

Office of State Lands and Investments

Funding Wyoming Public Education

122 West 25th Street
Cheyenne, WY 82002
Phone: (307) 777-7331
Fax: (307) 777-5400
slfmail@state.wy.us



Dave Freudenthal
Governor

Lynne Boomgaarden
Director

October 15, 2007

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**Terri A. Lorenzon, Director
Environmental Quality Council**

Environmental Quality Council
122 W. 25th Street
Herschler Bldg., Room 1714
Cheyenne, Wyoming 82002

Re: Notice of Public Hearing
Proposed Designation as Very Rare or Uncommon
Adobe Town

Dear Council:

The Office of State Lands and Investments is in receipt of the captioned Notice of Public Hearing scheduled for October 24, 2007. Unfortunately, because of other commitments, we will be unable to attend. Please accept these written comments for the record.

The Office of State Lands and Investments (OSLI) manages significant surface and mineral acreage within the proposed designation boundary: approximately 1,280 surface acres currently subject to a grazing and agricultural lease; and 6,400 mineral acres, 3,840 currently under lease for oil and gas and 640 acres under lease for uranium. The Wyoming Constitution and statutes mandate that OSLI and the Board of Land Commissioners manage these trust assets for both short- and long-term returns to the public schools and other designated beneficiaries. Accordingly, we view cautiously any designation or action that could impede our ability to protect the underlying value of, or derive revenue from, those trust assets.

We understand that the legal effect of a "rare or uncommon" designation pursuant to W.S. 35-11-112(a)(v) is confined to the Department of Environmental Quality's consideration of whether to issue or deny a mining permit, and therefore would not negatively impact the existing legal rights of our surface or mineral lessees. If our understanding is not correct, I would appreciate clarification on this issue, including the extent to which surface and/or oil and gas lessees would enjoy the remedy provided by W.S. 35-11-101 to petition the district court to determine whether any regulatory prohibition based on a "rare or uncommon" designation constitutes an unconstitutional taking without compensation.

Recognizing that many areas of Wyoming, like Adobe Town, have high surface resource values (e.g., habitat, cultural and historical resources) we initiated a program in August 2005 whereby we consult with the Wyoming Game & Fish Department and the State Historic Preservation Office to develop and apply wildlife and cultural resource protection stipulations to State oil and

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gas leases being sold at public auction, as appropriate. To-date, wildlife stipulations now protect approximately 200,529 acres and cultural stipulations protect 21,327 acres of state trust land. At least one parcel within the proposed designation boundary contains stipulations. As expired leases within the proposed boundary are resold, the newly issued leases also would contain stipulations to protect important surface resources.

We appreciate this opportunity to comment. If we may be of further assistance, please do not hesitate to contact me.

Sincerely,



Lynne Boomgaarden