



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

April 6, 1976

Mr. Fred Kraft
Minority Counsel
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Fred:

The support data for our wilderness proposal at Badlands National Monument (September 14, 1972) reveals that the "potential wilderness addition" device was utilized with respect to 5,326 acres in recognition of private interests, as follows:

Unit 1

fee title	760	
retained mineral rights	1,080	
retained grazing rights	<u>1,886</u>	
		3,726

Unit 2

fee title	520	
retained mineral rights	<u>1,080</u>	
		<u>1,600</u>
		<u>5,326</u>

Because the Wilderness Act of 1964 does not authorize the designation of privately owned lands as wilderness, the Department did not feel that it could recommend the inclusion of tracts which are either owned outright by private parties or in which private parties retain mineral or grazing rights. At the same time, we recognize that these outstanding interests are of limited duration and that, but for those interests, the lands in

question would qualify for addition to the National Wilderness System. To obviate the necessity of a new study and a new submission to the Congress when those interests have expired, we have recommended that they be designated as "potential wilderness additions". The designation of these lands as "instant wilderness", and the resulting restrictions on their use by private owners, may well give rise to the argument that such designation constitutes a compensable taking.

One other issue has arisen with respect to this wilderness proposal: whether or not provision for wildlife watering devices and the driving of livestock need be made in the bill which affords wilderness designation. Our response continues to be in the affirmative, as these are uses which would not otherwise be consistent with the definition of wilderness as provided by the 1964 Act and the guidelines which refine that definition. In the absence of such a statutory provision, it might well be argued that such uses are not authorized and ought not be allowed to continue. The language for this purpose of S. 1068 is acceptable to us and reflects the recommendation of the President to the Congress.

I hope that I have been responsive to your questions; I enclose for your additional information a copy of our complete wilderness recommendation for Badlands National Monument. Please do not hesitate to call upon me if we can be of further assistance.

With best wishes.

Sincerely yours,



Douglas P. Wheeler
Deputy Assistant Secretary
for Fish and Wildlife and Parks

Enclosure