



## WYOMING LEGISLATIVE SERVICE OFFICE

# *Issue Brief:* *Federal Land Ownership and Restrictions*

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by:

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### **PURPOSE**

Summarize lands owned by the federal government in Wyoming, identifying those with restricted status, particularly relating to mining activities.

### **RESULTS IN BRIEF**

As of September 30, 2002, the federal government owned 31,530,863 acres in Wyoming, or 50.6 percent of the total area within the state. The vast majority of lands are owned by federal resource agencies: the National Park Service (NPS), U.S. Forest Service (USFS), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), and Fish and Wildlife Service (FWS). A share of the owned lands has been withdrawn, or restricted, from one or more types of uses. Although several of these federal agencies cannot provide summaries of the lands with restrictions (through congressional, administrative, and lease provisions), the General Services Administration (GSA) reported in 1995 that more than 7.4 million acres, or about 23 percent, of federally managed land in Wyoming was encumbered for "conservation purposes."

### **BACKGROUND**

In 2002, Wyoming ranked fifth among all states in the proportion of land owned by the federal government. Nine major federal agencies own land within the state of Wyoming. The vast majority (99.9 percent) is owned by the federal resource management agencies within the Departments of Agriculture and Interior. (See table 1 for an accounting of total federal lands in Wyoming.)

A variety of restrictions on land use and mineral development activity are regularly imposed on federal lands. These restrictions include congressional designations, executive orders, administrative orders, and numerous types of leasing stipulations and limitations. Even in the event federal land is open to mineral development, numerous regulations and permits relating to water quality, air quality, wildlife, and the preservation of historical/cultural resources must be obtained. As a result, comprehensive information on federal land status, summarized by state, is limited.

**Table 1. Federal Land Ownership, by Agency**

Agency	Rural Acres	Urban Acres
Agriculture	9,715,625	2
Air Force	21,550	716
Army	8,864	33
Energy	9,646	33
Interior	21,726,694	46,672
Navy	0	2
Transportation	43	589
Postal Service	0	47
Veterans Affairs	296	51
<b>TOTAL</b>	<b>31,482,718</b>	<b>48,145</b>

**Source:** LSO tabulation of GSA unpublished data as of Sept. 2002.

### **SUMMARY OF FEDERAL LAND OWNERSHIP**

A sizeable amount of the lands owned by the federal resource management agencies has either been congressionally or administratively restricted from certain activities. Table 2 provides a general outline of the acreage, date of designation, and special land status, where summary information could be identified.

**Table 2. Summary of Federal Land Designations.**

<u>Area</u>	<u>Date of Designation</u>	<u>Acres</u>
<b>USFS (total acreage, not excluding Wilderness Areas)</b>		
Ashley	1908	92,721
Bighorn	1906	1,112,216
Black Hills	1907 (From a reserve)	175,380
Bridger/Teton	1908 (From a reserve)	3,413,837
Caribou	1907 (From a reserve)	6,868
Medicine Bow	1902	1,230,300
Shoshone	1891 (Reserve)	2,428,400
Targhee	1908 (From a reserve)	294,264
Wasatch	1906	37,761
Thunder Basin (Grassland)	1960	549,225
<i>Wilderness Areas (TOTAL ACREAGE, NOT LIMITED TO WYOMING)</i>		
Absaroka-Beartooth	Mar. 27, 1978 (initially)	23,283
Bridger	Sept. 3, 1964 (initially)	428,087
Cloud Peak	Oct. 30, 1984	189,039
Encampment River	Oct. 30, 1984	10,124
Fitzpatrick	Oct. 19, 1976 (initially)	198,525
Gros Ventre	Oct. 30, 1984	317,874
Huston Park	Oct. 30, 1984	30,588
Jedediah Smith	Oct. 30, 1984	123,451
North Absaroka	Sept. 3, 1964	350,488
Platte River	Oct. 30, 1984	22,749
Popo Agie	Oct. 30, 1984	101,870
Savage Run	Feb. 24, 1978	14,927
Teton	Sept. 3, 1964 (initially)	585,238
Washakie	Sept. 3, 1964 (initially)	704,274
Winegar Hole	Oct. 30, 1984	10,715
<i>Game Refuges &amp; Wildlife Reserves</i>		
Sheep Mountain Game Refuge	Aug. 8, 1924	28,355
<i>Wild &amp; Scenic Rivers</i>		
Clarks Fork Canyon National Wild River	Nov. 28, 1990	9,605
<i>Recreation Areas</i>		
Flaming Gorge	Oct. 1, 1968	95,517
<b>U.S. Fish and Wildlife</b>		
National Fish Hatchery (Saratoga)	1915	120
National Fish Hatchery (Jackson)	1950	41
Seeds-kadee National Wildlife Refuge	1965	26,382
Cokeville Meadows National Wildlife Refuge	1993	26,000
National Elk Refuge	1912	24,700

<u>Area</u>	<u>Date of Designation</u>	<u>Acres</u>
<b>Park Service</b>		
Bighorn Canyon National Recreation Area	Oct. 15, 1966	31,565
California National Historic Trail	Aug. 3, 1992	1,088
Devils Tower National Monument	Sept. 24, 1906	1,347
Fort Laramie National Historic Site	July 16, 1938	831
Fossil Butte National Monument	Oct. 23, 1972	8,198
Grand Teton National Park	Feb. 26, 1929 (initially)	307,654
John D Rockefeller Jr Memorial Parkway	Aug. 25, 1972	23,777
Mormon Pioneer National Historic Trail	Nov. 10, 1978	511
Oregon National Historic Trail	Nov. 10, 1978	491
Pony Express National Historic Trail	Aug. 3, 1992	540
Yellowstone National Park	March 1, 1872	1,999,297
<b>Bureau of Land Management</b>	No summary data of special land status.	
<b>Bureau of Reclamation</b>	No summary data of special land status.	

**Source:** LSO compilation of federal agency supplied data.

### LAND MANAGEMENT DESIGNATIONS

Most of the lands owned by the NPS, FWS, and BOR are restricted for conservation (and water development) purposes. Alternatively, lands owned by the USFS and BLM are open to multiple uses and generally not restricted. In all cases, land can be restricted administratively or through congressional action. Notably, Congress approved the Wilderness Act in 1964, restricting many activities, including mining and grazing, on designated lands. However, a conservation restriction does not, necessarily, prohibit all activities (including mining) on those lands. For example, in the event valid mineral development rights have been established, or more precisely if the land was patented prior to a wilderness designation, mining may still be permitted. According to a 1995 General Accounting Office (GAO) report, over 7.4 million acres, or about 23 percent of federally managed land was encumbered for conservation purposes. The term "conservation purposes," however, applies broadly and may not accurately convey the variety restrictions in each federal agency.

Lands managed by the BLM and the USFS, which primarily own lands that are often not restricted, have two designations at the most general level. "Public domain" lands are those lands always owned by the federal government, and "acquired

lands" are lands that have been patented and then reacquired by the federal government.<sup>1</sup> Public domain lands are generally open to mining under federal mining law. Acquired lands are not covered by the same federal mining laws. Further, federal laws, primarily in the 1960s and 1970s, including the National Environmental Policy Act (NEPA), Wilderness Act, and National Forest Management Act may impose a variety of additional management constraints and restrictions on federal lands.

As a final caveat on land designations, this report focuses on surface land ownership by the federal government. The subsurface may or may not share the same owner. If the same owner is not shared, these lands are referred to as "split estates." Split estates may develop through a variety of circumstances. First, at the time the surface was patented out, the federal government may have reserved the mineral rights. Conversely, some acquired lands may not have included the transfer of mineral rights at the time the federal government assumed ownership of the surface area. Finally, the federal government may have acquired a portion of the mineral rights (such

<sup>1</sup> There are certain circumstances under which acquired lands can revert to public domain status; the general descriptions here may have some exceptions.

as oil and gas only) but not others. The last of these instances are referred to as "split mineral estates."

#### LAND MANAGEMENT BY FEDERAL AGENCY

National Park Service: The NPS manages about 2.4 million acres in Wyoming, or almost four percent of Wyoming's land area. Two parks, four historic trails, two monuments, one historic site, a parkway, and a recreation area are at least partially found within Wyoming's boundaries. The largest, Yellowstone National Park, accounts for about 84 percent of the total NPS land area. Again, lands managed by the NPS are generally restricted from mining.

U.S. Forest Service: While the USFS may very well have the best summary information of all federal land management agencies for this particular project, significant assumptions and generalities still apply. Table 3 provides a snapshot of four categories of restrictions on USFS lands. It is important to note, however, that this summary is not entirely complete. For example, it is technically possible that lands within a Wilderness Area are, in fact, open to mining, if the land falls into the category of "acquired land" and the federal ownership did not include the transfer mineral rights with the surface rights. Nonetheless, according to USFS data, it appears roughly 30 percent of USFS land is likely closed to at least some form of mining activities.

**Table 3. Mineral Restrictions on USFS Owned Land.**

Forest	Restrictions (acres) <sup>1</sup>			Subtotal: Restricted Acres	Unrestricted
	All Minerals	Some Form of Minerals	Wilderness and Wild and Scenic Rivers		
Ashley <sup>2</sup>	NA	NA	NA	86,529	6,192
Bighorn	21,648	0	210,690	201,686	879,878
Black Hills	0	1,400	0	1,400	173,980
Bridger/Teton <sup>2</sup>	NA	NA	NA	1,286,884	2,333,985
Caribou <sup>2</sup>	NA	NA	NA	0	4,770
Medicine Bow	38,250	6,500	78,400	123,150	1,107,150
Shoshone	15,000	98,527	1,358,475	1,472,002	956,398
Targhee <sup>2</sup>	NA	NA	NA	109,672	9,522
Wasatch	435	0	0	435	37,326
Thunder Basin (Grassland)	0	0	0	0	549,225
<b>TOTALS</b>	<b>326,143</b>	<b>1,105,723</b>	<b>2,209,798</b>	<b>1,798,673</b>	<b>5,699,318</b>

**Notes:** 1) Due to the design of the USFS database structures, some multiple restrictions on the same parcel of land may result in limited double counting. As a result, "remaining acres" (or those lands without restrictions) may be understated.

2) For USFS lands in Region 4, restriction acres are not available by separate designation. As a result, restricted acreage in those areas are consolidated.

**Source:** LSO computation of USFS unpublished data, Sept. 2003.

Bureau of Land Management: In federal fiscal year 2002, the BLM owned 18,354,151 acres in Wyoming. According to the BLM annual report, some areas are administratively withdrawn from certain activities, such as locatable mining, on an annual basis. Mineral leasing (for coal, oil and gas) is generally not affected by BLM administrative withdrawals. Additionally, the BLM staff may determine whether coal mining is

"suitable" in certain areas, provide for special stipulations in oil and gas leases, and limit all mineral development in specified areas, such as wilderness study areas. The internal records of the BLM cannot immediately identify, in summary format, the total acreage of land owned by the BLM with restricted status.

Fish and Wildlife Service: As the summary in Table 2 illustrates, the total number of acres in the major refuges and hatcheries is 77,243 acres. FWS does manage grazing on some of their land and has also acquired land where the mining rights are outstanding or easements with limited rights. Therefore, oil and gas could be extracted by a private entity after the FWS issues a site location permit on certain FWS lands.

Bureau of Reclamation: According to BLM records, the BOR owns 818,144 entitlement acres. The BLM administers most leases on BOR property, and like the BLM, the BOR cannot identify, in summary, the total amount of acres with restrictions on their property.

### **OIL AND GAS DEVELOPMENT: CASE STUDIES**

In January 2003, a consortium of the federal departments prepared an inventory of oil and gas

resources on federal lands in five study areas. Specifically, the research included the areas of the Green River and Powder River Basins. Both study areas include substantial property in neighboring states and are not inclusive of all property in Wyoming or all types of mineral resources. In the two study areas combined, eight percent of the land, including six percent of the recoverable oil and seven percent of the recoverable gas are associated with federal lands closed to leasing. Another 20 percent of the recoverable oil and gas in the two Basins is found on federal land that would be open to leasing, only with restrictions. Table 4 summarizes the information from the report, and Attachment A includes an excerpt of the report findings for the two relevant study areas.

**Table 3. Land Ownership, Restrictions, and Recoverable Oil and Gas for the Greater Green River and Powder River Basins.**

Ownership/Land Status	Percentages		
	Land	Recoverable Oil	Recoverable Gas
<b>Federal (Total)</b>	50.1%	64.3%	68.6%
<b>Closed to Leasing</b>	8.1%	6.2%	7.0%
<b>Leasing w/ Restrictions</b>	18.0%	20.3%	20.0%
<b>Leasing w/ Standard Terms</b>	24.0%	37.7%	41.7%
<b>Non-Federal</b>	49.9%	35.7%	31.4%

**Source:** LSO computations of data reported in the *Scientific Inventory of Onshore Federal Lands' Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to Their Development*, Jan. 2003.

### **CONCLUSION**

A comprehensive summary of federal lands in Wyoming and associated restrictions is complicated by the number of agencies with management responsibilities, the variety of potential land use limitations and restrictions, and the record keeping capacities of the management agencies. The federal government owns more than one-half of the lands in Wyoming, and a sizeable portion of those lands (perhaps about a quarter) is restricted for conservation purposes. This report has summarized the federal land restrictions at the highest level, supplemented by case examples. Additional information would require research into specific land parcels. Alternatively, further information may be identified through a study conducted at the federal

level, perhaps by the General Accounting Office at the request of one of Wyoming's congressional delegation.

### **ADDITIONAL READING**

U.S. Departments of the Interior, Agriculture, and Energy, *Scientific Inventory of Onshore Federal Lands' Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to their Development*, (Washington: January 2003).

U.S. General Services Administration, *Federal Real Property Profile*, (Washington: September 30, 2002). Available at [<http://www.gsa.gov/realpropertyprofile>].