

Energy Insider by William Engdahl

A victory for mineral development

A Wyoming court slaps Ag and Interior on illegal RARE II procedures.

Two weeks ago, federal district court judge Clarence Brimmer in Wyoming ruled that the Interior and Agriculture departments had violated the express intent of Congress in withholding oil and gas lease applications on so-called RARE II (Roadless Area Review and Evaluation) lands.

For the first time since 1977 when Ruppert Cutler, former top official of the antidevelopment Wilderness Society, was made Assistant Secretary of Agriculture, that agency's blatantly illegal seizure of some 62 million acres of federal forest land, has been set back.

The case in question was brought over two years ago by the nonprofit Mountain States Legal Foundation. I spoke with Kea Bardeen, the attorney for Mountain States Legal Foundation about the circumstances leading to the suit. This foundation spent months in the early days of RARE II speaking with mineral, timber and cattle interests in the Western states most drastically hit by Mr. Cutler's new administrative sleight of hand. What they and the federal judge who heard their argument concluded was that Secretary Cecil Andrus at Interior and his crony, Bob Bergland, at the Department of Agriculture, had brazenly violated explicit intent of Congress.

Contrary to years of established federal procedure, Agriculture and Interior have been completely halting development and processing of

oil and gas exploration leases on more than 10 million acres of National Forest lands. They claimed the lands were under "further planning" study to determine their suitability for designation as a wilderness area under terms of the Wilderness Act of 1964. Once designated, such lands become off-limits for any activity beyond that of bison-curious environmentalists.

Ruling on the case of more than one million acres of land, where oil and gas companies have had leases pending as far back as 1971, the judge ordered Andrus's Interior Department, the agency charged with responsibility for issuing federal land leases, to report their "withdrawal" of more than one million acres in the oil-rich Overthrust Belt of the Wyoming-Idaho border to Congress within 20 days. Judge Brimmer was blunt: "To allow the Secretary of Agriculture in combination with the Secretary of Interior to establish their own system of wilderness priorities through failure to act on oil and gas lease applications within lands self-designated as meriting study for wilderness potential, negates the system of wilderness designation established by Congress."

According to the Mountain States Legal Foundation, the new ruling confirms the law in that "leasing should not be delayed simply because an area is being considered for wilderness." Kea Bardeen told me further that they docu-

mented an effective "catch-22" process of collusion between Interior, which is the agency responsible for determining leasing, and Agriculture, which is in charge of RARE II. Interior is held responsible for reporting to Congress on leasing, but Agriculture is not. It was confirmed in trial both testimony and subpoenaed documents from the two agencies that they had a *modus vivendi* whereby Interior would not act until it got approval from Agriculture. "Interior has waited for Agriculture recommendations on leasing that have never come. . . . Consequently, Interior never acted."

The judge ordered the two agencies to issue written rules spelling out their exact procedures.

Interior and Agriculture, the codefendants in the case, promptly filed an appeal in the Tenth Circuit Court of Appeals in Denver. In addition, the two agencies are still conducting an "environmental assessment" of the areas at issue. And, of course, the Sierra Club, that bastion of primitivism, funded by "environmentalists" such as Robert O. Anderson of Atlantic Richfield and the Rockefeller Brothers Fund, joined the appeal process in their attempt to block leasing. But already, according to informed sources, Interior has quietly begun processing some leases, with applications on the Wyoming lands being processed first, "because of the pressure of the lawsuit."

Now, if we can assure a healthy response from Congress, perhaps the nation can begin development of the estimated 15 billion barrels of oil and 75 trillion cubic feet of natural gas estimated to be locked in this portion of the Overthrust Belt.