Governor Commits to Baseline Testing

“Collection of baseline water quality information prior to development is in everyone’s best interest. It will benefit the industry, the public, and the state.”

—Gov. Matt Mead
Message from the New Director
GARY WILMOT, EXECUTIVE DIRECTOR

The Wyoming Outdoor Council’s founder, Tom Bell, was the first to shake my hand and welcome me as the next executive director of the organization. The funny thing was, I didn’t have a formal job offer from the board yet—somehow Tom just knew and it felt good knowing he thought I was up to the task. A week or so later the board made an official offer and I accepted.

My desk sits in the same spot it did last month and I look out the same window I did when I was hired in 2008. Since that time, I’ve been the development director and the associate director and a proud member of what I believe is the finest team in conservation.

I follow in the steps of Laurie Milford, who followed Mark Priess, Dan Heilig, Tom Throop, Steff Kessler, and others on back to Tom Bell in 1967. So many great folks who have done so much good on behalf of public lands and wildlife in Wyoming. I’m excited for the opportunity to represent our members and to build on our great history of success.

In addition to what you will read in these pages, I invite you to stay connected to the Council on the Web in the coming year. By visiting our website you can receive frequently updated news, and in-depth articles and analysis on our blog. And with a quick visit to our home page, you can subscribe to e-alerts, or participate in our strategic planning process by taking our online survey. You can also follow us on Twitter and Facebook and join the conversation about the latest conservation news and issues.

I hope you, as members and supporters of the Outdoor Council, will continue to help us rise to the challenge that Tom Bell set before us in 1967—to protect Wyoming’s environment and quality of life for future generations. Support from our members is fundamental to all of our accomplishments and it continues to make our mission achievable. I hope you can join me in building on that legacy in the coming years.

P.S. On behalf of the Outdoor Council’s board and staff I want to wish outgoing Executive Director Laurie Milford a very fond and very warm farewell. I know that all of my colleagues and the Council’s many partners agree that Laurie led our group thoughtfully and with passion. She created a place where people wanted to work and an environment that produced results. Her tenure includes some of the organization’s greatest accomplishments. We as staff are grateful for her leadership and are proud to have worked with her to achieve the Council’s mission.

Thank you, Laurie.

—GPW
Baseline testing is on the agenda. The next step: Securing a good rule.

BY RICHARD GARRETT, ENERGY AND LEGISLATIVE ADVOCATE

One of the most important outcomes of Wyoming’s 2013 legislative session involves a bill that never even made it out of committee.

In January, Sen. Floyd Esquibel from Laramie County introduced legislation that would have required baseline testing of groundwater prior to oil and gas drilling and hydraulic fracturing.

As many readers know, requiring the acquisition of this kind of baseline data is something the Wyoming Outdoor Council and others have long advocated as a key measure for protecting residents and oil and gas companies alike.

We continue to argue that baseline testing prior to drilling would arm citizens, regulators, and oil and gas companies with the information necessary to determine if water contamination existed prior to any drilling. And we believe baseline air quality data would be important for the same reasons.

If the EPA’s investigation into water contamination outside of Pavillion, Wyoming, has taught us anything, it’s that this kind of information can be invaluable.

But Esquibel’s baseline testing bill was a non-starter. It failed on a 5-0 vote in the Senate Minerals Committee.

While this might seem like bad news on the surface, the opposite is true. The failure of this legislation is part of a larger story that actually bodes well for the state and for the Wyoming Outdoor Council’s mission.

The governor gets behind a good idea

A year ago in this newsletter we published an article called “A case for baseline water testing,” for which we contacted Gov. Matt Mead and legislators to get their opinions.

In a written statement to the Wyoming Outdoor Council, the governor said at the time that the “collection and analysis of baseline testing is a direction we need to explore.”

And Steve Jones, the Council’s watershed protection program attorney had this prediction: “We believe that when legislators, regulators, and decision makers have had a chance to consider the facts and to hear the arguments for and against required baseline water testing in Wyoming, they’ll conclude, as we have, that it makes sense. It’s a matter of public health and public trust and it’s the best path forward.”

Since then, the governor has indeed explored the idea and has come to similar conclusions.

“Collection of baseline water quality information prior to development is in everyone’s best interest. It will benefit the industry, the public, and the state. That is why it is one of the initiatives in my Energy Strategy, which will be released soon,” Gov. Mead told the Wyoming Outdoor Council this April.

At the end of January, as the Minerals Committee was considering Sen. Esquibel’s bill, it heard testimony from Jerimiah Rieman, one of Gov. Mead’s natural resource policy advisors, who revealed to the committee that the governor is committed to promulgating a statewide requirement for baseline testing within one year—a rule that would accomplish many of the bill’s provisions.

It was the first time a Wyoming governor had gone on record with that specific policy goal. This decision will likely be marked as an important turning point in this state’s long history of groundwater management and protection.

It’s important to note that this testimony and reassurance from the governor’s office was the impetus for at least some of the committee members voting against the bill. Sen. Chris Rothfuss, for example, as well as Sen. Esquibel have both strongly indicated that if the rule is not completed within the year, this issue will be a legislative priority for them in 2014.

As I write this, the governor is still in the process of deciding whether to promulgate the new rule via the Wyoming Oil and Gas Commission or the Wyoming Department of Environmental Quality (or some combination of both). The Oil and Gas Commission has long recommended baseline water testing as a voluntary industry practice, but the practice has never been required by the state.

This will be one of the most important interim topics on the Wyoming Outdoor Council’s agenda and you can be sure that you will hear more from us about this groundbreaking new rule in the weeks and months to come.

We’re committed to engaging in the rulemaking process and doing everything we can to make sure it is as effective as possible.

As I’ve written elsewhere, groundwater in Wyoming is a fantastic resource—a gift that belongs to everyone in this state, and it is a gift that this generation inherited from our mothers, fathers, and all of those who came before us. It is our duty and obligation as stewards to pay that gift forward to our children and every generation ahead.

Quick hits from the rest of the 2013 legislative session

During this session there were 423 pieces of legislation introduced (260 House bills, 163 Senate files) and six resolutions.

The Wyoming Outdoor Council closely tracked 17 bills on the House side and 14 on the Senate side. Here are some highlights from 2013.

Senate File 142—Utility rate making

This bill was one that we opposed and for good reason.

It would have put into question the Wyoming Public Service Commission’s authority to structure electricity rates in ways that encourage the use of renewable energy in Wyoming.

Our argument on behalf of our members was that rates should be favorable to the further deployment of renewable energy. Federal rules clearly allow utility commissions to use a variety of methodologies to determine what are called “avoided costs” and...
Continued from page 3

how those costs are factored into rates.

In the House Corporations Committee, we argued that the bill would have provided a disincentive for renewable energy and would thus have negative consequences for our efforts to combat climate change.

Others argued that the bill was poorly worded and was intended to solve a unique circumstance on behalf of a select group of landowners (people who don’t want wind turbines in their viewsheds). Sen. Cale Case, of Fremont County, said that the intent of the bill was to make sure that least-cost resources would always be favored by the PSC.

It is worthwhile to note that existing infrastructure and facilities will almost always seem to provide a lower cost of goods and services to the consumer. Our thought is that the challenges imposed on our way of life by the externalities of this older infrastructure are seldom if ever calculated in a way that would make it more obvious to the end user of the risks of lowest-cost energy.

One of those risks (and hidden costs) became apparent late last year when the people (and especially women and children) of the state of Wyoming were warned against consuming too much fish due to elevated levels of mercury found in many species.

If we take into account this potential challenge to one of our state’s many assets, perhaps the cost of traditional energy generation would not be so attractive to consumers or decision-makers.

The bill was defeated in committee.

House Bill 81—A funding bill for the Wyoming Wildlife and Natural Resource Trust

For seven years, each generation of the Legislature has wisely supported the Wyoming Wildlife and Natural Resource Trust and its proposed large projects (whose cost exceeds $200,000).

For the last two years, many of those projects have included conservation easements on agricultural land that the Trust board has found to be crucial for habitat, species, and open space.

The trust—which was created by the Wyoming Legislature in 2005 “to enhance and conserve wildlife habitat and natural resource values throughout the state”—is one of Wyoming’s key institutions as its mission ultimately benefits all residents. Any project designed to improve wildlife habitat or natural resource values is eligible for funding from the trust, which is an independent state agency governed by a nine-member citizen board appointed by the governor.

This year many legislators tried in a variety of ways to eliminate, scale back, or restrict the state’s investment in conservation easements. House Bill 81 was the authorizing bill, but the trust was attacked in no fewer than three bills by amendments that would have significantly altered its mission and diminished any substantive future contribution by the state for protecting sage-grouse.

Together with a diverse array of conservation groups (and in particular The Nature Conservancy), agricultural groups such as the Wyoming Stockgrowers Association and the Stockgrowers Land Trust, prominent individuals such as Sara Flitner, labor representatives from the AFL-CIO, and many others we were successful in not only getting House Bill 81 approved but also in defeating the various attempts to alter the future course of the trust.

House Bill 40 and Senate File 118—Eminent domain

Infrastructure development in Wyoming (including wind developments, transmission lines, road construction, and pipeline construction) can have significant impacts on wildlife, habitat, viewscapes, and personal property rights.

The state has historically extended the right to condemn property to utilities and more recently has extended that right to some developers. This right is, in the minds of many, inappropriately given and too frequently applied. House Bill 40 extends a moratorium on the wind energy industry’s ability to claim eminent domain for wind energy collector lines. Senate File 118 gives landowners an opportunity to force a developer to more correctly value the land condemned for development. Both bills passed and were signed into law.

House Bill 16 and Senate File 136—Seismic exploration

When House Bill 16 died in committee, Sen. Bruce Burns of Sheridan County introduced a similar bill in the Senate (SF 136).

Essentially this bill protects landowners from “entrepreneurial” seismic operations, a particularly contentious issue in Laramie and Converse counties with the rush to develop oil and gas on private lands there.

Many landowners have had to endure multiple incursions on their property by seismic exploration companies with little or no recourse if damage to buildings, roads, fields, fences, livestock, or infrastructure happens as a consequence of that exploration.

Senate File 136 forces companies to have a contractual relationship with the mineral estate holder and to post a bond at the Wyoming Oil and Gas Conservation Commission. The Powder River Basin Resource Council did a lot of heavy lifting on this issue and deserves much credit for getting it off of life support and to be signed into law by Gov. Mead. Kudos to Shannon Anderson, Jill Morrison, Kevin Lind, and Bill Bensel of the PRBRC.

House Bill 260—Game and fish license fees

This failed bill would have authorized the agency to increase hunting and fishing license fees, in order to shore up the Wyoming Game and Fish Department’s funding resources for an additional two years. Together with a wide array of hunters’ and anglers’ groups we supported this bill because, if approved, it would have provided Game and Fish with the authority it needs to secure the resources necessary to achieve its mission and obligation to effectively manage Wyoming’s wildlife.

A similar, interim-approved funding bill for the agency was defeated early in the session, but we worked successfully to have this substitute bill introduced and we were able to get it out of the revenue committee on a 5-4 vote.

Unfortunately, the budget-cutting mood of the State House doomed the bill and it was soundly defeated in that larger body.

Nevertheless, we found that a lot of legislators want to support a reliable funding mechanism for wildlife management in Wyoming. All of them have encouraged us to fully engage in the upcoming spring, summer, and fall interim to accomplish this.

The Game and Fish Department is currently held hostage by its funding model and those that would control it. We have to find a way to break that stranglehold and keep politics out of wildlife management.

As for why we succeeded in committee, it was in no small part due to a personal letter that Tom Bell wrote to the committee. Rep. Patrick Goggles of Fremont County was particularly mindful of Tom’s message and acknowledged that to the committee.
By Bruce Pendery, Staff Attorney and Program Director

At the very end of 2012 the Bureau of Land Management released a draft environmental analysis of a proposed gas drilling development in south-central Wyoming—the scale of which we’ve never seen before.

Most people in Wyoming are familiar with the Jonah Field near Pinedale. If you can picture that field, imagine a project area about 30 times bigger and more than 2 and 1/2 times the total number of wells drilled.

Put another way, the Jonah Field covers an area about twice the size of Providence, Rhode Island. The new project would be bigger than the entire state of Rhode Island, and it would be one of the largest single natural gas field developments in the United States.

This 9,000-well behemoth—proposed by BP and called the Continental Divide-Creston project—is the first of a new wave of “mega fields” about to hit Wyoming.

If this coming development isn’t done carefully—and if it isn’t paced correctly—it could exacerbate the ozone problems in the Upper Green River Valley. It could also lead to unhealthy air in other parts of the state. It could also lead to contaminated groundwater.

So now that Wyoming Gov. Matt Mead has pledged to establish a statewide requirement for baseline water testing prior to oil and gas drilling and fracking, we are urging the BLM to follow suit, be proactive, and set a sensible precedent for all of these coming mega fields before it approves the Continental Divide-Creston project. We are urging the agency to require baseline testing of groundwater prior to any new development related to this and all future projects. And of course, the agency must also take steps to protect air quality and wildlife in the area.

Wyoming citizens have learned some important lessons in recent years from the problems that have arisen in the Pinedale area and elsewhere, including many unanticipated impacts related to mega field developments.

Today, we—and the BLM—know better. So let’s apply the lessons learned to all future development so we protect people, air, water, land, and wildlife.

We pledge to keep you informed about the status of these projects, and to help you engage and influence them.

We cannot make the ozone situation in Sublette County worse, or create new areas with ozone problems. We cannot allow companies to drill near and through aquifers without first knowing and documenting the quality of that groundwater, and making this information available to the public.

We also need to minimize harm to wildlife such as mule deer, pronghorn, and the greater sage-grouse. We have a lot of work to do.

Applying lessons learned to protect people and wildlife
In the winter 2011 issue of this newsletter, we coined the term “mega fields” to describe the numerous large proposed natural gas fields that are working their way toward approval in western Wyoming.

As we discussed in that issue, several huge natural gas development projects proposing to drill more than 24,000 wells on more than 2.5 million acres of mostly public (and some private and state) lands are in various stages of approval by the Bureau of Land Management.

Now these projects are becoming reality. Information we have from the BLM indicates we could see the draft environmental reviews for more of these projects starting toward the end of this year and into 2014. So get ready to participate for the sake of Wyoming, its environment, and our way of life.

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The Game and Fish Department, in the meantime, anticipates significant shortfalls and subsequent cutbacks.

This is an interim topic for the Travel, Wildlife, and Recreation Committee.

House Bill 228—Federal land study

As written and approved by the legislature—this bill, which some have referred to as the Sagebrush Rebellion redux—would have used $33,000 of taxpayer money to fund a study to see how Wyoming can take over public lands in the state. Somehow this bill made it through both houses of the State Legislature, even though we and the Wyoming attorney general told the Legislature that the effort would be unconstitutional.

We asked Gov. Mead not to sign this bill and we are grateful that he applied his line item veto and eliminated $15,000 from its appropriated expenditure. The governor also vetoed the requirement that he appoint task force panel members. The result of that veto will be that the task force will consist only of legislators talking to themselves when they meet.

House Bill 63—State primacy on greenhouse gas

As it did in the 2012 session, the Wyoming Legislature continues to assert its authority to regulate greenhouse gases. This bill passed with broad support and was signed into law by Gov. Mead.

The keys to the bill are twofold—first, the state can be no more restrictive than the federal government on emissions and, second, the state has indicated to stakeholders that it will issue permits on a timelier basis than the federal government would.

As was the case in 2012, it is somewhat remarkable that the state acknowledges the existence of greenhouse gases. In testimony to the Senate Minerals Committee I maintained that the state should consider with aspiration the economic and competitive advantages that stronger environmental regulations might bring.

Senate File 76—Bighorn sheep relocation

This bill requires the relocation or removal of the bighorn sheep population in the Medicine Bow National Forest if a lawsuit successfully challenges grazing permits there.

The only amendment to the bill was one we asked for—that the removal not be undertaken until all judicial proceedings have been completed. This bill passed but the law will expire in 2015.

It is definitely a bad practice and a bad precedent for the Legislature to micro-manage the Wyoming Game and Fish Department. Gov. Mead signed this bill.

Senate File 6 and Senate File 7—Office of consumer advocate

These bills, both sponsored by Sen. Case, clarify and strengthen the office of consumer advocacy at the state Public Service Commission. Both passed and were signed into law.

The bills underscore the advocate’s role in rate hearings and require the office to intervene effectively in rate cases. While we supported the bills, I also asked the corporations committees to consider as an interim topic creating an Office of Environmental Advocacy, which would be engaged in rate cases.

My thought is that utilities, regulators, and consumers are often driven to a least-cost alternative to energy generation (which means fossil fuels) without any regard for the externalities of that generation (human health implications, mercury levels in lakes, etc.). I will continue to advocate this proposal to the joint interim committees.

Any questions or comments? I am always available via email or phone and I welcome your ideas and support.

I am truly grateful that the Wyoming Outdoor Council members and board have given me the opportunity to represent them at the Legislature. Thank you!

Contact: Richard Garrett, richard@wyomingoutdoorcouncil.org

For up-to-date news and analysis by Richard Garrett, Bruce Pendery, Lisa McGee, Julia Stuble, and other Wyoming Outdoor Council staff, go to wyomingoutdoorcouncil.org/blog.

Submit your best photos for inclusion in the Wyoming Outdoor Council’s 2014 calendar! This year’s theme: Celebrating the Red Desert.

Help us honor and celebrate Wyoming’s wildlife, landscapes, and outdoor heritage.

Winning photographs will be published in our 2014 calendar.

Previous calendars have included photographs by some of Wyoming’s best professional photographers, as well as some of its most gifted amateur shooters.

RULES
• Photographs must be taken in Wyoming’s Red Desert and can include landscapes, lifestyles, wildlife, and people.
• All photos must be submitted in digital form by email or online file sharing tool, mailed on a CD or DVD, or hand delivered on a CD, DVD, or flash drive.
• Photos can only be published if available in a high-quality, relatively high-resolution, digital format.
• Photograph entries constitute permission to use the images with credit to the photographer without monetary compensation.
• Please include your name, address, city, state, zip code, daytime phone number, email address, and description of your photo including where the photo was taken.

TO SUBMIT PHOTOS, PLEASE EMAIL OR MAIL TO CHRIS MERRILL:
chris@wyomingoutdoorcouncil.org
Wyoming Outdoor Council
262 Lincoln Street
Lander, WY 82520

Submission deadline is September 15, 2013.
Big-picture planning for vast portions of western Wyoming

BY LISA MCGEE, NATIONAL PARKS AND FORESTS PROGRAM DIRECTOR
AND JULIA STUBLE, LAND CONSERVATION COORDINATOR

What’s it like to plan for the long-term management of more than 18,000 square miles of BLM and national forest land in Wyoming—all at nearly the same time? It’s long, hard, complicated work, but also critical. And this critical work is happening now. Federal land managers, tasked with developing these broad, land-use plans, rely on input from citizens and groups like ours to build sound and—we hope—complementary management visions.

A unique opportunity

The Shoshone National Forest and three nearby Bureau of Land Management field offices are all developing new land-use plans as you read this.

The fact that four large-scale land-use plans are being developed at roughly the same point in history presents a unique opportunity for land managers and citizens alike to ensure thoughtful management of vast stretches of public land in Wyoming.

Lander Field Office: Our long campaign to protect more than 100,000 acres in the spectacular Upper Wind River Valley—as well as nearly 1 million acres along the Oregon, California, Mormon Pioneer, and Pony Express historic trails stretching from the Lander Front to the Sweetwater Watershed—has reached an important milestone. In February 2013, the Bureau of Land Management released its final proposed land-use plan. We’re thrilled to report that this proposed plan withdraws the lands surrounding Dunoir from future oil and gas leasing and protects the national historic trails corridor by precluding surface industrial development to preserve the views from these trails.

We are on the cusp of a historic victory for conservation and balance in this key western Wyoming landscape—which makes up much of the eastern gateway to the Greater Yellowstone ecosystem and is one of the richest wildlife areas remaining in the West. The BLM’s proposed plan is strong and balanced. Notably, the plan also addresses management of an enormous amount of important sage-grouse habitat—and protections for this habitat will benefit declining sage-grouse populations, but also numerous sensitive and big game species that rely on the sagebrush community. We are working tirelessly to ensure that the BLM retains this proposal as its record of decision. We will continue to advocate increased protections in the Bridger Mountains. After the BLM analyzes any protests and the Governor’s comments, it will release a final decision, which is expected this summer.

Bighorn Basin: The BLM has taken a bit of a sidestep in its revision of the Bighorn Basin’s management plan in order to ensure consistent and effective protections for sage-grouse habitat. We expect a supplemental environmental analysis on sage-grouse management this spring, which will include an opportunity for the public to weigh in.

Among the special places and crucial wildlife areas that local communities and the Council have identified as worthy of long-term protections are the Beartooth Front, the Bighorn Front, McCullough Peaks, and the locally treasured Fifteenmile Basin badlands. We’ll be advocating these special areas be protected from industrial uses and that development in other landscapes of the Bighorn Basin is “done right.”

Rock Springs: This plan is still in its infancy as the BLM determines the range of alternatives that will appear in a draft plan. It will encompass diverse places, including incredible heritage landscapes such as the Jack Morrow Hills, Little Mountain, and Adobe Town, as well as the highly fragmented and difficult to manage “checkerboard” lands straddling Interstate 80.

Helping the BLM craft a sound, balanced, and farsighted plan has been—and will continue to be—a key organizational focus for the Council for as long as it takes.

We’ve highlighted to the BLM the three heritage landscapes above because they contain exceptional viewsheds, irreplaceable aesthetic values, and plentiful opportunities for a diverse range of recreation. They also maintain important, healthy wildlife habitats and cultural resources, including those associated with the national historic trails. We are advocating that protecting these priority areas is the key to achieving balanced management within this plan.

Shoshone National Forest: The Forest Service released its draft forest plan this fall. One of our priorities was to ensure greater protections from future oil and gas development. On this topic there was good news and bad. To its credit, the Forest Service increased the acreage within the Shoshone’s backcountry where oil and gas development could not disturb the surface. However, this left much of the forest’s front country “suitable” for oil and gas surface disturbance, which created an inconsistency with the BLM’s draft plans for Lander and the Bighorn Basin. In particular, the BLM’s Lander field office was highly (and appropriately) protective of its front country lands bordering the Shoshone. We are cautiously optimistic the Forest Service will address this inconsistency for the better in the final plan. We were also disappointed not to see any recommendations in the draft for new

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wilderness areas. Although the Shoshone has impressive wilderness resources already designated, many areas—specifically Franc’s Peak, Trout Creek/Wood River, and the Dunoir—deserve consideration. And finally, with respect to summer-motorized recreation, the Council’s goal was to identify areas suitable for this use, but also to limit its expansion into currently non-motorized areas. Here, too, there is room for improvement. A final forest plan will be released this summer.

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In memory of David and Jane Love
Thank you. We will use your gift well.

Dear Tom:
Enclosed is a check for $300, for use with no strings attached. This comes from both Jane and me. We talked it over and decided to put our money into what we believe in. I wish it could be more now—perhaps it can be later but at the moment we have just financed 16 years of college and parts of 8 years of graduate school entirely on my government salary.

—Excerpt from a letter dated March 16, 1973, to Wyoming Outdoor Council founder, Tom Bell, written by David Love

We would like to express our sympathies to the Love family, who lost Jane this winter and David in 2002, and our deepest appreciation for the Love’s generous and unwavering support for so many years.

David and Jane were members of the Outdoor Council’s Wyoming Legacy Society, having included the Council in their estate plans, just as David had hoped.

David and Jane knew and loved Wyoming. They made a difference during their lives. And now their bequest will fund the Council’s work forever, as a part of our permanent endowment.

—Thank you, David and Jane!