

**TESTIMONY OF  
THE HONORABLE DAVID D. FREUDENTHAL, GOVERNOR  
STATE OF WYOMING**

**BEFORE THE**

**SENATE SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS  
OF THE COMMITTEE ON ENERGY & NATURAL RESOURCES**

**RON WYDEN, CHAIRMAN**

**AT ITS HEARING TO RECEIVE TESTIMONY ON  
S. 2229 - WYOMING RANGE LEGACY ACT OF 2007**

**FEBRUARY 27, 2008**

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 initiative 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.