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SENATE

{ REPORT
{ 110-363

WYOMING RANGE LEGACY ACT

JUNE 16, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2229]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2229) to withdraw certain Federal land in the Wyoming Range from leasing and provide an opportunity to retire certain leases in the Wyoming Range, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Wyoming Range Legacy Act of 2008”.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) WYOMING RANGE WITHDRAWAL AREA.—The term “Wyoming Range Withdrawal Area” means all National Forest System land and federally owned minerals located within the boundaries of the Bridger-Teton National Forest identified on the map entitled “Wyoming Range Withdrawal Area” and dated October 17, 2007, on file with the Office of the Chief of the Forest Service and the Office of the Supervisor of the Bridger-Teton National Forest.

SEC. 3. WITHDRAWAL OF CERTAIN LAND IN THE WYOMING RANGE.

(a) WITHDRAWAL.—Except as provided in subsection (f), subject to valid existing rights as of the date of enactment of this Act and the provisions of this Act, land in the Wyoming Range Withdrawal Area is withdrawn from—

- (1) all forms of appropriation or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) disposition under laws relating to mineral and geothermal leasing.

(b) EXISTING RIGHTS.—If any right referred to in subsection (a) is relinquished or otherwise acquired by the United States (including through donation under section 4) after the date of enactment of this Act, the land subject to that right shall be withdrawn in accordance with this section.

- (c) **BUFFERS.**—Nothing in this section requires—
- (1) the creation of a protective perimeter or buffer area outside the boundaries of the Wyoming Range Withdrawal Area; or
 - (2) any prohibition on activities outside of the boundaries of the Wyoming Range Withdrawal Area that can be seen or heard from within the boundaries of the Wyoming Range Withdrawal Area.
- (d) **LAND AND RESOURCE MANAGEMENT PLAN.**—
- (1) **IN GENERAL.**—Subject to paragraph (2), the Bridger-Teton National Land and Resource Management Plan (including any revisions to the Plan) shall apply to any land within the Wyoming Range Withdrawal Area.
 - (2) **CONFLICTS.**—If there is a conflict between this Act and the Bridger-Teton National Land and Resource Management Plan, this Act shall apply.
- (e) **PRIOR LEASE SALES.**—Nothing in this section prohibits the Secretary from taking any action necessary to issue, deny, remove the suspension of, or cancel a lease, or any sold lease parcel that has not been issued, pursuant to any lease sale conducted prior to the date of enactment of this Act, including the completion of any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (f) **EXCEPTION.**—Notwithstanding the withdrawal in subsection (a), the Secretary may lease oil and gas resources in the Wyoming Range Withdrawal Area that are within 1 mile of the boundary of the Wyoming Range Withdrawal Area in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and subject to the following conditions:
- (1) The lease may only be accessed by directional drilling from a lease held by production on the date of enactment of this Act on National Forest System land that is adjacent to, and outside of, the Wyoming Range Withdrawal Area.
 - (2) The lease shall prohibit, without exception or waiver, surface occupancy and surface disturbance for any activities, including activities related to exploration, development, or production.
 - (3) The directional drilling may extend no further than 1 mile inside the boundary of the Wyoming Range Withdrawal Area.
- SEC. 4. ACCEPTANCE OF THE DONATION OF VALID EXISTING MINING OR LEASING RIGHTS IN THE WYOMING RANGE.**
- (a) **NOTIFICATION OF LEASEHOLDERS.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall provide notice to holders of valid existing mining or leasing rights within the Wyoming Range Withdrawal Area of the potential opportunity for repurchase of those rights and retirement under this section.
- (b) **REQUEST FOR LEASE RETIREMENT.**—
- (1) **IN GENERAL.**—A holder of a valid existing mining or leasing right within the Wyoming Range Withdrawal Area may submit a written notice to the Secretary of the interest of the holder in the retirement and repurchase of that right.
 - (2) **LIST OF INTERESTED HOLDERS.**—The Secretary shall prepare a list of interested holders and make the list available to any non-Federal entity or person interested in acquiring that right for retirement by the Secretary.
- (c) **PROHIBITION.**—The Secretary may not use any Federal funds to purchase any right referred to in subsection (a).
- (d) **DONATION AUTHORITY.**—The Secretary shall—
- (1) accept the donation of any valid existing mining or leasing right in the Wyoming Range Withdrawal Area from the holder of that right or from any non-Federal entity or person that acquires that right; and
 - (2) on acceptance, cancel that right.
- (e) **RELATIONSHIP TO OTHER AUTHORITY.**—Nothing in this Act affects any authority the Secretary may otherwise have to modify, suspend, or terminate a lease without compensation, or to recognize the transfer of a valid existing mining or leasing right, if otherwise authorized by law.

PURPOSE

The purpose of S. 2229 is to withdraw certain Federal land in the Wyoming Range from future oil and gas leasing and provide an opportunity to retire existing leases in the area.

BACKGROUND AND NEED

The Wyoming Range is an isolated string of peaks, approximately 100 miles long, in western Wyoming. Located within the Bridger-Teton National Forest, the area supports large herds of

elk, mule deer, antelope, moose, and pronghorn. The Wyoming Range also contains black bear, mountain lion, pine martin, a small herd of bighorn sheep, and many more species. Native Colorado River, Snake River, and Bonneville cutthroat trout, are among the fish populations dependent upon the area's rivers. The Wyoming Range mule deer herd is among the largest in North America. Its target population is 50,000 animals, comprising one tenth of the statewide population.

In 2004, the Forest Service announced plans to lease 175,000 acres within the Wyoming Range for oil and gas development. The proposal met with enormous public opposition and in 2005 the Forest Service decided to scale back the leasing proposal to roughly 44,600 acres. In four separate auctions during 2005 and 2006, the Bureau of Land Management offered these acres for oil and gas lease sale. Approximately half of those acres were sold and issued to high bidders. After BLM dismissed protests on these sales, some parties appealed the decision to the Interior Board of Land Appeals. The Board granted a stay and suspended development on these parcels. The BLM requested remand in order for the Forest Service to undertake a supplemental environmental analysis, which is now in process. The BLM upheld protests on the remaining half of the 44,600 acres and has not issued leases to the high bidders of these sales.

The bill withdraws, subject to valid existing rights, approximately 1.2 million acres of land within the Bridger-Teton National Forest, referred to as the Wyoming Range, from new oil and gas leasing as well as any other form of appropriation or disposal under the public land laws. Further, the bill sets up a process to retire existing oil and gas leases in the area, at the lessee's request, and use non-federal funds to pay for them.

S. 2229 is needed to protect the important and irreplaceable wildlife and recreational values of the Wyoming Range, and responds to the broad public opposition from local landowners, business owners, labor unions, hunting and fishing groups, ranchers, and elected officials in Wyoming to oil and gas development in the Wyoming Range.

LEGISLATIVE HISTORY

Senator Barrasso and Senator Enzi introduced S. 2229 on October 25, 2007. The Subcommittee on Public Lands and Forests held a hearing on S. 2229 on February 27, 2008. The Committee on Energy and Natural Resources ordered it favorably reported with an amendment in the nature of a substitute on May 7, 2008.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by a majority vote of a quorum present, recommends that the Senate pass S. 2229, if amended as described herein.

The rollcall vote on reporting the measure was 13 yeas, 9 nays, as follows:

YEAS	NAYS
Bingaman	Landrieu
Akaka ¹	Domenici

Dorgan ¹	Craig
Wyden ¹	Murkowski
Johnson ¹	Burr ¹
Cantwell	DeMint
Salazar	Corker
Menendez	Smith
Lincoln ¹	Bunning ¹
Sanders ¹	
Tester	
Barrasso	
Martinez ¹	

¹ Voted by proxy.

COMMITTEE AMENDMENT

During its consideration of S. 2229, the Committee adopted an amendment in the nature of a substitute. The amendment strikes the findings and purpose section and makes some technical and clarifying changes. In addition, the amendment adds a provision giving the Secretary limited authority to lease oil and gas resources in the withdrawal area so long as a number of conditions are met. The provisions of the substitute are described in more detail in the section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title for the bill.

Section 2 defines key terms used in the legislation.

Section 3(a) withdraws, subject to valid existing rights, the Wyoming Range Withdrawal Area from all forms of appropriation under the public land laws; location, entry, and patent under the mining laws; and disposition under laws relating to mineral and geothermal leasing.

Subsection (b) requires that, if any right referred to in subsection (a) is relinquished, the land subject to that right shall be withdrawn in accordance with this section.

Subsection (c) states that nothing in this section requires the creation of a buffer area outside the boundaries of the Wyoming Range Withdrawal Area or any prohibition on activities outside of the boundaries of the area.

Subsection (d) requires that the Bridger-Teton National Land and Resource Management Plan shall apply to any land within the Wyoming Range Withdrawal Area and if there is a conflict between the plan and this Act, the Act shall apply.

Subsection (e) states that nothing in this section prohibits the Secretary from taking any action necessary to issue, deny, or cancel a lease that has not been issued, pursuant to any lease sale conducted prior to the date of enactment of this Act.

Subsection (f) authorizes the Secretary, notwithstanding the withdrawal in subsection (a), to lease oil and gas resources in the Wyoming Range Withdrawal Area subject to a number of conditions, including that the lease may only be accessed by directional drilling.

Section 4(a) requires the Secretary to provide notice to holders of valid existing rights within the Wyoming Range Withdrawal Area

of the potential opportunity for repurchase of those rights and retirement.

Subsection (b) authorizes a holder of a valid existing right within the withdrawal area to submit a written notice to the Secretary of the interest of the holder in the retirement and repurchase of that right. This subsection also requires the Secretary to prepare a list of interested holders and make the list available to any non-Federal entity or person interested in acquiring that right for retirement by the Secretary.

Subsection (c) prohibits the Secretary from using Federal funds to purchase any right referred to in subsection (a).

Subsection (d) requires the Secretary to accept the donation of any valid existing mining or leasing right in the Wyoming Range Withdrawal Area from the holder of that right or from any non-Federal entity or person that acquires that right and, on acceptance, cancel that right.

Subsection (e) states that nothing in this Act affects any authority the Secretary may otherwise have to modify, suspend, or terminate a lease without compensation, or to recognize the transfer or a valid existing mining or leasing right, if otherwise authorized by law.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the internet at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2229. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2229, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2229, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The views of the Administration were included in testimony received by the Committee at a hearing on S. 2229 on February 27, 2008.

STATEMENT OF LUKE D. JOHNSON, DEPUTY DIRECTORY,
BUREAU OF LAND MANAGEMENT

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 re-irement 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 nonfederal 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

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 claim-

ants 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.

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

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, Facilitation 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 Gov-

error 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 withdrawal 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.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2229, as ordered reported.