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From: Mark Harison [mailto:mharison@starband.net]
Sent: Wednesday, September 11, 2002 9:41 AM
To: bob.middleton@hq.doe.gov
Subject: Access Concerns

Bob,

I am attaching a copy of a letter I sent to my congressman, Brad Carson. Despite being a Democrat Brad is very pro access. This letter summarizes my experience, unfortunately its in Word Perfect 5.1 so you may have to work a little to get it open. One other point that I would like to emphasize is that the BLM has failed to issue the Statements on Adverse Energy Impacts requires by EO 13211. My discussions with Utah personnel in July, they said they are still waiting on a policy from Washington before doing this.

Thanks.

Mark

August 28, 2002

The Honorable Brad Carson
Congressman, OK-2
317 Cannon Bldg
Washington, DC 20515

RE: Access to Public Lands

Dear Brad:

Over the past few months, the subject of national forest management and wildfire prevention and control have been major news stories. These stories have highlighted the conflict over access to public lands between the environmentalist movement and commercial interests. There exists a similar conflict over the issue of access to public lands for the purpose of oil and gas development. I believe this issue is of much greater strategic and national importance, especially as our nation prepares for an armed conflict in the Middle East which will threaten over half of the energy resources on which our economy depends. As a member of the House Resources Committee which is charged with oversight of federal land policy, I thought it might be informative for you to see first hand an example of one of your constituent's experiences in dealing with this issue.

In late 1999, I met with two geologists to discuss their proposal to identify potential oil and gas exploration prospects in the state of Utah. A majority of the land in the state is owned by the Federal government. Despite recognition of Utah's potential for containing significant reserves, it is also known as a hotbed of environmental activism, and a major issue in our discussion was how to avoid conflicts with the environmentalists, who have been notably successful in blocking major oil companies from acquiring seismic data or drilling exploratory wells.

In order to avoid these conflicts, we relied on a 1999 BLM publication which contained the current inventory of approximately 9,000,000 acres of proposed wilderness areas. Our intention was to analyze only those regions which were outside of these areas. During the next two years, existing data was compiled and analyzed and new remote sensing data was acquired. By mid-2001 we had identified three prospects which appeared worthy of leasing. Each of these prospects has the potential to produce in excess of 50,000,000 barrels of oil.

Our attempt to lease the first prospect ended when we were informed by the BLM that no leasing could occur until an environmental impact study was completed. Due to staffing inadequacies this study would not be completed until approximately 2005. However, we were encouraged to nominate leases on the remaining two prospects by BLM personnel, who told us that there were no known impediments to their ability to issue these leases at upcoming auctions.

We proceeded to make substantial deposits on a second prospect in order to nominate the leases for the November, 2001 auction. Just prior to the auction, the leases were withdrawn. We were informed that a "citizens group" had protested our application based on their claimed wilderness character of these lands, and therefore the lands were ineligible for leasing pending the completion of a wilderness inventory study. This study was instituted early this year and was due to be completed by this date, but we have not been provided with the final document. However, we have been informed that the wilderness specialists within the BLM have characterized this area as having "probable wilderness character" and that it will therefore not be leasable at the current time. A new Resource Management Plan for our area is currently scheduled to be produced at end of 2003. This plan would provide detailed guidance of the use of federal land, including conditions and prohibitions on oil and gas leasing. We were encouraged to give our input to the new plan, but this would involve disclosing our confidential prospect information, which would then create unwelcome competition should the acreage ever be offered at auction. This turns out to be a classic Catch-22 situation.

The "citizens group" is the Southern Utah Wilderness Alliance (SUWA) a group composed of over 14,000 members, the overwhelming bulk of which are not citizens of Utah, with an annual budget of over \$2,000,000. This group has been the main proponent of the "America's Redrock Wilderness" bill which has been introduced into every Congress (Rep. Hinchey D-NY and Sen. Durbin D-IL) for over fifteen years, without action. Each time it has been introduced, additional lands have been added. The 1999 BLM Wilderness Inventory included all of the 9,000,000 acres listed in the 1997 bill and it turns out that the 1999 version of the bill added our second prospect area. SUWA is affiliated with the Natural Resources Defense Council (NRDC), a \$50,000,000 environmental group in and another group the Utah Wilderness Coalition (UWC).

These groups also filed suit against the BLM seeking to cancel Utah leases issued in the September, 2001 auction based upon various environmental grounds. This suit is slowly winding through the courts, and in the meantime the lessees are prohibited from exploring on leases for which they paid substantial sums.

Our third prospect turned out to be partially within a new wilderness area proposed in the 2001 version of the Redrock bill, which has now grown to over 11,000,000 acres. After evaluating the prospect we have determined that we may be able to economically develop the external portion of the prospect and have nominated those leases. We are anticipating opposition from SUWA, which will likely involve a last minute protest prior to the upcoming November auction followed by the expansion of the Redrock bill in 2003 to include the leases in our area of interest.

We have had meetings and numerous conversations with both the wilderness and the leasing personnel and feel that the BLM is sincerely attempting to reconcile these two interests. I believe that the main impediments to the prudent development of existing oil and gas reserves are the existing regulatory policies of the BLM. The governing law, the Federal Land Policy and Management Act of 1976 (FLPMA), mandates multiple uses of public lands. However, at the current time the BLM is operating under several policies that provide wilderness concerns a preference over any other uses of public lands. These policies were put into place in the very last days of the Clinton administration and prohibit the BLM from doing anything on proposed wilderness lands that could affect wilderness character. Any person or organization can propose lands as wilderness areas as long as they meet very broad criteria. The area is then required to be treated as wilderness until an eventual determination of having wilderness character is made, even if not officially designated by law. In this way the pending Redrock Bill has already accomplished its objective of blocking alternative uses of these public lands.

Furthermore, "Wilderness Character" appears to be a concept subject to continual redefinition as time goes by. This problem is best embodied by the response of a BLM wilderness staff member to a facetious comment we made that "it seems that any area outside of Salt Lake City could meet current wilderness requirements". With a straight face, the staff member responded "That's right".

Wilderness appears to be an organic and changing concept, not only

through redefinition, but as an entity itself, and according to BLM policy, may be even be a renewable resource. For example, our second prospect area was evaluated in the 1970's and found not to have wilderness character. The current analysis of the wilderness character of this area included comments indicating that many of the signs of human impact present in the prior study have been reclaimed by nature over the years and therefore wilderness character has been restored. If this concept is objectively utilized, then oil and gas activities, if properly reclaimed after depletion, would not permanently damage the wilderness character of these lands. Unfortunately, current regulations do not permit man to help restore or reclaim wilderness; this must be accomplished by "natural" processes. This is the also key concept currently being argued in the forest management controversy.

The Utah congressional delegation is unanimously opposed to the Redrock Bill. As you know, Congressman Hansen is chairman of the Resources Committee but is retiring after this term. Wilderness designation is antithetical to any type of economic activity, and it makes an area off limits to any type of recreation which requires tools or mechanical devices, including bicycles. Wilderness areas may only be entered on foot or horseback. Most of the Utah areas are waterless, so actual use of these areas for what is termed "primitive and unconfined recreation" is limited by logistics.

BLM has no studies to use in balancing wilderness needs against alternative uses of public lands. It has no statistics on current use of proposed wilderness lands for "primitive and unconfined recreation" nor studies of projected use as after official designation as wilderness. Likewise, there has been no determination of the total amount of wilderness area that is appropriate. Without a doubt, some of the proposed areas have unique beauty, but many of the areas are quite ordinary or even desolate and uninviting. Unfortunately, the visual qualities of an area are not definitive for wilderness designation under current regulations and policies. For all practical purposes, a proposed wilderness area becomes useless immediately, despite not having been designated as such by law.

President Bush issued two Executive Orders in May, 2001 instructing executive departments and agencies to expedite projects to increase the production, transmission and conservation of energy and requiring agencies to prepare a "Statement of Energy Effects" for any decision that adversely effects these activities.

The statement is also to present reasonable alternatives to such decisions. No such statements have been issued on our projects and it is my understanding that, to date, the BLM has issued no such statements at all, claiming they are still formulating a policy to insure uniformity among states.

I am currently planning on being in Washington the week of September 16 to meet with members of the BLM, Department of Interior, and the Administration to express my concerns as to these wilderness issues. I would appreciate it if you could help identify any other specific parties that I could meet with that would be helpful in effecting changes to policies that would permit a balanced use of public lands.

Sincerely,

CARSON1A