

**Testimony of Ryan M. Lance**  
**Director of the Wyoming Office of State Lands and Investments**  
**Subcommittee on Public Lands and Environmental Regulation**  
**H.R. 2068 – *Federal Land Transaction Facilitation Act Reauthorization of 2013***  
**H.R. 1684 – *Ranch A Consolidation and Management Improvement Act***  
**July 19, 2013**

**H.R. 2068 – *Federal Land Transaction Facilitation Act Reauthorization of 2013***

The dispersed land ownership pattern that resulted after lands were conveyed to the State of Wyoming through its Act of Admission often deprives Wyoming of its ability to use state trust lands for their original purpose – to provide revenue for public education and other beneficiaries. While the Wyoming Board of Land Commissioners (Board) is resolved in asserting its right to access state trust lands within and adjacent to federally designated areas, restrictions on the use of federal land in these areas often have the collateral effect of reducing the utility of captured state trust lands. Wyoming currently has approximately 276,060 acres of surface estate and 320,003 acres of mineral estate, of which 252,869 acres of the surface estate and 288,400 acres of the mineral estate are allocated to the common school fund, captured within federally designated areas.

Federal and state land managers, land users, the environmental community and the public have consistently recognized that the scattered or “checkerboard” land ownership pattern that is prolific in the West is a major hindrance to effective and ecologically sound management of both federal and state lands. In fact, the Bureau of Land Management (BLM) has stated that eliminating the “checkerboard” in areas of high conservation value is one of its three highest priority goals for the next 25 years.

The traditional method of resolving “trapped” inholding situations has been either land exchange or direct federal purchase of non-federal lands within a federal management unit. Experience has shown that federal land purchases are usually constrained by budgetary limitations and land exchanges are highly problematic due to complex regulations and the significant expense of processing and completing the exchanges. While many, including myself, are predisposed against federal land acquisition, the reality is that the limitations associated with federally designated areas functionally “federalize” state and private lands to the point that they are “state” and “private” in name only. While the land ledgers might not reflect an increase in federal acreage, those that continue to pay taxes and/or forego revenue-generating opportunities on such lands are made to pay for the public’s false sense of “non-federal” ownership. To quote my high school economics teacher, “there is no such thing as a free lunch,” and the states and private landowners are paying the tab to feed the public’s appetite for conservation and recreational opportunities.

The most high profile federal land purchase in Wyoming is the proposed and ongoing acquisition of state trust lands within Grand Teton National Park – an issue that has spanned 60 years. While the National Park Service has been funded through the Land and Water Conservation Fund to acquire two of the four state parcels (\$2,000 and \$16

million respectively), funding for the remaining two sections (\$45 million and \$46 million) is very much in question given current federal budget limitations. This uncertainty persists despite an agreement between the Board and the Department of the Interior that specifies the agreed parcel values and timeline for federal acquisition. Resolving the Grand Teton National Park inholdings is of great importance to the Board. This asset, worth \$91 million, currently generates just under \$2,000 per year to support public education. Such a return does not, in any way, resemble “optimizing” trust returns as required by the Act of Admission and state constitution. To state the obvious, these depressed returns are the direct result of the inherent limitations that exist when state and private lands are surrounded by National Park System lands.

In terms of current federal land exchange efforts in Wyoming, two areas are of immediate concern to the Board and public: Fortification Creek and the Lander Front. The details surrounding these exchanges are set forth in the two attachments provided to the Committee. Both circumstances outline the significant impediments that pepper federal land exchanges – most notably the timeframes for completing administrative exchanges (5-10 years) and the unworkable federal regulations that attend such transactions. As with the Grand Teton National Park inholdings, the state trust beneficiaries are made to forego significant revenues to accommodate federal Wilderness Study Area and Area of Critical Environmental Concern designations on surrounding and adjacent BLM lands while we attempt to untie the knot of red tape associated with federal administrative land exchanges.

Wyoming’s alternatives, absent the enactment of H.R. 2068, the *Federal Land Transaction Facilitation Act Reauthorization of 2013* (FLTFA), are to either continue to accept paltry returns on lands like those within Grand Teton National Park, the Fortification Creek Wilderness Study Area and Lander Front in contravention of the fundamental principles of trust land management or to take action that would significantly impair surrounding and adjacent federal lands in accordance with other federal authorizations. To be sure, the ineptness of current federal land purchase and exchange authorizations to appropriately and fairly address state and private lands surrounded by federally designated areas not only imposes significant hardship on state and private landowners, but jeopardizes true national treasures and the public’s access to them. Our system is broken. FLTFA provides a thoughtful path forward.

As a dedicated funding source to address land tenure adjustments between federal and state land management agencies and private landowners, reauthorization of FLTFA can provide a mechanism for the United States to acquire non-federal lands with high conservation values from willing sellers. FLTFA would provide federal agencies with a budget-positive funding source, without any need to raise any tax, to complement the Land and Water Conservation Fund, land exchanges and other federal grant programs. Paired with thoughtful reform of the process for exchanging or selling federal land, FLTFA could prove to be an important tool to address long-standing land management issues, notably the exchange of state parcels within Grand Teton National Park, the Fortification Creek Wilderness Study Area and the Lander Front proposed Areas of Critical Environmental Concern.

Further, given the relative land values associated with federal disposal lands and the traditionally higher valued state and private lands affected by federally designated areas, those that oppose an increase in federal land holdings, again myself included, have and will continue to see a net decrease in federal land ownership if FLTFA is reauthorized. During the life of its previous authorization, FLTFA resulted in a net decrease of 9,000 acres of federal lands in Wyoming.

To close my written testimony with regard to H.R. 2068, I am reminded that the iconic Moulton Barn – the barn that is featured in many famous photographs of the Teton Mountain Range – turns 100 years old this year. The Moulton Barn sits precariously near one of the two remaining state trust land inholdings in Grand Teton National Park. Future photographs of the Barn can reflect the timelessness that Congress envisioned with its creation of the National Park System. Given federal budget limitations and the broken federal land exchange rules, such a future is only secure with the passage of legislation like the FLTFA reauthorization contemplated in H.R. 2068 where the BLM is allowed to dispose of federal lands that have been endorsed by the public for sale, with the proceeds being applied to the purchase of these state trust lands.

#### **H.R. 1684 – *Ranch A Consolidation and Management Improvement Act***

I also offer testimony to request your favorable consideration of H.R. 1684, the *Ranch A Consolidation and Management Improvement Act*. In August of 2011, the Wyoming Board of Land Commissioners (Board) approved a Board Matter (Board Matter H-2), which generally endorsed legislation that is nearly identical to H.R. 1684.

To provide some background, the Board, which is comprised of the Governor, Secretary of State, Auditor, Treasurer and Superintendent of Public Instruction of Wyoming, is charged with the general control and management of the property known as Ranch A. In terms of the specific history of the State of Wyoming's involvement with Ranch A, the Wyoming Fish and Wildlife Facility Act of 1996, Public Law 104-276, was passed on October 9, 1996, and directed the Secretary of the Interior to convey Ranch A to the State of Wyoming. The property was actually deeded to the State on September 2, 1997. Former Wyoming Governor Jim Geringer negotiated the conveyance of the property.

The Ranch A Restoration Foundation, a non-profit foundation that was created to ensure that Ranch A was properly restored and maintained, leased the property through the Governor's Office from the time of conveyance through 2004. In May 2004, a Memorandum of Understanding (MOU) was signed between State Parks and Cultural Resources, Wyoming Game and Fish Commission, and the Office of State Lands and Investments (Office), functionally transferring management of Ranch A to the Office. For your reference, the Office serves as the administrative arm of the Board. In 2005, the Ranch A Restoration Foundation entered into a special use lease agreement with the Board, which runs from July 1, 2005 through June 30, 2015.

The Deed issued to the State contains deed restrictions that states that the property will be retained by the State and used for the purpose of:

- Fish and Wildlife Management and educational activities;
- Using, maintaining, displaying, restoring, through State or local agreement, or both the museum-quality real and person property and the historical interest and significance of the real and personal property, consistent with applicable Federal and State laws; and
- The State of Wyoming shall also provide access to the property for institutions of higher education at a price agreed upon by the State and the institution.

Notably, the deed contains a Reversion clause that states that all right, title, and interest in and to the property shall revert to the United States if it is used by the State of Wyoming for any other purpose than the purposes set forth; if there is any development of the property (including commercial or recreation development); or if the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

The original Conveyance Document of the Ranch A property consisted of approximately 600.00 acres of land (including all real property, buildings, and all other improvements to the real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site including personal property on loan to museums and other entities at the time of transfer). The Conveyance Document also included a permanent right of way (across the property) to use the buildings being conveyed.

The provisions of H.R. 1684 would clarify ownership of the Babcock House, a structure that sits adjacent to the larger “block” of Ranch A, as well as the land under and around the House. Further, it would remove certain statutory restrictions that would allow the State, as well as the Ranch A Restoration Foundation, more flexibility in the use of property, which would provide additional revenue sources, which could be used to pay for the maintenance and improvements on the Ranch A property. Importantly, the contemplated additional uses would be vetted by the Foundation and State to ensure that they are managed to be compatible with and sensitive to Ranch A facilities and resources. The legislation will ultimately serve to further the long-term preservation of Ranch A. To date, the State of Wyoming and Ranch A Restoration Foundation have invested significant financial and other resources to secure and stabilize the Ranch. The flexibility contemplated in H.R. 1684 would allow revenue generation that would only serve to further optimize these investments and safeguard and improve the Ranch for future generations.

I reiterate my support for H.R. 1684 and the Board’s historic support for legislation similar to the proposed legislation.

## **State Trust Land within the Fortification Creek Wilderness Study Area**

### **Section 16, Township 52 North, Range 76 West, 6<sup>th</sup> P.M.**

**640.00 acres, more or less**

The Office of State Lands and Investments (OSLI) has recognized for years that the state trust lands that are wholly surrounded by the Fortification Creek Wilderness Study Area (FCWSA) maintain high potential mineral value as well as non-mineral related values (e.g. habitat, sensitive soils, visual, cultural and historical resources). The Wyoming Constitution and Wyoming Statutes mandate that OSLI and the Board of Land Commissioners manage these trust land assets for both short- and long-term returns to Wyoming public schools.

The State of Wyoming (State) owns the surface and mineral estate in Section 16, Township 52 North, Range 76 West, 6<sup>th</sup> P.M. that wholly lies within the FCWSA Boundary. The State leased its minerals under this parcel in November, 1998, for a primary term of five (5) years. The Lessee, upon preparation to develop the parcel, was advised by the Bureau of Land Management (BLM) that access through surrounding BLM lands would be a significant impediment to developing its lease.

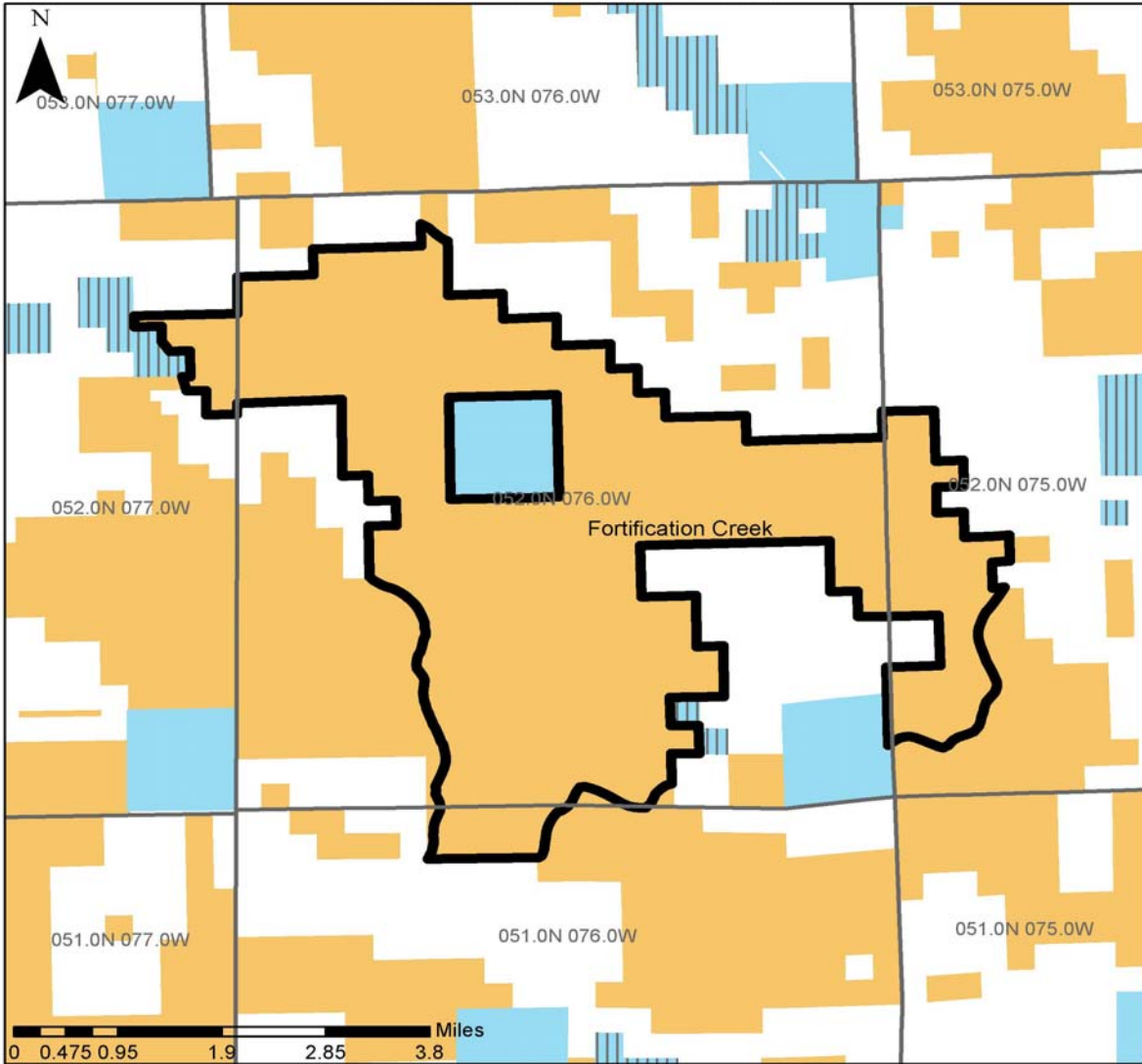
In looking to retain the trust's mineral value potential from this lease, which from offset cores appeared to exhibit significant gas potential from five (5) thick, underlying coal seams, OSLI sent a request to the State BLM Director on July 2, 2003, to attempt to initiate an exchange of both the state mineral and surface estate for the parcel in question. The premise of the proposed exchange was for the state and BLM to trade lands of like value, with the State receiving a parcel with similar development potential to its lands within the FCWSA based on the reserve estimates provided by the State's lessee (16.5 billion cubic feet of gas in place) and that equated to the known surface value of the state trust land. This parcel, subject to a ten (10) year grazing lease renewed on February 1, 2012, currently generates \$350.40 annually in grazing income to the common school permanent land income fund.

The BLM acknowledged interest in the exchange, but said that other priorities and budget concerns at the time would make completing such an exchange before the lease expired impossible. On October 2, 2003, the Board of Land Commissioners approved a three (3) year lease extension for the lease in question.

Since July, 2003, OSLI made numerous other unsuccessful attempts to engage the BLM in meaningful discussion to achieve a possible land exchange. Although such a proposal received substantial support from environmental and wildlife groups, activities within the BLM precluded a substantive look at such an exchange and the State's lease expired on November 1, 2008. In 2013, the Office learned of renewed interest in the parcel for oil and gas leasing. Absent some movement to achieve an exchange with the

BLM, OSLI will proceed with the lease nomination process and make demand, under the provisions of the Federal Land Policy Management Act, for BLM to accommodate the state's need for access to the state trust lands within the FCWSA to achieve oil and gas development on the lands in question.

# Fortification Creek WSA



## Legend

-  Wilderness Study Area
-  State Surface and Subsurface
-  State Surface Only
-  State Subsurface Only
-  BLM Surface Ownership
-  Private Surface Ownership



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Shianne Shelit 04/18/2013

## **State Trust Lands within Lander Slope and Red Canyon Areas**

In July of 2011, by virtue of the Office of State Land and Investments' (OSLI) lease application review process, OSLI sent nine (9) Phosphate Lease Applications, collectively containing approximately 2,800.00 acres in Fremont County, to the Wyoming Game and Fish Department (WGFD) for review and comment.

According to WGFD, the parcels proposed for new phosphate leasing are located within several overlapping, extremely important wildlife habitats. In addition, all of the proposed parcels are adjacent to either the Lander Slope Area of Critical Environmental Concern (ACEC) or the Red Canyon ACEC outlined by the Bureau of Land Management (BLM) Lander Field Office Resource Management Plan (RMP), which contain a "no surface occupancy" stipulations for the BLM lands within the ACECs. The Lander Slope area is designated as an ACEC for its high value for fish and wildlife, scenery and natural processes. The Red Canyon area is designated as an ACEC for its high value for fish and wildlife, scenery, natural processes and geologic features. While its prescriptions have no effect on the Board of Land Commissioners' authority with regard to leasing and development of state trust lands, the RMP precludes new phosphate leasing in these areas, which impacts a total of 15,676.07 acres of state trust surface estate and 14,559.37 acres of state trust mineral estate (2,871.97 acres of surface only, 1,755.27 acres mineral estate only, and 12,804.10 acres surface and mineral estate).

In July of 2011, after concerns were raised by the BLM, conservation groups and concerned citizens in Lander, Director Lance initiated discussions with Wyoming BLM State Director Don Simpson to begin the process of looking at thoughtful trades between the BLM and OSLI, including but not limited to state lands located in the Lander Slope Area and the Fortification Creek Wilderness Study Area. Such an exchange would ensure that the BLM could achieve the objectives set forth in the Lander RMP for the Lander Slope and Red Canyon ACECs.

In February, 2012, OSLI initiated work with the State BLM Office to develop a Memorandum of Understanding (MOU) that would establish a framework for the consideration and expedited processing of the exchange of certain lands managed by the Wyoming Board of Land Commissioners (Board), including lands along the Lander Slope. This agreement, which was executed and became effective on November 29, 2012, was established to improve management of state trust and federal lands and meet other objectives expressed by the BLM and the Board.

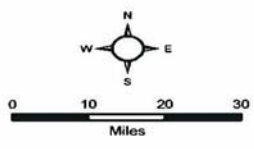
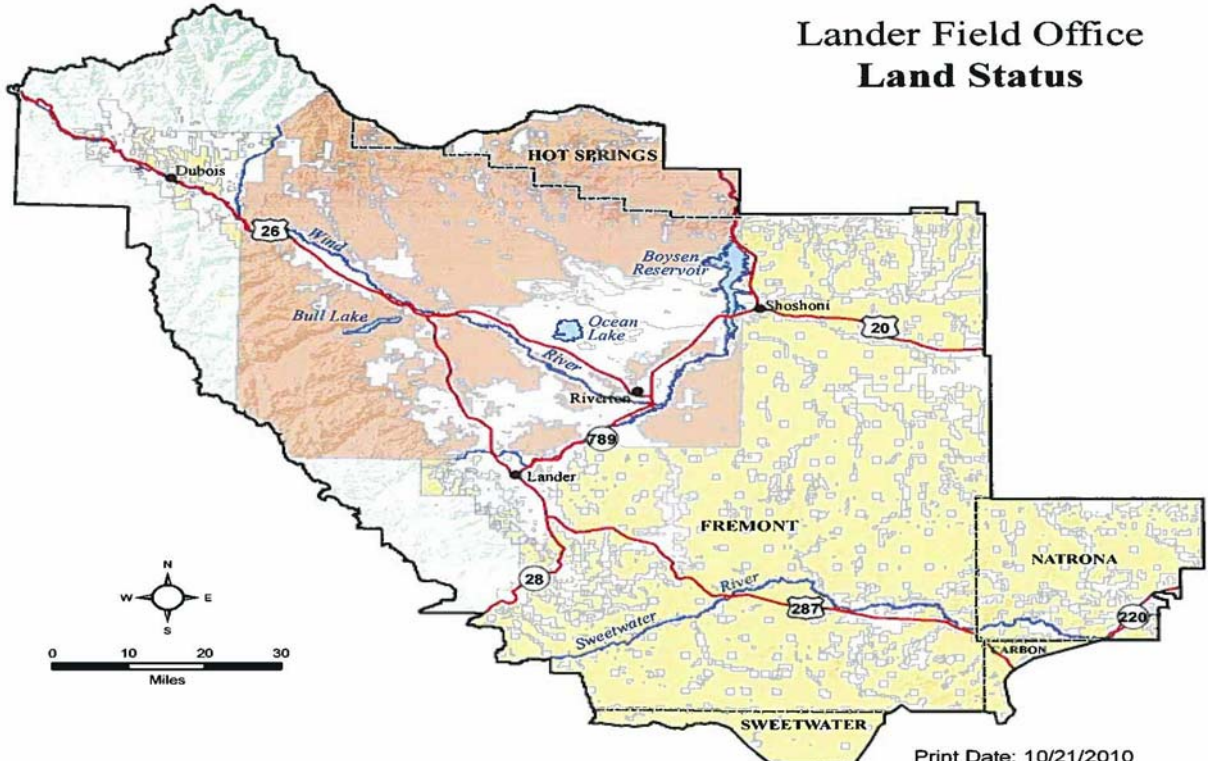
The BLM and OSLI are currently working to identify parcels that may be subject to exchange. We have been advised by the BLM, in consideration of budget and staff limitations, that any exchange(s) could take from five to ten years to complete. The Board's ability to generate revenue on State trust lands along the Lander Slope, at this time, is primarily limited to grazing income. While grazing is an appropriate use of these trust lands, to make it the sole use would be unacceptable given the mineral development and other values the Board could be foregoing.

Ultimately, the Board and OLSI may have no choice but to explore other options, including making certain parcels available for phosphate leasing, in the event that the timeframe for completing the exchange cannot be greatly accelerated (i.e. completed within 12-18 months).



The Board and OSLI have a fiduciary obligation to manage State trust lands to achieve their congressionally authorized purpose for the use and support of the designated beneficiaries and to optimize the State's assets and resources to enhance the trust for the State's beneficiaries as mandated by Wyoming's Act of Admission. As it now stands, from a Trust perspective, wherein the Board's responsibility is to optimize the State's assets and resources to enhance the trust for the State's beneficiaries, our revenue generation options are not only limited, but in some cases non-existent or limited to grazing income.

# Lander Field Office Land Status

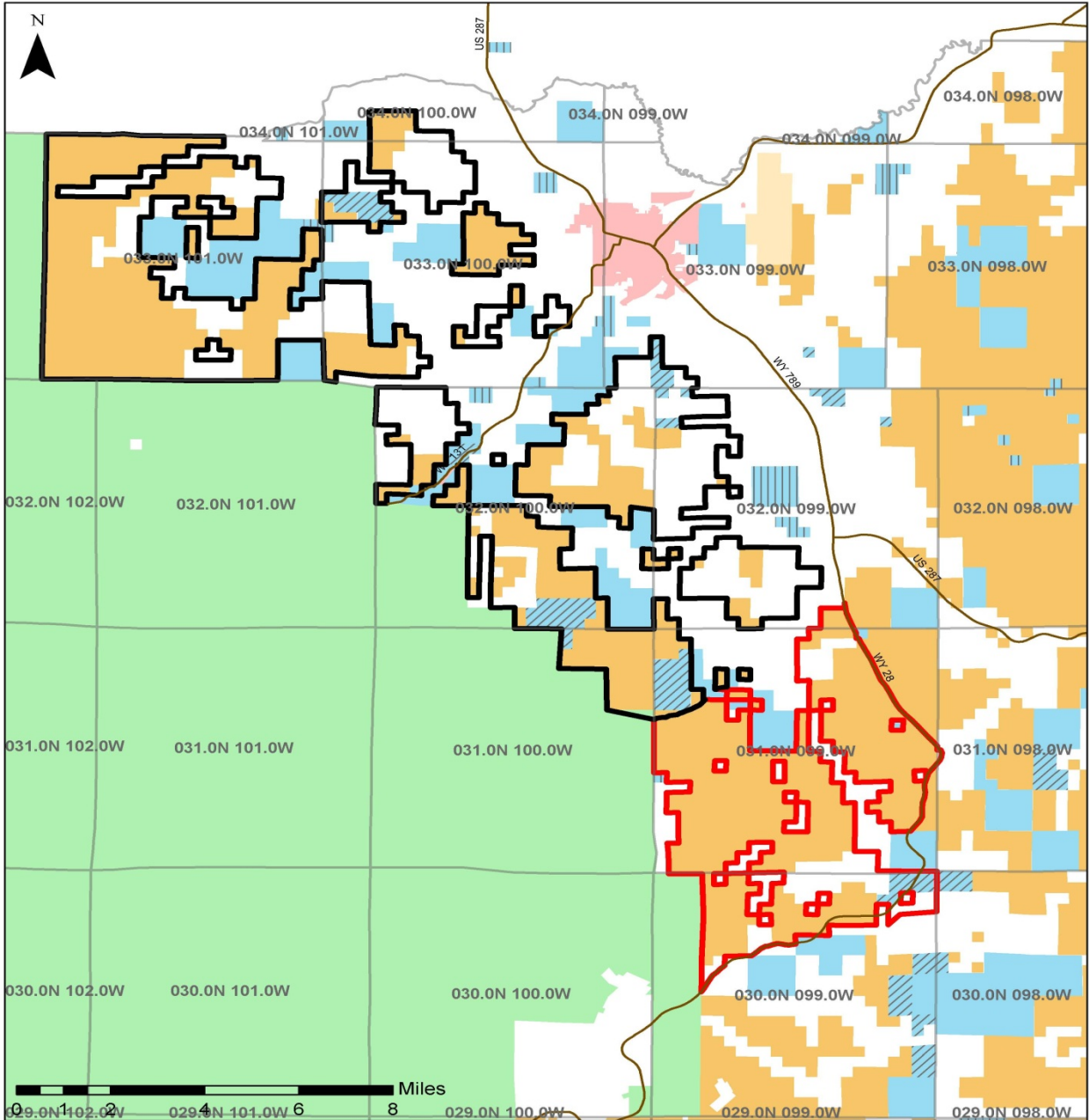


Print Date: 10/21/2010



- County Boundary
- Surface Management Agency**
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Reclamation
- Department of Defense
- Fish & Wildlife
- Forest Service
- Private
- State

# Lander Slope / Red Canyon



**Legend**

Lander Slope ACEC	BLM Surface
Red Canyon ACEC	BLM Forest Service
City of Lander	BLM Department of Defense
State Surface and Subsurface	Private Surface
State Surface Only	Major Roads
State Subsurface Only	

Office of State Lands and Investments

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