



# FRONTLINE

R E P O R T



John Fandek

## *Sublette County Heating Up For Battle Over its Conflicting Treasures: Natural Gas and Natural Resources*

By Molly Absolon

The Upper Green River Valley inspires one to wax poetic: the rampart of the Wind Rivers stands like a great barrier to the east, its craggy peaks and deep canyons look as wild and untouched as they did nearly 200 years ago when Europeans first descended into this high valley. The Gros Ventre and Wyoming Ranges complete the arc of mountains surrounding the area. To the south, the Upper Green spills out into the Red Desert. Rivers weave through the bottomlands creating lush habitat for bald eagles, osprey and native trout. And the vast herds of

pronghorn, mule deer and elk that winter here have inspired people to compare the Upper Green to Africa's Serengeti Plain.

"I love this place," says Linda Baker, a longtime Sublette County resident and the grassroots organizer for the Upper Green River Valley Coalition. "When I first came here 22 years ago, I was in awe of the mountains and scenery, and I still am.

"People come to visit this sublime landscape from all over the world. It's why we choose to live here," she continues.

But the sublime landscape is threatened by what Baker calls the "perfect storm" of

development: abundant natural gas reserves, high demand, and improved technology. The Upper Green happens to sit on top of one of the nation's richest natural gas deposits—an estimated 300 trillion cubic feet or enough to fuel the nation's natural gas consumption for 14 years at its current rate. These factors have come together to create a boom that may bring as many as 10,000 natural gas wells into the Upper Green River Valley over the next 10 years.

"We used to be the least populated county in the least *continued on page 3*

Above: The 40,000 pronghorn that winter in the Upper Green River Valley face an uncertain future as a result of burgeoning oil and gas development.

## DIRECTOR'S MESSAGE



*Executive Director  
Mark Preiss*

Much has been written about the death of environmentalism in the last few months but I think it is premature to be writing any obituaries. In this issue of Frontline, there is plenty of evidence to suggest that in Wyoming, many good people are deeply committed to protecting our unique quality of life and natural heritage for generations to come. This news doesn't sell newspapers, but it does give meaning to where we live.

This August, after 14 years away, I came back to Wyoming with my wife right after our marriage. Returning was an opportunity for me to give back something to this great state. In 1986 through 1991, I worked as a wrangler and guide for an outfitter on Togwotee Pass and spent the winter of '91 as a snowmachine guide. For a Minnesota boy, the Wyoming landscape was transcendent, whether on horse, sled or foot.

I left Wyoming for other work, not really thinking it was possible to get back again. But we did, and now my child come April has the chance to grow up in the Cowboy State. How lucky is he or she?

I joined the Wyoming Outdoor Council because I believed in what they stood for; I respected their history, and I wanted to engage all people interested in protecting Wyoming's quality of life. Not just those who agreed with me, but also those who shared the same values with me but didn't necessarily use the same language.

As you all know, Tom Bell and a host of other folks concerned about the future of Wyoming's environment formed the Wyoming Coordinating Council in 1967 with the belief that things could be better, that they should be better, and that we can work together to make them so. Those beliefs continue to motivate and guide our work today.

The gathering of stories in this Frontline is evidence of their beliefs. We've just come out of the legislative process. I spent a number of weeks down in Cheyenne, meeting people, working on issues, and getting to know Wyoming's political arena. As most of you know, it's a messy one, this governing system of ours. But in spite of that, we had some important successes.

The Split Estate Bill passed, after years of trying, compromising and heartache. And, after great effort by the people of Wyoming, the Wildlife Trust Fund was passed with \$15 million attached. It wasn't pretty, but in the end, the trust fund bill was too good a bill to pass up, so it was signed into law.

These were the two key environmental bills that succeeded. There was plenty of other activity around the capital to keep me busy as well. And so we leave the legislative process to get back to our lives, with the understanding that legislation wasn't meant to solve our problems, only to help guide our solutions.

In this edition of Frontline, and in our recently published Annual Report, we have highlighted some of the folks who are doing important work around Wyoming. We hope you enjoy their stories. In the spirit of Easter, our work is about renewal, not death.

Happy Trails,  
Mark



Established in 1967, the Wyoming Outdoor Council (WOC) is the state's oldest and largest independent statewide conservation organization. Our mission is to protect and enhance Wyoming's environment by educating and involving citizens and advocating environmentally sound public policies and decisions.

Frontline Report is the quarterly newsletter of WOC and is provided as a benefit of membership. Letters to the editor and articles by members are welcome.

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## UPPER GREEN *continued from page 1*

populated state,” Baker says. “Now we are the fastest growing county in the state.

“There’s only one grocery store in town. It is where we do a lot of our socializing. You used to know everyone you ran into there. Last summer when I went into the store, all I saw was a sea of strangers. It feels a bit like you are traveling, but you are not going anywhere.”

She adds: “These people aren’t all bad, we just don’t know our neighbors anymore.”

Not knowing your neighbors is one thing, but the changes run deeper. Sublette County is right behind Teton County in terms of cost of living. Baker says crime rates, domestic violence and drug use are all on the rise. It is harder to find parking places, the police force is the biggest it has ever been, and you can no longer call up the one doctor in town for advice or a quick appointment.

Sublette County also has new state-of-the-art patrol cars, a new senior center, a new library addition, school additions, bonuses for teachers, and new computers in every classroom. Plans are in the works for a \$300,000 playground, a \$27,000 grand piano for the schools, and a new community ice rink—all this for a town with a population of 1,400.

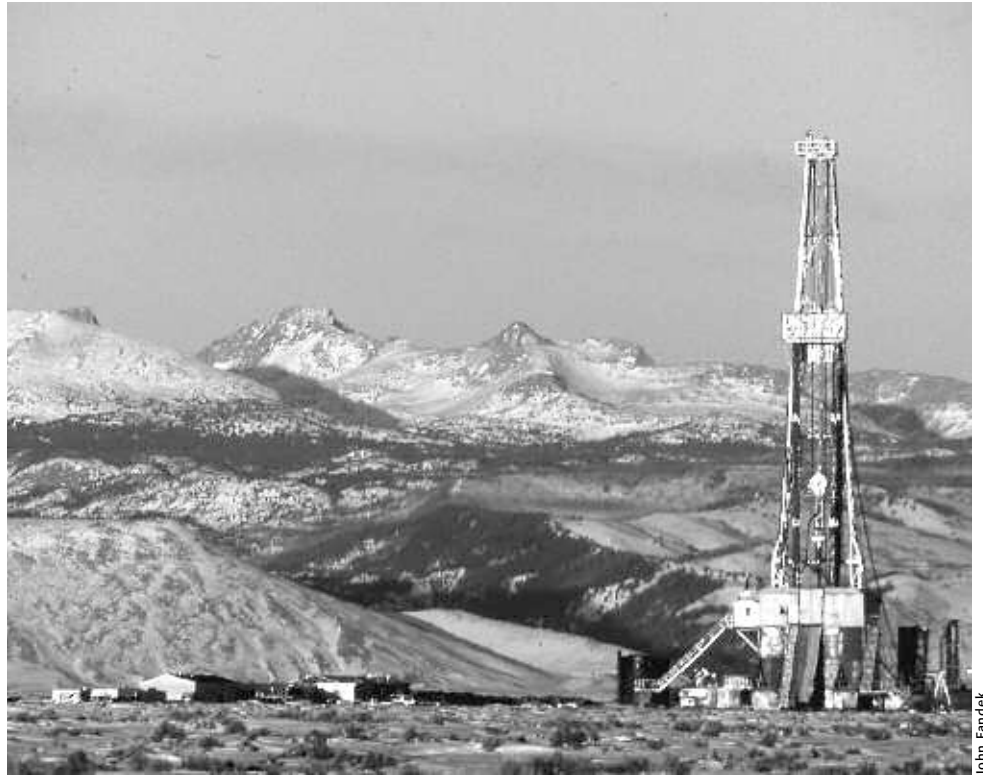
John Fandek, a 42-year-resident of the Upper Green River Valley, says this money is putting blinders on people. (See related story on page 5)

“People just want more,” Fandek says. “Industry is dropping money everywhere—\$100 here, \$1,000 there. People fall all over themselves for that money. There’s no talk around here of reducing consumption, just of drilling for more.”

Lauren McKeever, the Upper Green River Coalition’s campaign coordinator, acknowledges that money has brought changes, both good and bad to Pinedale and the surrounding areas.

“Money changes everything, but how do you put a price tag on a view?” she asks. “I’ve noticed hazier days this winter...do we have to wait until we have more asthmatics before we say something about our air quality? Money shouldn’t be the linchpin our future is hung on.”

“I know we are going to have change,” Baker concedes. “But I want to make sure



The Upper Green River Valley Coalition is working to help people make the connection between the natural gas development occurring in places like Pinedale and the thermostat in their homes.

we understand what that change means for our quality of life, our wildlife, and this incredible landscape. We can make choices now that will affect what we leave for the future.”

### *The Storm Hits*

The Upper Green River Valley’s perfect storm hit this spring. In February, the Jonah Infill Draft Environmental Impact Statement (DEIS), calling for an additional 3,100 wells in the already highly developed Jonah Field south of Pinedale, was released. The Environmental Impact Statement for a 210-well coalbed methane project near South Piney is due out any day. And the Pinedale BLM Field Office’s Resource Management Plan, which was supposed to be out last spring, is now scheduled for release in May or June.

“The pace is overwhelming,” says McKeever. “The Jonah Infill DEIS alone is 700 pages long and we have more huge planning documents coming. Not only is it overwhelming for those of us who are charged specifically with responding to these plans, it is overwhelming for the community, and overwhelming for the little BLM office here in Pinedale.

“The problem is that we get so inundated, we can’t respond appropriately. Development gets muscled through, and managers make very poor choices,” McKeever continues. “Overall, Wyoming is a moderate, reasonable state, but the pace of these actions defies moderation.”

### *Doing it Right*

The Upper Green River Valley Coalition’s solution to the rush is what they call the Responsible Energy Development Proposal, which is a “road map for doing it right” in the Upper Green. Their hope is that the proposal will be incorporated by the BLM into its resource management plan. The Wyoming Outdoor Council, which is a member of the Coalition, supports the proposal and is actively working with Baker and McKeever to help promote it.

Some of the measures called for in the Responsible Energy Development Proposal include directional drilling to minimize the amount of surface disturbance; pipelines to reduce truck traffic; flareless well completions to lessen emissions; and staged development to flatten out the boom-bust cycle.

“What we are promoting is a moderate position,” McKeever *continued on page 4*

**UPPER GREEN** *continued from page 3*

says. “We want development done at the right place and right pace.

***What’s at Stake?***

Wyoming Outdoor Council members are well aware of what is at stake in the Upper Green. The broad stretches of sagebrush steppe that lie between the area’s mountains provide the largest block of publicly owned winter range in Greater Yellowstone. Out in the open flats, more than 40,000 pronghorn spend part of the year side-by-side with a total of 60,000 mule deer, elk, moose and bighorn sheep.

For years, the BLM held this winter range as sacrosanct. The Pinedale Anticline was closed to all forms of recreation to protect wintering animals. In 2004, however, Questar Exploration and Production Company was given permission to drill in the winter on the Anticline in spite of opposition from conservation groups. This was not the only exemption to regulations designed to protect wildlife. During the 2002-2003 winter season, the Pinedale BLM Field Office received 173 industry requests for exceptions to protective sage grouse rules. The BLM granted 157 of them, or 90 percent. The office also received 61 requests for exemptions to raptor stipulations and granted 56.

Mitigation measures have been attached to these exemptions, but the on-the-ground impact is that critical winter range like the Anticline—once a place where there was

virtually no human presence from December until April—is now open for business year round.

People often cite the fact that they see big game grazing near gas wells as evidence that the two can coexist, but scientific studies released this past fall indicate that at least as far as mule deer go, the image of harmony is misleading.

Hall Sawyer (see accompanying story on page 7), a wildlife biologist based in Laramie, has been using radio collars and Global Positioning Systems to track mule deer in the Sublette herd that winter on the Pinedale Anticline. His project, which notably is partially funded by the oil and gas industry, began in 1998, three years before there was significant oil and gas activity on the Anticline. His findings to date indicate that mule deer habits have changed dramatically as a result of the drilling activity. The animals consistently avoid areas close to well pads and associated roads. Many of these areas were preferred habitat prior to development.

“I’m worried,” the Upper Green River Valley Coalition’s Baker says. “It’s a false hope to think just because you see deer or pronghorn around a rig that you can tell they are doing well enough to persevere. There’s a problem with that thinking. You need scientific data, and we are just beginning to get that. By the time you see a decline it may be too late to prevent a crash.”

It’s not just the winter range that is threatened. The migration paths leading

from summer ranges in the mountains down into the Upper Green River Valley—including the longest migration path in the Lower 48, a 160-mile journey taken by a small herd of pronghorn from Grand Teton National Park south into the Pinedale area—are getting pinched off by development, roads and subdivisions.

The most famous of these bottlenecks is Trappers Point, where the passage narrows to three-quarters of a mile. These bottlenecks are getting increasing attention, due in part to work by the Wyoming Outdoor Council’s Meredith Taylor and the Restoring Wild Patterns Program. A working group has been established by the BLM to allow stakeholders to weigh in on the future of Trappers Point in particular. Conservation groups, including the Wyoming Outdoor Council, are also beginning to look toward congressional designation of a National Wildlife Migration Corridor in the Upper Green.

***Clean Air & Clear Skies***

McKeever says it seems as if things have gotten hazier around Pinedale this winter, but she only has anecdotal evidence. Daniel resident Perry Walker, who is a retired Air Force major and a physicist/nuclear engineer, has been working to document the changes.

“We are currently seeing significant degradation in visibility in the Upper Green which strongly appears to be connected to oil and gas extraction work,” says Walker. “Furthermore there are certain chemicals being dumped into the air by well-completion flaring that may possibly have a negative effect on human health.”

Walker believes that strict emission controls to limit the amount of material being poured into the air should be a condition for doing business in the Upper Green, but industry has complained about the cost of added regulations. Their cries seem disingenuous, however, given the healthy earnings posted by the oil and gas industry last year.

According to the media, profits last year were in the billions for the top 10 oil companies, with an average increase of 30 percent. Natural gas production from onshore federal lands increased 42 percent between 2003 and 2004.



John Fandek

Sublette County, once the least populated county in Wyoming, is experiencing a population boom together with an increase in crime, domestic violence and drug abuse.

## Making a Difference

Baker, McKeever and others hope that the energy industry's current financial status will help their own efforts to promote "doing it right" succeed. It becomes hard to claim we can't compete because of all these environmental regulations when your company is making billions of dollars annually.

"My hope is that we can succeed in convincing the BLM to require the best possible gas strategies in the world here," Baker says. "One well per section is possible; they do it in the Middle East. There are technologies available to reduce the impacts to our grand 100-mile vistas. We can do those things.

"I'm hopeful. It has become a personal crusade for me. This is the only way we can preserve the future for Wyoming's children." ▶

### For More Information:

#### Useful web sites:

- [www.wyomingoutdoorcouncil.org](http://www.wyomingoutdoorcouncil.org)
- [www.uppergreen.org](http://www.uppergreen.org). (You will find a copy of the coalition's Responsible Energy Development Proposal here.)
- [www.wilderness.org/WhereWeWork/Wyoming](http://www.wilderness.org/WhereWeWork/Wyoming)
- Pinedale BLM Field Office:  
[www.wy.blm.gov/pfo/](http://www.wy.blm.gov/pfo/)

### What You Can Do:

Write a letter to the BLM in support of the Upper Green River Valley Coalition's Responsible Energy Development Proposal. Send a copy of that letter to Governor Dave Freudenthal and to your local paper.

#### Prill Mecham

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# Barbed Wire in the Side of Industry

## John Fandek Voices Concern

By Molly Absolon

I was stuck. My Subaru wagon had slid off the road—or what I thought was a road but quickly realized had only been cleared for snowmobiles. After an hour of struggle assisted by a helpful couple I waylaid, the car was just a little closer to the road and a lot deeper in the snow. Then he arrived. Over the crest of the hill, John Fandek appeared with his trusty steed, only the steed was a large shiny tractor that had the horsepower and traction to tow me out with ease.

John Fandek has lived in the Upper Green River Valley for the last 42 years. He came to the valley fresh out to the Army and never left, but now he's beginning to wonder if he's here for good.

"I get so discouraged by what is happening here. I think about picking up and moving, but where the hell do you go?" Fandek asks.

Fandek is discouraged by the changes in the Upper Green River Valley resulting from the oil and gas boom. In particular, the people flooding into the area upset him.

When I look around the valley, I see miles of empty space, abundant wildlife, amazing views—and not a lot of people. Pinedale feels small—there's just one grocery store, which closes at 6 p.m. and you pass through the main part of town in less than a minute. But for Fandek, the place is almost unrecognizable and the changes are driving him to speak out against rampant development.

"The development is happening way too fast," he says. "There's a gold rush mentality here. Everything I like to do—hunt, fish—has had a people impact. There are more cars, more crime, more drugs.

"What we are losing is worth a whole lot more than the natural gas. But all people see are dollar signs."

Fandek talks to me about his concerns as



Courtesy John Fandek

John Fandek and his grandchildren, Bryon Nicholson and Brittany Stailey, pose next to Harley and Margie before heading off to feed the elk.

we load hay for the elk at the feedground north of Cora, where he has worked for the past 25 years. He uses a horse-drawn sleigh to feed the approximately 750 elk that winter here.

Today, the elk are hungry. Because of the debacle with my car, we are hours later than normal, so the elk crowd up closely. They look healthy and fat. It has been a mild winter.

The calves have blots of blue paint on their hair where Fandek hit them with a paintball last week to mark them as he vaccinated for brucellosis. He's skeptical about the effectiveness of the vaccine, but it is part of his job.

The horses walk along slowly, pausing for Fandek to cut the strings on the hay bales, and moving forward again as he drives one-handed and kicks flakes off the sleigh every 40 feet or so.

Fandek is in his early 60s, but he looks ageless. He's lean and tall with skin creased from years of working outside as a ranchhand. He tosses around 125-pound bales of hay with practiced efficiency, but says he's told the Wyoming Fish and Game Department if the bales are this heavy next year, he's quitting. I try to help, but I'm not used to moving hay bales and I'm probably more of a nuisance than anything. Fandek tolerates my awkwardness without complaint.

Fandek's opposition to irresponsible oil and gas development is *continued on page 6*

## UPPER GREEN

JOHN FANDEK *continued from page 5*

not a recent position. In the 1960s, he says the government came up with a program called Project Wagon Wheel that called for using nuclear bombs to fracture the tight sandstone formations underlying the Upper Green River Valley to release natural gas. Fandek thought it was a bad idea.

"I wrote a letter to the editor of the local paper stating my opinion," he recalls. "I was working for El Paso Gas at the time. My supervisor called me into his office after my letter came out and told me I was out of line, so I quit.

"I've never been much of a joiner, but I know what I believe in and I'm not afraid to speak out. I know there is a hell of a lot more value in the Upper Green River Valley than oil and gas."

The horses have come to a stop. Fandek doesn't urge them forward. Instead, we lean against the front of the sleigh and look around. It is a warm day for February in the Upper Green River Valley, and the sun feels good on our faces. From our vantage point we can see little in the way of human disturbance. The hills roll up toward the Gros Ventre and Wind River Mountains. Across the valley, the Wyoming Range stretches off toward the south. Fandek points to a spot across the Green River where the Astorians camped on their disastrous trip to the West Coast to establish a fur trading company for

John Jacob Astor nearly 200 years ago. This part of the valley looks much the same as it did then.

The elk we're feeding stay close to the lines of hay. You can see their tracks on the surrounding hillsides, but outside the feed-ground fences, the snow is untracked. These rolling river bottomlands are private lands, and the elk are not welcome. Oil and gas development has not come this far north, and in fact much of the area here along the Wind River Front has been withdrawn from leasing. A bone for conservationists, according to Fandek, who says there isn't much potential for gas here anyway.

Everything else, he says, seems to be up for grabs.

"Industry is dropping money everywhere," Fandek says. "It appears as if they can do anything they want. The BLM has become their puppet. I think people are going to wake up one day and be really sorry for what they've lost."

In the meantime, Fandek, who seems to prefer going quietly about his business, has been openly vocal about his desire to see the development slow down and for other factors, such as wildlife, water quality, air quality, and quality of life, to be given equal attention in planning. Unfortunately, he is not optimistic his voice will be heard. ▶

**P**roject Wagon Wheel was part of Project Plowshare, a program created by the Atomic Energy Commission (now the Department of Energy) to find peaceful industrial applications for nuclear devices. The commission proposed using nuclear bombs to blast out canals, create underground reservoirs, carve roads into mountainsides, open up harbors, and stimulate the release of natural gas fields. The term Plowshare comes from the Bible, Isaiah 2:4, which talks about transforming "swords into plowshares." In this case, the bombs were the swords.

Between 1958 and 1975, the Atomic Energy Commission conducted 27 nuclear tests in sites scattered around Alaska, Colorado, Mississippi, Nevada, and New Mexico. Some of these projects, particularly Project Rulison, which took place near Silt, Colo., have come back to haunt today's natural gas developers. Wyoming's project—Project Wagon Wheel—never took place.

**For more information on Project Plowshare and Project Rulison, see the March 7 issue of *High Country News*.**



John Fandek

Wildlife have flourished in the Upper Green River Valley in the past, but recent scientific studies indicate that behind the area's scenic splendor, things may be changing.

# On the Trail of the Tracker

**“Meredith: FYI... I just returned from Pinedale where more than 1,000 deer are stacked up near the Fremont Lake Bottleneck. Also more than 1,000 deer were on Cora Butte. Many pronghorn on Cora Butte as well, I suspect some will reach the Bridger-Teton National Forest boundary bottleneck in the next 10 days or so. Best, Hall”**

*By Meredith Taylor*

I received Hall Sawyer's message and immediately packed my bags to head over the mountains to Pinedale. Few people ever experience such wildlife abundance in migration and I wanted to be one today. It was a sight I'll never forget. Hundreds of pronghorn and thousands of mule deer peppered the sagebrush hillsides that were just starting to green up for spring. The animals were en route north from the Upper Green River Valley into the mountains of Greater Yellowstone on their annual spring migration. Sawyer has been studying these animals and their migration patterns for seven year now.

Increased interest in energy exploration and development on public lands has biologists such as Sawyer concerned about the future welfare of Wyoming's wildlife. Sawyer is a wildlife biologist who has conducted cutting-edge telemetry research on pronghorn and mule deer in Teton and Sublette counties.

“As a hunter and biologist, I've always been intrigued at how the big game species of Wyoming are able to thrive across a wide range of habitats and extreme environmental conditions,” Sawyer says. “We have bighorn sheep populations that winter at 10,000 feet, elk populations that occupy desert landscapes, pronghorn that move incredible distances, and mule deer that live in every corner of the state...how do they do it? I guess it was this natural curiosity that sparked my interest in studying big game ecology.”

Sawyer is the project manager with Western Ecosystems Technology, Inc. (WEST). WEST is a small Wyoming-based company that specializes in the design, implementation and analysis of wildlife field studies. Sawyer joined WEST in 2002. He focuses on ungulate ecology, animal capture, global positioning system technology, radio-telemetry, geographic information systems, and impact assessment.

Sawyer received a B.S. in wildlife biology from Colorado State University in 1994 and an M.S. in Zoology from the University of Wyoming in 1997. His graduate work focused on elk migration



Courtesy Hall Sawyer

**Wildlife biologist Hall Sawyer—shown here in the Absaroka Mountains with his dog Gus—lives in Laramie and enjoys backpacking, mountain biking and hunting.**

and habitat selection in the Bighorn Mountains. After receiving his masters degree, he worked with the Wyoming Cooperative Fish and Wildlife Research Unit for five years as a research scientist, coordinating projects that focused on elk, mule deer, white-tailed deer, pronghorn and bighorn sheep.

“Specifically, my interest is in applied research, or research geared towards improving management,” Sawyer says. “Because wildlife management and wildlife issues are often so contentious and polarized, it's extremely important to conduct objective, well-designed studies to ensure the results are credible and not perceived as biased. I want the studies I'm involved with to provide reliable information that directly improves management, whether it is for an agency, an industry, or a non-government organization.

“For example, “ Sawyer continues. “The work we've done with deer and pronghorn in western Wyoming has provided the necessary information to adjust hunting seasons, refine seasonal range maps, identify areas for habitat improvement, modify fences for wildlife, identify migration routes, and increase public awareness.”

In the vast amounts of data he generates in his research, Sawyer tries to provide the knowledge that land and wildlife managers need to make informed decisions for the future of wildlife in Wyoming. It's a balancing act between Wyoming's world-class wildlife resources and its world-class mineral resources. No one wants to see the balance tipped either at a cost to the animals that make Wyoming wild or the minerals that drive our economy. ▶

# Don't Fence Me In

## Wyoming's Big Game Need "Wildlife Friendly Fencing" to Roam Freely

By Meredith Taylor

Born to roam one of the largest intact ecosystems in the temperate zones of the Earth, Wyoming's wildlife often encounter a web of fence lines along their journeys. These fences can be deadly. Animals get caught up in the wire and die. Others are displaced and their migration patterns disrupted by impenetrable barriers in their paths.

Land managers admit that fences are a serious concern for wildlife. Both federal and state agencies now have fence standards to protect free-ranging wildlife migration routes. As part of the Restoring Wild Patterns program, the Wyoming Outdoor Council wants to increase open space for free-ranging healthy wildlife populations in Greater Yellowstone Ecosystem by identifying and removing fences that block wildlife migration routes.

### What makes a fence wildlife friendly?

The "ideal" fence, from wildlife's point of view, can be seen on approach so that it can be leapt over or crawled under without injury. The currently accepted wildlife-friendly fence standards are: three strands of wire with the bottom strand a smooth wire at 16", the second strand barbed wire at 24", the third, barbed wire at 32", and a pole on top at 40".

In 1990-92, the University of Wyoming's Spatial Data and Visualization Center digitized fence data in cooperation with the University of Wyoming Cooperative Fish and Wildlife Research Unit and the Wyoming Game and Fish Department. They created a database that includes locations and descriptions of wire fences constructed for public lands livestock grazing and rights-of-way throughout southwestern Wyoming.

Encompassing an area of over 36,000 square miles, the lands surveyed contained more than 1,600 livestock and roadway fences. These fences stretch thousands of miles across the landscape. Most of them do not meet wildlife-friendly fencing standards.

### What happens with fences that aren't "friendly?"

Wyoming Cooperative Fish and Wildlife Research Unit studies show that pronghorn select home ranges where fence densities (particularly woven wire) are lowest in order to minimize the number of fences they have to negotiate in search of forage or during migration. The consequence of this behavior is that fences are causing pronghorn ranges to shrink.

Other unfriendly fences entangle animals or intentionally create an impenetrable wall to keep livestock in or wildlife out. Together these fences permanently change where the animals roam in search of forage and shelter—distribution patterns that have developed over thousands of years.

### Are fences being upgraded to be friendly?

As old fences are replaced on public lands, managers are required to use wildlife-friendly fence standards. Unfortunately

due to serious livestock trespass and damage problems, some managers, including the Wyoming Game and Fish Department, are effectively blocking wildlife movements on state and public lands with fences that are unfriendly to wildlife.

Another problem is that highways and their right-of-way fences are not compatible with wildlife movement since the Wyoming Department of Transportation allows landowners to choose the style of fence they prefer, and these may not meet the voluntary wildlife-friendly fence standards.

However, there are some incentives for change, particularly in areas that have been identified as critical to wildlife migrations.

The Wildlife Heritage Foundation of Wyoming has contributed \$70,000 for private land wire fence modification to facilitate wildlife migration near Trappers Point, in the Upper Green River



Franz Camenzind

Thousands of miles of "unfriendly" fences—like this one trapping a mule deer doe—criss-cross Wyoming.

Valley. Trappers Point is the spot where the longest migration corridor in the continental United States—one used by pronghorn moving from Grand Teton National Park down into the Upper Green—pinches down to a passage that is only .75 miles wide.

In 2003, the Trappers Point Working Group was organized to solve some of the pronghorn and mule deer movement problems at the bottleneck. The group is comprised of representatives from the local ranching community, federal and state agencies, private landowners, recreationists and the Wyoming Outdoor Council. In 2004, BLM responded to recommendations from the group and installed a wildlife-friendly fence at Trappers Point.

The Wyoming Department of Transportation has widened the right-of-way between the fences and highway. They have also constructed an underpass, although most wildlife seem not to use it. The Department is now installing flashing lights and an electronic sign to warn motorists of wildlife crossing at Trappers Point. ▶





# WYOMING OUTDOOR COUNCIL

## 2005 LEGISLATIVE REPORT

The 2005 Wyoming Legislative Session was marked by both successes and failures for conservationists. The outstanding win was the passage of the Wildlife and Natural Resource Funding Act; a disappointing loss was the failure of the Renewable Energy Commission bill. Overall, the session was not easy to characterize as either for or against environmental protections. Below, we've summarized some key pieces of legislation—both bills that passed and failed—from this year's session.

### Bill to Limit Federal Management of Public Lands Defeated

*HB 11, State Standards for Federal Resource Management. WOC OPPOSED.*

The Joint Agriculture Interim Committee introduced House Bill 11 that would have required the Governor to develop policies and programs to guide Wyoming's involvement in federal lands management. At its heart, the bill directed the state to enter into written agreements with federal agencies to "promote maximum recognition of state and local interest" during the development of federal land use plans, regulations and environmental impact statements. If federal agencies failed to meet specific conditions set out in the bill, the state would have been prohibited from supporting future protections under the federal Wild and Scenic Rivers Act, Federal Land Policy and Management Act and Endangered Species Act.

House Bill 11 was never examined by the House Agriculture Committee because an unidentified group of legislators crafted a non-binding substitute measure: House Joint Resolution 9, "State Standards for Federal Resource Management-2." Subsequent to introduction, HJR 9 was unanimously approved by the House of Representatives and the Senate Agriculture Committee. HJR 9 was eventually killed by the Senate Majority Floor Leader, Senator John Schiffer (R-Sheridan), because he failed to schedule it for floor debate. WOC was happy with Schiffer's decision. The original bill – HB 11 – attempted to give the state the upper hand in federal-state disputes related to federal lands and programs, and, therefore, it probably violated the supremacy clause of the U.S. Constitution.

### Future of Wyoming's Landfills Remains Uncertain

*HB 71, Community Landfill Remediation. WOC SUPPORTED.*

In the fall of 2003, Governor Freudenthal directed the Wyoming Department of Environmental Quality to convene a citizens' advisory group to help develop the state's solid waste management policies. The committee—including WOC staff member Michele Barlow—finished its work in November 2004 when the Joint Minerals, Business and Economic Development Interim Committee approved House Bill 71.

The primary objectives of HB 71 were to:

- create a "corrective action" fund to remediate leaking landfills that are closed by the year 2010;
- create a "regional landfill" fund to remediate leaks from future regional landfills;
- establish state goals for solid waste management, including recycling and reuse goals; and
- require local governments to develop solid waste management plans by the year 2008.

Dave Finley, Administrator of Wyoming Department of Environmental Quality's Solid and Hazardous Waste Division, presented House Bill 71 to the House Minerals Committee in Cheyenne. Following a brief question-and-answer period, Chairman Tom Lockhart killed HB 71 because the 34-page bill was too long, complex, and controversial.

In March of this year, the citizens' advisory group and WDEQ reconvened to begin redrafting the bill. The Joint Minerals Interim Committee has promised to discuss our revised bill later this year. WOC will continue to play an active role in seeking a constructive solution to the state's solid waste disposal problems.

### State Creates Task Force to Address Environmental Health Concerns

*HB 94, Environmental Health Study. WOC SUPPORTED.*

In 2004, 10 human cases of West Nile Virus were reported to the Wyoming Department of Health. No human fatalities were reported last year but in 2003, the mosquito-borne disease caused nine deaths in six Wyoming counties (Campbell, Fremont, Goshen, Laramie, Platte, Weston). West Nile Virus has triggered concern about a broad spectrum of environmental health and safety risks faced by Wyoming citizens. Other examples of environmental health topics include food safety, drinking water quality, wastewater treatment, indoor air quality and public swimming pools.



The Joint Labor Interim Committee introduced House Bill 94, which creates a multi-disciplinary task force to study environmental health issues and ascertain which state and federal agencies are responsible for addressing them (if any). The Department of Health is responsible for soliciting citizen participation and hosting at least one public meeting before finalizing the report in November 2005. WOC supported this bill because public health and safety are closely linked to the state's clean water and clear air.

HB 94 passed the House (34 ayes, 24 nays, 1 excused) and Senate (30 ayes, 0 nays) and was signed into law by Governor Freudenthal. *continued on page 10*

LEGISLATIVE REPORT *continued from page 9*

**Bill Establishes Penalties for Unpermitted Reservoirs**

*SF 28, Water Rights - Penalties.*

**WOC SUPPORTED.**

During the 2004 Budget Session, the Legislature earmarked \$70,000 for the state engineer's office to conduct field inspections on coalbed methane reservoirs. That money funded a recent survey of on-channel reservoirs in Rawhide Creek in Northeast Wyoming. In January, the state engineer's office, which oversees water rights, revealed that 70 percent of the reservoirs surveyed had no permits. Coalbed methane companies were illegally using 153 of 217 reservoirs in a single drainage of the 14-million acre Powder River Basin. Deputy State Engineer Harry LaBonde explained the reason for this breakdown was that his office was short on staff and funding and could not keep up with the rush. His office receives about 1,000 applications for new water rights annually.

Last fall, the state engineer's office was already in the process of drafting a bill to increase fines for water rights violations when it discovered there were no penalties for reservoir violations. The Rawhide Creek survey prompted the agency to expand SF 28, setting penalties for unpermitted reservoirs and other water rights violations at \$1,250 per day. State Engineer Pat Tyrell admitted that previous fines were not severe enough to deter unethical companies from taking advantage of the state's resources. SF 28 was approved by 88 of 90 legislators and signed into law by Governor Freudenthal.

**Dark Skies Protection Fails**

*SF 105, Outdoor Lighting.*

**WOC SUPPORTED**

Wyoming citizens can enjoy some of the most beautiful night skies of any state in the nation, due to our clean air, dry climate and high altitude. Senator Cale Case (R-Lander) once again introduced a "dark skies" bill that would have allowed communities to set standards on outdoor lights in an effort to reduce light pollution and light trespass. Specifically, SF 105 would have clarified existing law by specifying that cities, towns and counties have the authority to pass ordinances regulating the types, construction and use of outdoor lighting equipment.

The supporters of SF 105 included the City of Cheyenne Planning Department, astronomers, conservation organizations and several citizens. Opponents from the agricultural lobby, the restaurant and lodging association, the car dealer organization and the rural electric cooperatives argued that voluntary measures are sufficient to minimize light pollution. The bill was killed by the Senate Agriculture Committee on a 2-2 tie vote.



**Renewable Future Fails to Gain Legislative Support**

*HB 157, Renewable Energy Commission.*

**WOC SUPPORTED.**

Wyoming's abundant sun, wind and earth can be used to diversify and expand the state's energy portfolio and economy, while helping protect our environment. To capitalize on this opportunity, Representative Jane Warren (D-Laramie) introduced HB 157 that would have established the Wyoming Renewable Energy Commission in the governor's office. The commission would have been charged with developing strategies and legislative recommendations to diversify and expand energy production and distribution, both alone and in conjunction with existing systems.

HB 157 directed the commission to examine energy efficiency measures and a broad spectrum of renewable resources. The bill called for a 13-member commission made up of representatives of business, utilities, agriculture, state government, consumer advocacy and environmental education as well as two at-large members

**WOC MEMBERS APPOINTED TO REGIONAL RENEWABLE ENERGY TASK FORCES**

The Western states are in the midst of a debate over energy policy. An important part of that debate is whether and how to accelerate the development of renewable energy.

Last summer, the Western Governors' Association (WGA) unanimously adopted a Clean and Diversified Energy Initiative. The resolution established a goal in the West of producing 30,000 megawatts of so-called clean energy by 2015 and improving the efficiency of energy usage by 20 percent by 2020. "Clean energy" includes solar, wind, geothermal, biomass, advanced coal technologies, and advanced natural gas technologies.

In January 2005, immediately following the demise of Wyoming House Bill 157, Renewable Energy Commission, the governor's energy policy advisor Steve Ellenbecker encouraged the Wyoming Outdoor Council and the Powder River Basin Resource Council to contact the Western Governors Association and get involved in the WGA's critical work on renewable energy and energy efficiency.

Five representatives of WOC and PRBRC have been appointed to serve on these WGA task forces:

- Advanced Natural Gas:** Mary Bauer, PRBRC
- Energy Efficiency:** Michele Barlow, WOC
- Geothermal:** Jim States, WOC
- Solar:** Scott Kane, WOC
- Wind:** Ronn Smith, PRBRC; Jim States, WOC

In March, these task forces began developing recommendations on how the Western region can best achieve the goals of the "Clean and Diversified Energy Initiative for the West" resolution.

**For more information, including the public meeting schedule, see <http://www.westgov.org/wga/initiatives/cdeac/index.htm>.**

of the public. Commissioners would have held hearings statewide and produced a final report by December 2006.

During the House Minerals Committee hearing, the supporters of HB 157 outnumbered its opponents by a 3-to-1 margin. Still, the committee killed the bill by a wide margin (1 aye, 8 nays) amid criticism that the state does not need to create another commission. ➤

# Trust Fund Established for Wyoming's Wildlife

## *Effort Unifies Varied Interests on Behalf of Wildlife*

By Michele Barlow

Last November in Pinedale, Governor Freudenthal presented a draft bill creating a wildlife trust fund to the Joint Travel, Recreation, Wildlife and Cultural Resources Interim Committee, a group of 14 Wyoming legislators. Freudenthal urged the lawmakers to take advantage of the minerals-driven budget surplus and establish the trust fund during February's legislative session.

"This is a remarkable opportunity... We've always had the time and the talent, but not the dollars, and now we have the dollars," the governor said.

In February, the Wyoming Legislature adopted the governor's vision into law with the passage of the Wildlife and Natural Resource Funding Act.

Over the past six months, Freudenthal stressed that the wildlife trust concept was not his idea, but rather one he had resurrected from Wyoming's political history. The legislature considered – and defeated – wildlife trust bills in 1982, 2002 and 2004.

"Had we acted when this legislation was initially proposed 30 years ago, wildlife in this state would today be living with the benefits," Freudenthal wrote this past January in a Casper Star-Tribune opinion piece.

### **Wildlife Habitat Funding Declines**

According to a recent Wyoming Wildlife Federation report, the demand from Wyoming landowners for wildlife habitat work greatly exceeds government funding and technical assistance. In 2004, the federal Natural Resources Conservation Service, received applications from 190 landowners for \$15.2 million in habitat projects, but funded just 19 projects with \$2.4 million – only 16 percent of the demand. Likewise, wildlife habitat funding from the U.S. Fish and Wildlife Service, the Wyoming Game and Fish Department and local conservation districts has decreased over time.

National private nonprofit organizations raise large sums of money for wildlife habitat work in Wyoming, but their funding fluctuates according to the strength of the national economy. Partnerships with government and landowners are crucial to the Wyoming wildlife habitat work of nonprofit groups. For example, a \$106,000 Wind River and Bull Lake Creek project designed to restore wetlands and riparian habitat for birds, fish and water fowl involved the Bureau of Indian Affairs, Ducks Unlimited, the Eastern Shoshone and Northern Arapahoe tribes, the Natural Resources

Conservation Service, the Popo Agie Conservation District, The Nature Conservancy and the U.S. Fish and Wildlife Service.

### **Governor Signs Wildlife Trust Bill**

On March 8 in Casper, Governor Freudenthal signed into law the long-anticipated bill, Senate File 41, creating a trust fund to protect and restore Wyoming wildlife habitat (see sidebar). At its core, the new law embraces the notion that state revenues should support Wyoming's wildlife and open spaces that we all enjoy.

Efforts to pass SF 41 were led by a diverse coalition of Wyoming residents concerned about the state's abundant wildlife and some of the best wild lands left in America. WOC worked quietly behind-the-scenes to help rally Wyoming conservationists and the Cheyenne-based environmental lobby. Our deliberate teamwork brought us new allies and laid the foundation for future innovative partnerships in the conservation arena. ▶

### **Summary of SF 41**

#### ***What will the law do?***

Preserve Wyoming wildlife habitat through a permanent trust account of up to \$200 million. In March, the legislature seeded the trust account with \$15 million and the income account with \$300,000 (for staffing and administration).

#### ***How will the trust account work?***

The state treasurer will invest the \$15 million appropriated by the legislature. Only the interest income from these investments can be spent. The trust account can be enlarged with federal grants, private donations and legislative appropriations.

#### ***Can people donate real property?***

Yes. Immoveable property such as land, buildings or water rights (if attached to land) can be donated to the state pending approval by the State Board of Land Commissioners.

#### ***What kind of projects can be funded?***

Wildlife and fishery habitat conservation projects; water enhancements projects for wildlife; conservation easement and open space projects; natural resource impact mitigation projects; and wildlife disease projects.

#### ***Who can apply for grant funding?***

Any nonprofit organization or government agency (on condition that project funds do not supplement or replace money in general operating budgets).

#### ***How are grant proposals handled?***

A nine-member management board will establish grant criteria, evaluate proposals and approve projects under \$200,000. A six-member legislative committee will sponsor legislation for any project over \$200,000.

#### ***Can citizens track this program?***

Yes. The management board will submit an

annual report to the governor and legislature by September 1 of every year. The report will include the status of the trust and income accounts as well as wildlife habitat projects.

#### ***What will be accomplished in 2005?***

The governor must appoint the management board, with confirmation by the state senate. (Board members must be Wyoming residents involved in wildlife, agriculture, energy, sporting or tourism.)

The management board can begin their work in July. Between October 1 and November 15, the board must adopt final rules and regulations designed to implement this new law.

By July 15, the legislature must appoint the legislative oversight committee (which was modeled, incidentally, after the legislative committee that sponsors water development legislation).

# New Law Protects Wyoming's Landowners

## Surface Owner Protections Signed into Law after Three Years of Work

By Michele Barlow

Driving through the Powder River Basin en route to my family's ranch last Thanksgiving, my eyes darted back and forth across the mixed grass prairie dotted with Wyoming big sagebrush. As the miles slipped away, my mind increasingly focused on the latest add-ons to this prairie: twisting roads, giant trucks, drilling rigs, wastewater pits, metal buildings and great clouds of dust.

I remember back in 2003, hearing my brother—rancher and veterinarian Eric Barlow—say as he watched the drilling rigs rumble up to a coalbed methane field on a neighboring ranch, "They're gearing up to



Jeff Vanuga

industrialize this area...this is not what I want my land to look like."

Eric's vision has become a reality. The industrialization of the Powder River Basin has moved fast, and without a bird's eye view its boundaries are hard to discern. And while coalbed methane has obviously had positive impacts on Wyoming's economy, the state's open spaces are gradually being diminished, and many landowners have seen their way of life change forever. But now, with the passage of a surface owners protections bill by the Wyoming legislature, landowners who do not own their mineral rights finally have some legal say in the development of oil and gas on their property.

### The Need for Legislative Reform

Forty-eight percent of Wyoming's private land is split estate, which means that different parties own the surface and mineral rights. The rapid pace of coalbed methane development in the Powder River Basin has fueled a growing number of conflicts between surface owners and mineral owners.

The need for legislation to protect surface owners has been apparent for several years now. In most instances of split estate, the mineral owner – often the federal government – has the right to access the land surface to develop the subsurface minerals. This right supercedes those of the property

owner, which is ironic in a state like Wyoming where private property rights are so highly valued. Oil and gas companies commonly strike "surface use" agreements with the landowner; however, these contracts are not required by law. In fact, historically surface owners have had no clear legal rights to coordinate activities or negotiate

payments for surface damage caused by oil and gas development on their land.

### SF 60 Boosts Surface Owner Rights

Widely hailed as an acceptable compromise between landowners and mineral-rights owners, Senate File 60, which Governor Freudenthal signed into law in February, marked the third attempt in three years to address the split estate issue. Much of the bill was modeled after Montana's "Surface Owner Damage and Disruption Compensation Act" – a law that has been on the books since 1981.

Senate File 60, which takes effect this July, contains four key

requirements for oil and gas development on split estate lands:

**Notice** – The oil and gas operator must give a minimum of 30 days' notice to the surface owner before operations can begin. If activity doesn't occur within 180 days, another 30-day notice is required.

**Planning** – The operator and surface owner must attempt "good faith negotiations" to reach a surface-use agreement that addresses protection of surface resources, reclamation activities and payment for damages.

**Compensation** – Damages must be paid to the surface owner for "loss of production and income, loss of land value, and loss of value of improvements" caused by oil and gas development.

**Mediation** – If a surface-use agreement cannot be reached, the parties must engage in dispute resolution. Before operations can begin, the operator must post a bond (\$2,000 per well) to cover potential surface damages.

The U.S. Bureau of Land Management predicts that there may be 76,000 new wells in the state in 10 years. So, the struggle between industry, landowners and government will not disappear. But thanks to the powerful work of citizens' groups – most notably the Landowners Association of Wyoming and the Powder River Basin Resource Council – surface owners will now be at the negotiating table. The Wyoming Outdoor Council has worked with these groups in the past and will continue to as the new law is implemented. ➤

### BY THE NUMBERS: A STATISTICAL SUMMARY OF 2005 LEGISLATION

- 545:** Number of bills prepared for introduction
- 291:** Number of bills killed by the legislature
- 254:** Number of bills sent to the governor
- 2:** Number of bills vetoed by the governor
- 252:** Number of bills signed into law by the governor
- 46:** Percent of bills prepared for introduction and signed into law by the governor

# BLM Halts Drilling in the Riley Ridge Area

## *Outdated Environmental Analysis and Concerns Over the Canada Lynx Require Further Consideration*

By Bruce Pendery

On December 8, 2004, the BLM Pinedale Field Office and Bridger-Teton National Forest sent a letter to Exxon-Mobil Oil Corporation and Wexpro Company informing them that they would not approve new oil and gas drilling permits in the Riley Ridge Project Area until a supplemental environmental impact statement is prepared. This news was welcomed by the Wyoming Outdoor Council, which along with Defenders of Wildlife, has worked for the last three years to convince the agencies new environmental analysis was needed before further development should occur.

The Riley Ridge area is located southwest of Big Piney. A transition zone into the Wyoming Range, Riley Ridge is covered with lodgepole pine, aspen and sagebrush, and is home to Canada lynx, mule deer, elk, moose, and the rare Colorado River cutthroat trout. Riley Ridge is a “working landscape” with a number of existing oil and gas wells, roads, and old clear cuts. It also contains many special features and is popular for hunting and recreation. BLM’s Lake Mountain Wilderness Study Area is on the southwest flank of the ridgeline, and several Forest Service roadless areas are in the vicinity.

The letter to Exxon-Mobil and Wexpro Company, two of the major operators in the area, pointed out that there were significant new issues that had not been adequately addressed in the

21-year-old Riley Ridge Natural Gas Project Environmental Impact Statement, which made moving ahead with more oil and gas drilling inappropriate. These included air-quality issues, impacts to the lynx, a change in the kinds of gas being drilled, and much denser well spacing.

According to the BLM’s letter, the event triggering the agencies’ decision to call a time out while these impacts were analyzed was a “recent influx of proposed oil and gas activity.”

The Wyoming Outdoor Council and Defenders of Wildlife have been tracking and registering issues regarding this exploding development for the last three years. Our primary concern revolves around the lynx, but increasingly we have been pointing out to the agencies that the entire Riley Ridge Environmental Impact Statement—which was a joint undertaking of the BLM and Forest Service in 1984—needs to be updated. In our minds, using that document to justify management actions is the equivalent of someone relying on a 21-year-old medical check-up to make important health decisions.

Apparently the agencies finally heard our concerns and made the right decision to put drilling on hold until the impacts, and ways to reduce them, are adequately considered in a new environmental impact statement. Now the challenge is to be fully involved in the new environmental review process. ▶



Jeff Vanuga

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# Elk Feedgrounds: Protecting Elk or Spreading Disease?

## *Seeking Solutions to Brucellosis in Wyoming*

By Meredith Taylor

When the state lost its brucellosis-free status last year, there was a public outcry to do something to stop the spread of the disease. Ranchers claimed brucellosis was costing them their livelihoods, and they blamed elk for its presence in their cattle. The solutions that have been debated since then include increasing vaccination efforts in the state’s elk herds, testing and slaughtering infected animals, and phasing out feedgrounds. All are controversial, and all trigger emotional responses.

If you clear away the cloud of hype that surrounds the issue, there are practical and realistic options that do not spell doom for either Wyoming’s elk herds or our ranching legacy, but they do require creative, forward-thinking leadership.

In January, the Wyoming Outdoor Council together with the Greater Yellowstone Coalition and the Jackson Hole Conservation Alliance submitted a plan to Governor Freudenthal that offered a solution to the state’s brucellosis problem. The report was entitled *Brucellosis Solutions for Elk and Cattle in Wyoming*. At the

same time, the Brucellosis Task Force presented its findings to the governor.

The two proposals are in marked contrast to each other. The task force’s recommendations include, among other things, a pilot program that would test all the cows in the Pinedale elk herd and slaughter any found to be infected with brucellosis. Our proposal calls for the strategic phasing out of select feedgrounds.

“I’d like someone on the Brucellosis Task Force to explain just what the benefits, if any, are to Wyoming taxpayers, elk hunters, or the Pinedale elk herd from a million dollar fence or test and slaughter project,” says Robert Barrett, a Pinedale elk hunter.

“The test and slaughter program will have a significant impact on the Pinedale elk herd,” says veterinarian Ken Mills, who served on the Governor’s Brucellosis Task Force. “Strain-19 vaccine efficacy in elk is questionable. In fact, no brucella vaccines are great. It will be very difficult to get the infection rate to zero. Unless you do get to zero, you only need one infected elk to reinfect the herd.”

*continued on page 14*



Jeff Vanuga

"Wild" elk peer out through a fence while waiting their turn to be vaccinated for brucellosis.

***What You Can Do:***

Write to the Governor and ask him to support the Brucellosis Solutions for Elk and Cattle in Wyoming. Tell him to call for the gradual phase out of select feedgrounds.

**Governor Dave Freudenthal**

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For more information go to our web site  
[www.wyomingoutdoorcouncil.org](http://www.wyomingoutdoorcouncil.org)

**ELK FEEDGROUNDS** *continued from page 13*

So why is the Brucellosis Task Force promoting the test and slaughter pilot program as a way to deal with the brucellosis problem? That answer is unclear, but on the surface at least it appears that people are too wary of the political consequences of phasing out feedgrounds—both among hunters who fear reduced numbers of elk and ranchers who fear elk on their private lands—to touch.

***Balancing the Needs of Elk and Ranchers***

Feedgrounds are known to concentrate animals and disease. Scientists agree on this. Elk at feedgrounds test anywhere from 8 percent to 54 percent positive for exposure to brucellosis, while among free-ranging elk the rate is as low as zero.

But elk feedgrounds were created for a reason. Ranches now occupy much of the elk's former winter range. Ranchers do not want the animals depredating their property, stealing forage from their livestock, or commingling with their cattle and spreading disease. If the elk are confined to feedgrounds, they wreak much less havoc on the surrounding private property. Ranchers, therefore, want the elk to stay put.

Many hunters are also in favor of maintaining the feedgrounds because they believe eliminating them would cause a precipitous decline in elk numbers. This concern, coupled with those of ranchers, are the reason the solution the Wyoming Outdoor Council and its allies are advocating testing a phase-out program in a select number of feedgrounds before even considering a statewide closure.

We recognize that any phase-out of feedgrounds must be mitigated both to protect private property and to ensure healthy elk populations. In our letter to Governor Freudenthal that accompanied the brucellosis solutions report, we wrote, "While an overnight closing of all feedgrounds would be unacceptable on many fronts, we believe that one of your adopted strategies should address the feeding issues. We propose programs to carefully and incrementally over time eliminate feeding in some of these feedgrounds, which will allow for careful monitoring and adaptive changes based on resource conditions and stakeholder needs."

***Models of Successful Phase-outs***

Feedgrounds have been successfully phased out in Wyoming. The northern Jackson elk herd that winters in the Buffalo Valley is no longer being fed. This action has not brought about any elk die-off, and a variety of tools have been used to protect private property rights and improve habitat in the area. The cow-calf ratios in the Buffalo Valley are among the highest of any segment of the Jackson herds; elk hunting is among the best in the region; and blood tests of hunter-harvested elk indicate that seroprevalence for brucellosis in the herd is nearly zero. Elk also have been weaned successfully of supplemental feeding at certain times at North Piney.

This is the kind of model conservationists point to in the plan we submitted to the Governor. We believe it is most appropriate to phase out feeding in the Gros Ventre Valley where three feedgrounds are currently operating. Three feedgrounds are currently operating in this area. Elk have been fed here for more than 50 years. The main reason for feeding this herd, which is approximately 2,800 strong, has been to keep them away from livestock wintering operations. Today, only three widely dispersed winter ranches are operating in the valley with a total of approximately 150 horses and 85 cattle.

***Test and Slaughter the Only Alternative?***

The Brucellosis Task Force's alternative to our solutions report seems like an expensive and violent option. Building fence lines, testing hundreds of animals, and slaughtering up to 10 percent of the Pinedale herd hardly seems like a model to be used with other infected herds. Nor does it provide any vision for treating other wildlife diseases that spread rapidly among the congregated animals found at Wyoming's feedgrounds.

"This is another costly remedy doomed to fail in achieving any meaningful ecological objective," says Dr. Bruce Smith, a former U.S. Fish and Wildlife Service National Elk Refuge biologist. "Wyoming continues to sidestep the root problem of too many elk on too little habitat and the consequence disease problems and threats that situation engenders." ▶

# Great Divide's Future Now Up to the BLM

## Public Comment Period Closes After Outpouring of Heartfelt Support for Conservation

By Molly Absolon

Out in the Great Divide Country, winter is beginning to loosen its grip on the landscape. Snowdrifts, left by the howling winds and blowing snows, lie like splashes of white paint on the brown palette of early spring. There aren't many people out and about at this time of year; it is too easy to get stuck in the mud or in an unexpected late-season blizzard. If you do venture out, you feel a sense of great peace and solitude. It's hard to imagine the furor that the future of this country has generated over the past winter.

The Bureau of Land Management's Rawlins Resource Management Plan for the Great Divide country was released on December 17 and the public was given 90 days, or until March 18, to comment. As expected, the plan fell far short of what concerned citizens and conservationists had hoped for. So the Wyoming Outdoor Council and its allies—Friends of the Red Desert, Biodiversity Conservation Alliance and others—have spent this past winter in a flurry of activity designed to pressure the BLM into reconsidering its position and opting for more conservation.

"Realistically, we knew the plan would favor oil and gas development," says Tova Woyciechowicz, the Wyoming Outdoor Council's outreach coordinator, who has been traveling across southern Wyoming meeting with citizens, elected officials and civic groups to generate support for conservation.

"But you always hope. Well, our hopes were dashed," she says. "The plan is not balanced. If the BLM goes forward with it, we'll lose some incredible landscape, some critical wildlife habitat, some amazing places to hunt, some important sacred sites, and some special recreation areas to industrialization. My desire to make sure that doesn't happen is driving me."

Woyciechowicz has been working non-stop to gain public support for conservation in the Great Divide, and to promote the Western Heritage Alternative, which was written by concerned Wyoming citizens as a balanced alternative to the BLM's call for



A hiker gazes out over Adobe Town.

development. The Western Heritage Alternative proposes using improved technology to minimize the consequences of oil and gas development. These techniques include, among other things, directional drilling to reduce surface disturbance and to minimize truck traffic between wells, and regulations against well flaring to reduce emissions. The alternative also calls for working with the Northern Arapaho and Eastern Shoshone tribes to ensure their concerns about cultural sites and sacred places are respected. And it asks for protection of important wildlife habitat and wilderness-quality lands.

Community support for the Western Heritage Alternative is growing. At the public hearings, which were held in early February, 70 of a total of 82 speakers who testified said they wanted to see more conservation. Forty-six of those 70 specifically called for the BLM to adopt the Western Heritage Alternative.

The testimony at these hearings was passionate and heartfelt. Ranchers, hunters, recreationists, conservationists, and members of both the Northern Arapaho and Eastern Shoshone Tribes came from across southern and central Wyoming to push the BLM to reconsider its position.

Said Derrick Meeks, a sophomore at Wyoming Indian High School and an enrolled member of the Northern Arapaho Tribe, "The Red Desert has places where our people go to get medicine and pray. There are places out there like a pharmacy, a hospital, even a church. It wouldn't be wise to go into a drug store and destroy medicines that will help people. It wouldn't be right to go into a hospital or church being loud or disrespectful..."

While Harold Schultz, from Riverton, said, "I killed my first elk here. Don't sacrifice these values on the altar of corporate greed. Protect—protect vigorously—critical wildlife habitat from accelerated and overblown development."

In addition to promoting testimony, the Wyoming Outdoor Council worked with Friends of the Red Desert to provide expert comments on the management plan, specifically on the issues of air quality, big game, sage grouse and water. We've worked with civic groups and local governments to educate the public and elected officials. The Wyoming Association of Churches also has come out publicly in support of the West Heritage Alternative.

The books were shut on March 18. A week before the closure, the BLM had already received 10,000 comments. Now we wait while the BLM incorporates these comments into the Resource Management Plan and comes up with a final version. ▶

### ***What You Can Do:***

Write to Governor Freudenthal and ask for him to come out publicly in favor of conservation in the Great Divide and to support the Western Heritage Alternative.

#### **Governor Dave Freudenthal**

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# It's Not Just Water Over The Dam



Michele Barlow

## Courts Rule Army Corps's General Permit Breaks Clean Water Act

The Powder River—once a warm, shallow prairie river—is being changed by the influx of millions of gallons of coalbed methane-produced water.

By Steve Jones

The Wyoming Outdoor Council and our allies have won one for Wyoming's ranchers, wildlife and water quality. In January, federal district court Judge William Downes ruled that the Army Corps of Engineers' general permit for in-stream dams designed for coalbed methane-produced waters were illegal under the Clean Water Act. These dams have been responsible for dumping millions of gallons of polluted water directly into Wyoming's waterways.

"The Court is cognizant of the importance of mineral development to the economy of the State of Wyoming," Judge Downes wrote in his decision. "Nonetheless, mineral resources should be developed responsibly, keeping in mind those other values that are so important to the people of Wyoming, such as preservation of Wyoming's unique natural heritage and lifestyle.

"This Court will not rubberstamp an agency determination that fails to consider cumulative impacts, fails to realistically assess impacts to rangelands, and relies on unsupported, unmonitored mitigation measures," Downes concluded.

The agency determination in question—General Permit 98-08—authorized coalbed methane operators to construct dams across small streams throughout Wyoming to hold water produced in the development of coalbed methane gas. The Corps is allowed to issue general permits when the environmental impacts can be characterized as minimal.

The Wyoming Outdoor Council, together with Earthjustice, the Powder River Basin Resource Council, and the Biodiversity Conservation Alliance, argued the effect of discharging massive amounts of water produced by coalbed methane production in our state's streams was far from minimal. The number of dams involved was also more than minimal, and the produced water was known to contain pollutants that would have lasting impacts on the land and on water quality. Judge Downes agreed.

### What's At Stake?

Coalbed methane gas is released from coal seams when water is pumped from overlying aquifers to the surface. This water may be pumped at a rate of up to 100 gallons a minute. Since 2001, billions of gallons have been pumped from underground aquifers to get at the coalbed methane gas in the Powder River Basin. Much of this water, while suitable for livestock and wildlife, can be harmful when discharged on clay soils and native grasses because of its high levels of sodium. The water also contains varying levels of arsenic, iron, barium and manganese, all of which can pose human health hazards.

"As downstream landowners, we have suffered damage to the soil and vegetation on our ranch from coalbed methane in-channel water pits. We hope [this decision] will help stop the irresponsible development of coalbed methane," says Bernadette Barlow, a rancher and longtime Wyoming Outdoor Council supporter.

Besides the impacts to ranchers, unique fish and aquatic plant communities in Wyoming's streams are also threatened by coalbed methane-produced water. The Powder River is one of the last remaining undammed prairie rivers in North America and contains some rare native fish. Little is known about the effects of polluted coalbed methane water on these species.

As a result of the district court ruling, operators will no longer be able to build new dams in waters of the United States anywhere in Wyoming until the Corps properly considers the impacts of the action.

"It feels good to have Judge Downes agree with our position after all these years," says the Neil Levine, who worked on the case for Earthjustice. "It's been a long battle. I'm happy the court is holding the Army Corps responsible for their actions and for the implications of these actions on the land, people and water affected by coalbed methane development."

### What's Next?

Judge Downes' ruling could affect plans for water disposal in connection with an additional 35,000 wells yet to be drilled in the Powder River Basin.

The Corps could still issue a general permit if it takes into consideration all of the factors they failed to consider when they first issued the permit as outlined in Judge Downes' ruling. But for now the Corps must undertake a substantial review of each dam and prohibit dams that do not comply with the Clean Water Act. ♣





# AROUND WYOMING

HIGHLIGHTS OF PROGRAM WORK AT WOC

## POWDER RIVER BASIN

***Pennaco Decision Changing the Way BLM Does Business.*** The BLM has announced that it will prepare two environmental assessments considering coalbed methane development in the Powder River Basin as a result of Wyoming Outdoor Council's successful litigation.

The Wyoming Outdoor Council and the other groups active in the original Powder River Basin coalbed methane litigation (*Pennaco Energy, Inc. v. USDI*) submitted extensive comments on these environmental assessments. In addition, together with the Powder River Basin Resource Council, we have initiated a new lawsuit challenging coalbed methane development in the Powder River Basin in order to impress on BLM that it cannot limit the scope of the Pennaco decision to the extent it seems to want to. *Contact: Bruce Pendery*

***Arguing for Aquatic Life.*** In February of 2005, the Wyoming Environmental Quality Council heard arguments from the Wyoming Outdoor Council concerning the Department of Environmental Quality's permitting scheme for coalbed methane water. The department has attempted to ease restrictions on the discharge requirements for coalbed methane-produced water by classifying the reservoirs into which the water is dumped as Class 4C (an industrial classification that does not require protections for fish or aquatic life). The case is now going on to a hearing. *Contact: Steve Jones*

***DEQ Trying Watershed Planning in Powder River Basin.*** The Wyoming Department of Environmental Quality has established two watershed-based stakeholder groups in the Powder River Basin to provide input on how to dispose of millions of gallons of coalbed methane produced water. The Wyoming Outdoor Council is representing the conservation community on one of these committees, while the Powder River Basin Resource Council is serving in this capacity on the other. The stakeholders group may end up being a model that is applied to other watersheds experiencing coalbed methane development across the state. *Contact: Steve Jones*

## THE RED DESERT

***Pushing for National Conservation Area Protection for Jack Morrow Hills.*** The BLM still has not ruled on the extensive protest to the Jack Morrow Hills Environmental Impact Statement filed by the Wyoming Outdoor Council and others last August. This means the BLM's new management plan for the area, which could lead to greatly accelerated oil and gas development, has not yet taken effect. We have recently launched a major campaign with a number of other conservation groups seeking designation of the Jack Morrow Hills as a National Conservation Area by Congress. *Contact: Bruce Pendery*

## GREATER YELLOWSTONE

***Wyoming Range Leasing Resurfaces.*** The Bridger-Teton National Forest is still considering oil and gas leases in the Forest around the Wyoming Range, despite opposition from Governor Freudenthal and Senator Thomas that stopped proposed leasing last fall. The Wyoming Outdoor Council continues to monitor developments here and will work with various partners to put pressure on Forest Supervisor Kniffy Hamilton to listen to public concerns and protect the area from oil and gas development. *Contact: Bruce Pendery*

***Balancing Ranching and Wildlife.*** The Bridger-Teton National Forest has gone back to the drawing board after an appeal brought by the Wyoming Outdoor Council and Greater Yellowstone Coalition revealed serious shortcomings in the new grazing regulations for the Upper Green River Valley proposed in the Forest's Upper Green Allotment Management Plan. After considering our concerns, the Forest Service agreed in February to do additional environmental analysis.

Our primary concern was that the plan would allow for increased livestock use and more livestock watering facilities in the project area. The Upper Green is already struggling with conflicts between

wildlife and livestock. In 2002, the area was identified as one of six geographic areas in the Greater Yellowstone Ecosystem with a high number of grizzly bear/livestock conflicts. In addition, tenuous migration corridors linking summer ranges for pronghorn, mule deer and elk with their winter range in the Upper Green River Valley are already threatened by oil and gas development; increased livestock pressure in the area will only exacerbate the problem. Also, the Upper Green contains one of the last strongholds of sage grouse and is the headwaters of streams critical to native cutthroat trout. All these attributes are threatened by poorly managed grazing.

We are working now to find solutions to the problems cited in the appeal. If our recommendations are applied, the Bridger-Teton National Forest could provide adequate forage for wildlife habitat on the Upper Green while still allowing for responsible livestock grazing. *Contact: Meredith Taylor*



A small band of pronghorn make a biannual pilgrimage between Grand Teton National Park and the Upper Green River Valley, the longest migration path still in use in the lower 48.

Jeff Vanuga

***Protecting Historic Migration Corridors.*** The Wyoming Outdoor Council has joined a coalition of groups working toward having the big-game migration paths that weave through the Greater Yellowstone Ecosystem added to the National Trails System as a National Historic Migration Trail. The Migration Trail would be the first designated wildlife migration corridor in the world; it would protect the longest big-game migration route in the continental United States; and it would protect the ecological integrity of Greater Yellowstone by allowing for free movement for elk, mule deer, and pronghorn between their summer and winter ranges. *Contact: Meredith Taylor* ▶

## Terry Rasmussen's Love For Nature Drives her Activism

### Casper Writer and Educator Joins Board of Directors



Courtesy Terry Rasmussen

two children, Jess and Ryan.

"What I love best about Wyoming are the surprises you find on and off the trail," Rasmussen says. "And like many, I grieve the loss of these special places to development."

Rasmussen, who teaches composition and creative writing at Casper College, joined the Wyoming Outdoor Council's Board of Directors this past winter to become more actively involved in protecting Wyoming's wild and pristine places.

"I have explored many of the mountains and canyons that grace this state," Rasmussen says. "Each new hike deepens my conviction that there is much in Wyoming worth saving. But each morning, as I scan the Casper Star-Tribune headlines, my disappointment grows. Since grumblings rarely prove productive, I am determined to better educate myself so as to constructively participate in environmental action."

Rasmussen is a writer—both a poet and non-fiction essayist—whose work has appeared in numerous literary magazines. For the past few summers, she rented a

place near the Washakie Wilderness to work on a book on women and wilderness. One of her classes at Casper College is a nature-writing seminar that involves hiking and journaling in the backcountry of Yellowstone. She served a four-year term on the Wyoming Humanities Council and is a member of the Governor's Non-point Source Task Force Committee.

In regards to shifting some of her focus from the humanities to environmental causes, she says, "Our attitudes toward the Earth say a great deal about the values that define us, our very humanity. The growing lack of respect toward the Earth suggests, in my mind, a dwindling respect for ourselves and for each other.

"The challenge is to convince our neighbors and lawmakers that environmental arguments are logical. It is all too easy to apply the label tree-hugger to someone and dismiss her position as overly emotional. As a poet, I'm easily moved by a strictly emotional plea, but I realize such sensibilities rarely sway the masses." ▶

One of Terry Rasmussen's fondest memories from childhood is of trotting up a mountain trail behind her father, who spent his summers serving as a park ranger in the West, listening as he pointed out a sego lily to the panting tourists that followed.

Even then, she loved the drama of nature that unfolded alongside the trail. That love called her back to the West, and in 1992, after graduating with an M.A. in English from Iowa State University, she moved to Casper with her husband Ronnie and their

## Remembering a Former Board Member

### Dave Nicholas Known for His Commitment to Public Service

By Barb Parsons, WOC Board Member

The Wyoming Outdoor Council was deeply saddened to learn of the death in Ukraine of David Nicholas, 64, who served on the Wyoming Outdoor Council Board in the mid 1980s.

Throughout his long and distinguished career as a public servant, Dave demonstrated how much he cared about people. He was a state senator from 1979 until 1986 and served as a justice of the peace and a city attorney prior to that. He also taught at the University of Wyoming before being tapped in 1989 by his childhood friend, then Secretary of Defense Dick Cheney, to serve as defense advisor to the U.S. Mission to NATO. He received the Distinguished Public Service Award for his work there.

While on the WOC board, Dave advocated adopting an envi-

ronmental "Bill of Rights" that would entitle every Wyoming citizen to clean air, water and land. He was preparing this legislation when he was called to work overseas. Dave went on to serve as the representative of the U.S. Secretary of Defense to the Organization for Security and Cooperation, OSCE, in Vienna until March 2003. He was then appointed OSCE project coordinator in Ukraine. Colleagues in the Ukraine say he contributed a great deal to the ultimate success of Ukraine's elections last fall. *continued on page 19*



OSCE

# New Board Member Sandy Shuptrine Committed to Community Service

*Jackson Resident Dedicates Time and Energy  
to Helping Make Wyoming a Better Place*

Sandy Shuptrine, considers herself a 20th century immigrant. She followed her dreams of open space and living close to the land to Wyoming more than 30 years ago. Now she lives with her family south of Jackson. Shuptrine joined the Wyoming Outdoor Council Board of Directors this past winter.

"Every member of my family deeply values their Wyoming home," Shuptrine says. "We've work hard to create a livelihood so we can stay. We take nothing for granted about our lives here and appreciate Wyoming's natural assets."

Shuptrine and her husband Dick live in a passively heated solar home they built south of Jackson. Her daughter, son-in-law and grandson live nearby in a "green" home—independent of the power grid—which they built with help from family and friends. Dick supplies organically grown produce to family and the larger community through the local Farmer's Market and puts elk in their freezer. The Shuptrine's son is currently working for a film and TV production company in Vietnam.

Since settling in Teton County in 1971 when it was a sleepy rural area that was just beginning to feel development pressures from Jackson's new ski resort, Shuptrine has discovered her passion lies in environmental and community work. She has been involved in initiatives such as land-use planning, recycling, open-space conservation, the League of Women Voters, and wildlife preservation. She has worked as the founding director of a non-profit childcare program, as a school bus driver, as a manager in her husband's small business, with the Jackson Hole Conservation Alliance, as a certified childbirth educator, and for 12 years as a county commissioner.

After retiring from the county commission two years ago, Shuptrine established a consulting business, Pathfinder Services,

which works mostly with non-profits and governments to provide facilitation, strategic planning, mediation and project implementation. For the past several springs, she has also served as a volunteer river ranger with the BLM on the San Juan River.

Shuptrine feels that her primary contract through Pathfinder Services is almost like a dream come true. She is the coordinator of the Greater Yellowstone-Teton Clean Cities Coalition, the mission of which is to displace foreign petroleum products with renewable, more efficient fuels, and to improve air quality in the process.

"I am an admirer of Amory Lovins' philosophy that, yes, we CAN make a difference in energy consumption by our own individual actions," Shuptrine says.

"We are working together to create public access to biodiesel, ethanol and other emerging technologies that are easier on the environment and more efficient," Shuptrine says. "We can bridge the gap to a better future by making a 10 percent dent in consumption here, a 15 percent dent there, and pretty soon we will be making the necessary transition to other sources of energy as oil supplies decline and national security is threatened."

Shuptrine has been a long-time member of the Wyoming Outdoor Council, as well as other organizations such as the Equality State Policy Center. She says, "In the past, I have relied upon the Wyoming Outdoor Council to represent my interests and to safeguard the future of Wyoming. Now I look forward to being part of that work as a new member of the board." ▶



Courtesy Sandy Shuptrine

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REMEMBERING *continued from page 18*

Dave offered insight and wisdom to our organization. He was a brilliant man. At one point, I remember discussing his need to reduce his stress with him. The next time I saw him, he said that he had found a solution: he was learning Chinese. His fantastic language skills in German, Russian and Chinese served him well as an ambassador of his country.

But there was a lighter side of Dave. He had a great sense of humor and added levity to our discussions. At a meeting when I lamented that Rodger McDaniel and I were the only Democrats on the WOC board, Sue Simpson, Al Simpson's daughter piped up, "I'm a registered Democrat too!" Dave's jaw dropped a mile, and then he quipped, "That's just goddamn youthful rebellion."

Once when we were talking about childhood friendships and how lasting Wyoming friendships often are, Dave mentioned his childhood friend Dick Cheney and how much that friendship had

meant to him. At that time I'm sure he didn't have any inkling that Dick would become Secretary of Defense and later Vice President. And, how that would change Dave's life also.

Dave will be missed by his many friends and associates; he left a rich legacy of how to care and work for others.

Governor Dave Freudenthal said in a prepared statement following the announcement of Dave's death, "Dave was a truly fine legislator with a remarkable attention to detail and a real sense of the future of the state, as seen in his support of creating a wildlife trust when it was first proposed 25 years ago."

"He continued to do his home state proud with an influential career in international diplomacy. Dave was someone I tremendously enjoyed working with over the years. Our condolences go out to his family and friends, of which there were many. The state of Wyoming has never had a better friend than Dave Nicholas." ▶

## THE WYOMING OUTDOOR COUNCIL WOULD LIKE TO THANK THE FOLLOWING:

**Jeff Vanuga and John Fandek** for donating their beautiful photographs for use in our publications.

**George Grossman** for donating time working on film projects.

**Tom Jones** for donating a refrigerator for use at our Lander office.

**Louis Espinoza Sr.**, Rawlins City Council member, for representing conservation bravery in the Great Divide.

**Daniel Sisneros**, Rawlins railroad engineer, for taking the time to speak up in support of conservation in the Great Divide.

**Crit Caleb** for his grassroots work organizing a rally in Cheyenne in support of conservation in the Great Divide.

**Phil Polzer** for serving as a volunteer bartender at the WOC/Equality State Policy Center reception in Laramie and for running various errands throughout the weekend for the Board of Directors meeting.

The entire **Wyoming Outdoor Council Board of Directors** for their time and energy throughout the year.

LightHawk volunteer pilots **Stan Bialek** of Aspen and **Larry Swanson** of Salt Lake City for providing a media overflight of the Great Divide for Friends of the Red Desert.




(l-r) **Donn Kesselheim, Tom Bell, Barbara Oakleaf, Mark Watkins, and Jeremy Wheatley** (not pictured) for making calls to members and supporters about the Rawlins Resource Management Plan public meetings.

*Thanks to you all!*



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