based on the fact that in the Upper Bridger-Teton, some citizens fear that if the public lands leases are retired, the BLM and industry will simply move to drill on split estate lands. Neither the wildlife nor aquifers "recognize" geography or land ownership patterns. Thus the impacts that necessarily result from drilling and development irrespective of land jurisdiction risk non-energy and other economic and environmental values. Therefore we ask the Sub-Committee and full Committee to amend this bill to improve the situation by directing the Secretary of Interior to treat leased private lands that are joined with public lands by BLM administrative decisions the same as for lease retirements in S. 2229.

In closing, we ask that this statement be included as a formal part of the Sub-Committee hearing record. Thank you for taking these matters into consideration as the Sub-Committee proceeds with its work.

LINDA J. COOPER,
President.

STATEMENT OF LEWIS W. "PETE" DOUGLAS, PRESIDENT AND CEO, STANLEY ENERGY, INC., ON S. 2229

Chairman Wyden, Ranking Member Barrasso, and members of the Public Lands and Forests Subcommittee. My name is Pete Douglas and I am the President and Chief Executive Officer of Stanley Energy, Inc. Stanley is a small, family-owned oil

and gas exploration and production company headquartered in Denver, Colorado. Stanley is keenly interested in S. 2229 as we have owned approximately 24,000 acres of oil and gas leases in the Bridger-Teton Forest since 1999. In addition, Stanley was the successful bidder on more than 22,000 acres of leases in BLM lease sales held in 2005 and 2006. I want to thank the Chairman and Ranking Member for the opportunity to provide written comments for the Subcommittee's hearing on this bill.

As an initial matter, Stanley believes that S. 2229 , if enacted in its present form, will serve to increase America's dependence on foreign sources of energy. As members of the Subcommittee know, America presently imports more than 58 percent of its oil and 16 percent of its natural gas supplies from foreign countries. Given historical trends, this dependence is expected to increase. If S. 2229 is enacted in its current form, the 12 trillion cubic feet of gas, which the National Petroleum Council estimates can be recovered from the Bridger-Teton, would never be produced to assist in America's urgent need for greater energy independence. To help alleviate America's impending energy crisis, Stanley urges this Committee at the very least to reduce the geographic scope of the bill's proposed lease withdrawal area to the area recommended by the Petroleum Association of Wyoming in its October 10, 2007 letter to Senator Barrasso.

Second, as this Committee is well aware, the U.S. Forest Service and Bureau of Land Management have initiated a Supplemental Environmental Statement for the 44,720 leasehold acres which the Forest Service recommended be offered for public auction, and for which BLM held lease auctions in 2005 and 2006. As the agencies explained in their February 4, 2008 Notice in the Federal Register, the purpose of the SEIS is to "address the resource issues and effects analysis concerns identified by the IBLA" in its remand orders as well as "any additional issues" identified through the public scoping process.

It is my understanding that Senator Barrasso's legislation does not adversely impact the leases in the 44,720 acres covered by the ongoing SEIS. This fundamental distinction between areas subject to existing leases and areas that have not been offered at public lease sale was one which the late Senator Thomas well understood. I met with Senator Thomas not long before his unfortunate passing to discuss a number of issues related to oil and gas leasing in the Bridger Teton. In the course of our meeting, the Senator made two important points. First, he said the Forest Service and BLM should proceed with an EIS for the 44,720 acres which were subject to the remand from the IBLA to the BLM. Second, Senator Thomas assured me that he believed leaseholders in the Bridger-Teton had valid property rights and that legislation prohibiting prospective leasing in the Wyoming Range should not impact leases that had already been offered for sale by the BLM. I would urge the members of this Committee to honor the rights of private property owners-including the owners of federal oil and gas leases-as you move forward in your deliberations on S. 2229.

Mr. Chairman, thank you for allowing me to present Stanley's written testimony to the Subcommittee. I would welcome the opportunity to work with Senator Barrasso and members of this Committee on this legislation as the process moves forward.

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