

## MEMORANDUM

**TO:** DAOGTL  
**FROM:** Sarah Sorum  
**DATE:** October 10, 2016  
**RE:** Wyoming Report

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### **Amendments to W.S. § 6-3-414 (Criminal Trespass to Collect Data) and W.S. § 40-27-101 (Civil Trespass to Collect Data)**

- “open land” replaced with “private land”
- subsection (c) added, providing:

A person is guilty of trespassing to access adjacent or proximate land if he:

- (i) Crosses private land to access adjacent or proximate land where he collects resource data; and
- (ii) Does not have:
  - (A) An ownership interest in the real property or, statutory, contractual or other legal authorization to cross the private land; or
  - (B) Written or verbal permission of the owner, lessee or agent of the owner to cross the private land.

### **Amendment to Uniform Real Property Electronic Recording Act**

- amended to contemplate electronic recording of deeds, mortgages, conveyances, patents, certificates and other like instruments

Very little case law since our last meeting, but there were a couple of legislative updates. The main one dealing Wyoming's trespass laws.

Last year, Wyoming enacted criminal and civil penalties for "data trespassing" which were supposedly aimed at curbing whistle-blowers and eco-terrorists. These laws prohibited taking photos or gathering any data on "open land" if the data was intended to be submitted to any state or federal agency. They were challenged by environmental groups in the US District Court, and Judge Skavdahl denied the state's motion to dismiss, stating that he has serious concerns about the constitutionality of the laws, which many had argued were overbroad.

In an attempt to tailor the laws more narrowly, the Wyoming legislature voted to limit the laws to "private land," rather than "open land" and removed the element of intent to submit to a government agency. But, it also added penalties for crossing private land to access adjacent land.