

House Natural Resources Committee
“The Impact of the Administration’s Wild Lands Order on Jobs and Economic Growth”
Testimony of Commissioner Mike McKee, Uintah County Utah
March 1, 2011

Mr. Chairman and Members of the Committee,

I am Mike McKee, County Commissioner of Uintah County, Utah where I represent over 30,000 citizens. I also represent the Utah Association of Counties from the State of Utah, who recently joined Uintah County in a legal challenge to the Wild Lands Policy Executive order 3310 (Wild Lands Policy). I co-chair The Western Legacy Homestead Alliance, which represents counties and multiple user groups from the west, including Wyoming, Colorado, Idaho, Nevada and Arizona, who are deeply concerned about Wild Lands Policy. Today I will more specifically speak of Uintah County and counties in Utah.

Thank you for holding this hearing on the Wild Lands Policy and its negative impacts on my constituents. In Uintah County we are proud of our history, our heritage, and the multiple uses on our public lands from recreation to development of our natural resources.

Uintah County is the largest producer of natural gas in the state of Utah, with 63% of the State’s natural gas coming from our County. Oil and gas have been produced in Uintah County since the early 1900’s. We remain committed to responsible development of our public lands in an environmentally safe manner.

In Uintah County, only 15% of our land is privately owned. Policy changes during the past two years have had a chilling and detrimental effect on the economy of our County. In 2009, Uintah County lost 3,200 jobs in the mining and extraction industry. Many of our citizens are relocating to other states in order to retain employment and family members are left behind with the hope that the jobs will return. Jobs and the economy are not the only consequences of this administration’s policy actions. Uintah County is concerned about homelessness, drug abuse, domestic violence, crime, and other social impacts. Jobs and economy are important to the citizens of Utah and Uintah County. In Uintah County, 50% of our jobs and 60% of our economy are tied to the extractive industry. This fact underscores the importance of sound policy and procedure on our public lands. The Wild Lands Policy issued by the Secretary will make all of these lands off limits in the predictable future for natural gas production, oil production, and shale oil, which are in such rich abundance.

Our community is suffering, and this suffering can be directly tied to policies of the Department of Interior.

Wild Lands Policy which the Interior Secretary signed on December 23, 2010 directly repudiates a Settlement Agreement signed by the State of Utah, the Utah School and the Institutional Trust Lands Administration (SITLA), the Utah Association of Counties and Department of the Interior. The Interior Department incorrectly describes Wild Lands Policy as a revocation of the Norton no-more wilderness policy. The fact is that BLM adopted an instruction memorandum to implement an out-of-court settlement that resolved litigation between the state of Utah and the Department of the Interior.

Interior officials continue to say that there is no violation of this Settlement Agreement, presumably based on the incorrect premise that “Wild Lands” are different from “Wilderness Study Areas” or WSAs. But aside from the name, they are identical and are treated the same.

In the Settlement Agreement, the Department of the Interior committed to not manage public lands outside of WSAs as if they were WSAs. The Wild Lands Policy in fact manages non-WSA public lands under the same protective framework that DOI has applied to WSAs for more than 30 years. The Wild Lands Policy clearly violates the Utah Wilderness Settlement Agreement.

In the Settlement Agreement, the Department of the Interior also pledged not to create new WSAs. The Wild Lands Policy does just exactly that and changing the name does not make it any less of a violation.

No federal law gives the Interior Secretary the authority to implement Secretarial Order 3310, the Wild Lands Policy.

In addition to being poor policy, the Wild Lands Policy is illegal. Under the U.S. Constitution, Congress has the sole authority to regulate federal lands. For public lands, Congress delegates that authority to the Interior Secretary in a series of federal laws, including the Bureau of Land Management Organic Act or the Federal Land Policy and Management Act (FLPMA). For wilderness designation, Congress chose to retain the sole power to designate wilderness. 16 U.S.C. §1131(a).

The Wild Lands Policy attempts to override the laws that apply to public lands in several key respects:

The Wild Lands Policy declares protection of lands with wilderness character a management priority. SO 3310 ¶1.

FLPMA dedicates the public lands to multiple use, with principal emphasis on six multiple uses: including domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way [including transmission lines and pipelines], outdoor recreation, and timber production. 43 U.S.C. §1702(l).

FLPMA does not include the word 'wilderness' in its definition of multiple use. 43 U.S.C. §1702(c). It defines 'wilderness' only with respect to the now-expired wilderness review program in Section 603.

The Wild Lands Policy attempts to revise federal law by changing land management priorities to promote wilderness protection over all of the other uses that, by federal law, apply to public lands. This contradicts FLPMA, which dedicates the public lands to other uses, several of which, like mineral exploration and development, conflict with wilderness management. It also contradicts the Wilderness Act, which reserves to the sole authority to designate wilderness only by Congress.

The Wild Lands Policy assumes that the Secretary can manage public lands to protect wilderness, although FLPMA provided for a single and limited wilderness review program. FLPMA defines wilderness solely in terms of Section 603, which prescribed a 15-year wilderness review period. It is widely accepted that the authority to study public lands for wilderness expired in 1991, 15 years after FLPMA was enacted. There is no new authority to manage public lands for wilderness protection without attempting to rewrite FLPMA, and only Congress can do so.

It is also worth pointing out that federal agencies must involve the public and local governments when making a significant public land management change. These procedures ensure that there is a robust discussion of the effects of a proposal, and in the case of federal lands, there is coordination with state and local governments. In his haste to issue this policy right before the Christmas holiday, the Interior Secretary ignored these procedural steps.

The Interior Department also ignored the significant adverse environmental impacts that will come from the Wild Lands Policy. Proponents of this policy forget that the Wild Lands Policy will also prohibit wind turbines and transmission lines that are necessary for the green energy promoted by the Interior Secretary. For two years we have heard how the Administration will fund and subsidize green energy for wind turbines, solar energy farms, and the transmission lines necessary to put these alternative energy projects into the electrical power grid. Many energy projects are proposed for public lands, without considering the fact that these structures will violate the Wild Lands Policy. The structures associated with wind and solar energy are prohibited as permanent development and cannot be said to conform to the visual standards applied to wild lands. These important impacts are entirely ignored in the discussion by the Interior Department. It also appears that the Energy Department, which is issuing millions of dollars in incentive grants and loans, is not coordinating with the Interior Department which has adopted a policy that will prohibit or certainly delay implementation of any project.

Since early 2009, DOI has imposed a *de facto* moratorium on drilling and leasing on these lands. Uintah County initiated litigation in October of 2010 because the management policies violated

the Settlement Agreement, contradicted the approved land use plans for public lands, and also were harming the local economy.

The Wild Lands Policy could potentially close millions of acres to oil and gas leasing in the State of Utah. BLM previously studied the lands that were said to have wilderness character when it revised the land use plans between 2000 and 2008, so we know the scope of the lands which may be impacted in Utah. These lands do not meet the actual definition of wilderness but are being called wilderness even with dirt roads, livestock developments, oil and gas rigs, pipelines and transmission lines.

We are concerned that the Wild Lands Policy now creates defacto wilderness. In our County, this policy is already negatively affecting areas that were open for multiple use activity. Recently signed Resource Management Plans are being turned upside down by this policy. For example, current road improvement requests, oil and gas leases, and permits to drill are being affected based on Wild Lands Policy.

Historically, Uintah County, on behalf of its citizens, has fully participated in federal land management forums in numerous land management issues, including resource management plans, oil and gas leasing decisions, transportation corridors on Federal lands, and wilderness issues. The County has expended a tremendous amount of resources over the past 20 years to engage in these processes in a responsible manner and representing our constituents. When Secretary Salazar announced the Wild Lands Policy just two days before Christmas in 2010, it was not only a shock to our constituents but was clearly an effort to circumvent established public processes that have governed our federal lands. In an economy and energy situation that is already at rock bottom, this action is further proof that Secretary Salazar has little regard for jobs or energy security in the West.

Over the past decade, the BLM began a revision of the Resource Management Plan for Utah and the Uintah Basin. This process, governed by NEPA, was open to the public and Uintah County participated as a cooperating agency. Thousands of hours and well over a million dollars of tax payer funds were expended by Uintah County. Other entities participated to bring to fruition a management plan that takes a comprehensive look at all uses of public lands in Uintah County. Although long, sometimes painful, and certainly no one group liked everything in the plan; this is what NEPA contemplated. Concessions were made on all sides. Uintah County supports open, public processes where all views are heard and considered, and then the hard working professionals of the BLM make informed decisions. All of the issues the Secretary claims to address under the new Wild Lands Policy are addressed in the Resource Management Plan - the only difference is that the Secretary clearly disagrees with the outcome of this Plan. Instead of attempting to short circuit the NEPA process, we urge the Secretary to vigilantly defend the BLM's Resource Management Plans. We need to end the practice of settling claims with litigants for the sole purpose of setting new policy outside the bright light of public input. Simply, the Wild Lands Policy undermines the Resource Management Plans.

We also note that toward the conclusion of the Vernal Resource Management Plan process, alternative “E” was added. This alternative’s sole purpose was to evaluate the full spectrum of potential wilderness and the management thereof. This process required an additional two years to complete. Director Bob Abbey, in a meeting recently held in Salt Lake City, Utah, stated that the reason for reanalyzing work that was already complete was because not enough wilderness was found. This continual upheaval, unrest, change of direction, and philosophy, is discouraging. Either the land has wilderness quality or it does not. Why, with the huge deficits of spending that the Government is going through, do we have the BLM redo that which they have already completed?

In real terms, this policy will make it economically less viable for natural resource developers to operate on federal lands in the West. The State of Utah processes applications for permit to drill (APD's) in 35 days, while BLM takes an average of one and a half years. The Wild Lands Policy will add years to the permitting process and effectively further reduce access to natural resource production. It will yet create another layer of unnecessary bureaucracy that will only result in the further loss of jobs in my County and in other public lands counties throughout the West. Moreover, Uintah County will be forced to spend precious tax payer dollars to fight our own government to try to force the Department of Interior to live by the law of the land.

The combination of regressive gas leasing policies and the new Wild Lands Policy will result in further job losses and economic impact in Uintah County and throughout the west. Recently, I visited with a local CEO whose business has a cutting edge technology in the natural gas industry, yet, he can see the writing on the wall with the current policies. He will likely move his headquarters. He just returned from Dhahi as an option. Why would a business owner even consider such an option with all the unrest in the Middle East? What is wrong with this picture? Is the business environment better in the Middle East than on our own public lands in Uintah County? Planned and balanced development of these resources takes years to move into production. Driving these companies overseas is detrimental to our economy and to our energy security.

Unfortunately, today’s policies are stopping responsible development and endangering America’s energy security. This is not a spigot you can simply turn on and off on a whim.

Many companies stand ready to invest large sums of money in our County over the next ten years. All told, these investments would exceed two billion dollars over a ten year period. However, the regulatory uncertainty and the adverse policies of the Department of Interior is keeping these companies from investing, and in many cases, driving them overseas where U.S. dollars are being invested in foreign economies.

Eastern Utah is a treasure chest of natural resources. Uintah County has a great opportunity to help America become energy independent. Utah has 6.7 trillion cubic feet of proven natural gas

reserves, conventional oil reserves of 286 million barrels, much of these are found in Uintah County. According to a Rand Report, the Uintah Basin has a staggering amount of shale oil ranging from 56 billion barrels to 321 billion barrels.

Each morning our newspapers carry disturbing pictures of governmental unrest in the Middle East and news of more and larger oil supply disruptions. In less than a month, previously stable countries in northern Africa and the Middle East have erupted in violent demonstrations. The governmental overthrow of Tunisia and Egypt has gone viral in Yemen, Libya, Saudi Arabia, and Bahrain with new calls for changes in the governments of the region. These shifts in power will have profound changes for the future, especially for the United States that produces and transports oil from those regions to the United States.

The Wild Lands Policy threatens national security by sharply reducing the nation's energy independence. It applies equally to all sources of energy from public lands such that the country is made weaker at a time when it needs to be stronger and more self-sufficient.

In addition to this, the Wild Lands Policy will impact the education of our children. The State of Utah was granted upon statehood, school trust lands, which by State Constitution are mandated to generate income to fund schools in the State of Utah. These lands are interspersed with federal lands throughout the State of Utah and Uintah County. It is commercially unviable to develop these lands for natural resources without access to the surrounding lands. If the federal lands become off limits to development, State lands go undeveloped as well, and education suffers directly from the Federal policies.

To sum it up, the Wild Lands Policy is a short-sighted initiative that undermines the interests of this Country and its people. The Wild Lands Policy overreaches by revising federal law when only Congress can do so. We urge this Committee to take every action possible to repeal it.

Our natural resources should be responsibly developed pursuant to the laws of the land. We have a responsibility to carefully develop our resources for America, for energy security, for our economy, and jobs for our citizens. I commend the House for choosing to de-fund the Wild Lands Policy for this current fiscal year and I urge the Senate to follow your lead. The role of Congress is clear in terms of wilderness policy, and I urge this Congress to preserve its authority and reverse this policy to save my County and our Country from further economic harm.

Thank you for your time and I would be pleased to answer any questions you might have.